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ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 25, 2009

REGULAR X CONSENT EFFECTIVE DATE August 26, 2009

DATE: August 20, 2009

TO: Public Utility Commission

FROM: Ed Durrenberger *E*

THROUGH: *MT* Lee Sparling, *EB* Ed Busch and *MG* Maury Galbraith

SUBJECT: PORTLAND GENERAL ELECTRIC: (Advice No. 09-16) Proposes revisions to Schedule 201 related to avoided cost purchases from qualifying facilities of 10,000 kW or less, in compliance with Order No. 05-584.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Portland General Electric's (PGE or company) Advice No. 09-16 allowing the updated rates in Schedule 201 to become effective August 26, 2009, and open an investigation into the new rates.

DISCUSSION:

On July 10, 2009, PGE filed Advice No. 09-16, requesting to revise Schedule 201, Qualifying Facilities 10 MW or Less, Avoided Cost Power Purchase Information. The company states that the purpose of the filing is to update avoided cost information and that the updates have been prepared consistent with the methodology used in the current Schedule 201 avoided costs last updated in 2007.

This filing requests to update avoided cost rates PGE would pay for power purchased from a small Qualifying Facility (QF) under terms of their Standard Avoided Cost Power Purchase Agreement (Agreement or PPA). The new rate schedule calls for dramatically lower QF rates for the first few years in a PPA during the period when PGE is resource sufficient and rates are based on wholesale market power prices. Market prices for power are currently depressed and expected to remain that way going forward due to the economic recession and low natural gas prices.

The PGE avoided cost filing containing lower initial rates is a concern to the QF community. A decrease in avoided cost rates makes it harder to develop new small QF

projects and would hurt any existing small QF that needed to negotiate a renewal to their PPA under the terms of the new rates. Large QFs are affected also because avoided cost rates are the basis for pricing the individual negotiated agreements.

The Industrial Customers of Northwest Utilities (ICNU) sent a letter requesting the Commission conduct an investigation and hearing into whether the rate revisions proposed are fair, just and reasonable before the new rates become effective. In addition, a number of QF facilities including Biomass One, Swalley Irrigation District and Farmers Irrigation District have argued generally against the avoided cost rate changes proposed and joined ICNU in requesting suspension and an investigation and hearing.

Staff's Analysis:

Staff's investigation into the filing indicates that the tariff was filed according to the schedule required by OAR 860-029-0080 (Rule). The Rule requires that avoided cost rates be filed at least every two years as well as within thirty days of acknowledgement of the utility's Integrated Resource Plan (IRP). This filing satisfies the two year update requirement having been filed with rates effective November 2, 2007 compliant with Orders 07-360 and 07-407.

By definition, the utility's avoided costs represent the forecasted benefits that accrue to the utility and its customers from receiving the output of the QF. Commission Order No. 05-584 Section III(C) describes in detail how the pricing is to be derived.

During the utility's resource sufficiency period, the monetized benefit of the QF output is the forecasted wholesale electricity market price. PGE used forward market prices for wholesale electricity available at the time of its filing. PGE's sufficiency period avoided costs have been calculated consistent with the methodology described in Order 05-584 and in the previous Schedule 201 updates.

During the utility's resource deficiency period, the monetized benefit of the QF output is the forecasted fixed and variable costs of a proxy resource. The Commission has determined that the current proxy resource is a natural gas-fired combined-cycle combustion turbine. PGE has used forward market prices for natural gas to determine the variable costs of the proxy resource and their deficiency period avoided costs have been calculated consistent with the methodology described in Order 05-584 and in the previous Schedule 201 updates.

The company filed its new avoided cost rates in accordance with the requirements of the Rule and has calculated its new avoided cost rates consistent with the methodology adopted by the Commission in Orders in Docket UM 1129. The new avoided costs accurately represent market wholesale power prices during the resource sufficiency

period and the fixed and variable operating costs of a combined cycle combustion turbine during the resource deficiency period. The company calculated its resource sufficiency period using the same methodology used in the most recent filing, Advice 07-27.

In summary, Staff's review indicates that PGE has accurately calculated its avoided costs and filed the new rates in accordance with the Rule.

In previous avoided cost filings, at times of increasing avoided cost rates, the utility's update filing did not generate much controversy. However, with decreasing avoided cost rates, a number of parties have expressed an interest in this filing. Parties have requested that the new rates be suspended and an investigation and hearing be held to determine if the rate revision is fair, just and reasonable. Staff shares the concern that the avoided cost rates be set accurately so that customers pay QF rates that are fair, just, and reasonable. In addition, DOJ counsel has advised that although the Commission has not determined whether the avoided cost filing constitutes a tariff under ORS 757.210, a hearing is appropriate upon a valid written complaint either as required by ORS 757.210 or as a matter of parties being able to exercise their rights to due process.

Staff recommends that PGE's Advice filing be allowed to go into effect as filed and that the Commission open an expedited investigation and hearing limited to whether PacifiCorp's filing is compliant with the methodologies for calculating avoided costs detailed in Order No. 05-584. Staff does not recommend a suspension of the filed avoided cost rates during an investigation and hearing for three reasons. First, no party has provided information or argument altering Staff's finding that PacifiCorp has followed the Commission's instructions for calculating its avoided costs. Second, suspending the filing would leave the current higher avoided costs in place, potentially harming customers. Staff's counsel has advised that, even if the avoided cost filing constitutes a tariff under ORS 757.210, ORS 757.215(4), the statute allowing suspension of the filing subject to investigation and refund, is not an option in this case because the refund statute only contemplates refunds due to setting initial rates too high, not too low as implied by comments filed to date. Third, Staff does not believe it is good policy to allow new avoided cost rates to be delayed simply upon request despite lack of just cause.

Staff notes that a possible compromise position would be to allow the rates to go into effect during the investigation period but allow any Qualifying Facility customer who enters into a contract under the rates to opt-out of the contract and execute a new contract using, on a going-forward basis, the final rates approved by the Commission at the end of this proceeding.

On August 19, PGE filed a letter in response to ICNU's request to suspend the filing for investigation and a hearing. PGE pointed out that parties have had 45 days to review the filing and that its methodology for calculating avoided costs is the same as previous filings. PGE requests that if the Commission suspends the filing, the investigation be limited to cost inputs and computations and that the company also be required to defer entering into new QF PPA's between August 26, 2009, and the date that the new Schedule 201 rates are effective. PGE states that this moratorium would protect customers from the current obsolete avoided cost prices and avoid the situation where QFs retain options with all risks shifted to customers.

PROPOSED COMMISSION MOTION:

The tariff sheet filed in PGE's Advice No. 09-16 be allowed into effect on August 26, 2009 and that an investigation and hearing be opened to determine if the rate revision adopted has been determined consistent with the methodologies and calculations required by Order No. 05-584.