



Portland General Electric Company
121 SW Salmon Street • Portland, Oregon 97204

March 4, 2016

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Portland General Electric Company
Revisions to OATT Section 7
Docket No. ER16-871-001**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act,¹ Part 35 of the Federal Energy Regulatory Commission's ("Commission") regulations,² and Order No. 714³ regarding electronic filing of tariff submittals, Portland General Electric Company ("PGE") hereby submits for filing a proposed revision to Section 7 of its Open Access Transmission Tariff ("OATT"). For the reasons discussed herein, PGE submits that this proposed revision to the OATT is consistent with or superior to the *pro forma* OATT.⁴ PGE respectfully requests that this OATT modification be accepted for filing, with an effective date as described below.

I. Background

On February 2, 2016, PGE submitted for Commission filing and acceptance an amendment to Section 7 "Billing and Payment" to its OATT to limit the time period in which parties, including PGE, could seek an adjustment in the billing for any service, transaction, or charge under PGE's OATT if more than one year has elapsed since the first date upon which the billing for that month occurred. PGE proposed to add the revision (Section 7.4 "Limitations on Claims") to establish certainty with respect to charges to transmission customers, by imposing a one-year period for settling billing adjustments.

¹ 16 U.S.C. §§ 824d (2006).

² 18 C.F.R. Part 35 (2014).

³ *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).

⁴ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, Fed. Reg. 12,226 at P 135 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh'g*, 121 FERC ¶ 61,297 (2007) (Order No. 890-A), *order on reh'g*, 123 FERC ¶ 61,299 (2008) (Order No. 890-B), *order on reh'g*, 126 FERC ¶ 61,228 (2009) (Order No. 890-C), *order on reh'g*, 129 FERC ¶ 61,126 (2009) (Order No. 890-D).

On February 19, 2016, Noble Americas Energy Solutions LLC (“Noble”) submitted a protest⁵ of PGE’s filing, and their concerns have been summarized here: (1) PGE ignores the public interest in billing accuracy and proposes to truncate the time in which transmission customers may discover and complain of unjust and unreasonable billings and charges resulting from PGE’s fault or errors⁶; (2) by truncating the period in which a transmission customer must file a claim, PGE can be seen to reduce any consequences it might suffer from inaccurate billings resulting from the application of erroneous data, whether willful or inadvertent⁷; (3) PGE’s proposed one-year time limit fails to accommodate the bringing of any potential claims falling outside the one-year window, including its own, notwithstanding the high probability such claims are bound to arise from PGE’s imminent participation in the California Independent System Operator (“CAISO”) Energy Imbalance Market⁸; (4) PGE should amend its tariff to allow for some additional “reasonable” period of time so as to allow PGE and customers to complete their evaluations of a potential billing error and modify Section 7.4 to include a sentence that provides that claims sounding in the Federal Power Act or based upon Commission regulations and/or policy are not affected by the other provisions of Section 7.4⁹; and (5) the Commission should clarify that the proposed bar against billing adjustments after the lapse of twelve months similarly precludes PGE from reissuing invoices in order to increase charges correcting prior billing errors or omissions.¹⁰

II. Description of Proposed OATT Modification

While PGE believes that the one-year time limit, originally proposed, was just and reasonable, and is consistent with prior Commission regulation and policy on the issue of billing claims limitations, PGE believes that establishing certainty with respect to charges is paramount to the term and, thus, PGE seeks approval of a three year period within which both PGE and its transmission customers may seek a billing adjustment. As PGE advocated in its original filing, the originally proposed one-year limitation for seeking a billing adjustment is consistent with, and strikes a reasonable balance between, the Commission’s prior regulation and policy as well as the need to provide adequate time to discover and raise claims and to resolve billing disputes in a timely manner. The same can certainly be said for the three-year limitation period PGE is proposing.

The Commission has accepted similar filings submitted by RTOs/ISOs that amended their OATTs and Service Tariffs to provide for a time limit on billing adjustments.¹¹ In fact, with the exception of the term, PGE modeled its proposed language in Section 7.4 after language the Commission approved in Section 10.4 of PJM Interconnection, L.L.C.’s Tariff.¹² And, just as in Section 10.4 of PJM’s approved tariff, the language in Section 7.4 of PGE’s OATT makes

⁵ See Noble Protest Docket No. ER16-871-000

⁶ *Id.* at P 2

⁷ *Id.* at P 3

⁸ *Id.* at P 4

⁹ *Id.* at P 7

¹⁰ *Id.* at P 7

¹¹ See NYISO Services Tariff 7.4

¹² See PJM Interconnection, LLC, Docket No. ER06-1497 (Nov. 13, 2006)—Approval of a 2 yr limitation on billing adjustments.

clear that transactional certainty cuts both ways, and the Transmission Provider is equally subject to the same limitations on claims that it seeks to impose on its transmission customers. Moreover, the proposed language requires only that a claim be made within the three year time limit. Thus, the time limit should have no impact on the length of time it may take the customer and/or PGE to resettle, once a timely claim is made.

Finally, although it will be at least another year before PGE begins participating in the CAISO Energy Imbalance Market, PGE acknowledges there may be some benefit to aligning its proposed time limit with the thirty-six month resettlement period allotted under the CAISO tariffs¹³. As such, and for the other reasons mentioned above, PGE is proposing to amend Section 7.4 and seeks approval of a three-year time limit for settling billing adjustments, to which it, too, is subject. Additionally, PGE has added and seeks approval of language that is intended to acknowledge the continuing jurisdiction of the Commission to reopen finalized bills if justice so requires.

III. Information Required by Section 35.13 (b)

A. Documents Submitted with this Filing

PGE submits the following materials for filing:

- This transmittal letter;
- Proposed tariff sections in RTF format with metadata attached; and
- A clean copy of the tariff for publishing in eLibrary.

B. Proposed Effective Date

PGE requests that the Commission accept the attached revised OATT section effective April 2, 2016.

C. Persons to Whom the Proposed Rate Schedules Have Been Mailed

PGE has provided a copy of this filing to its transmission customers and to the Oregon Public Utility Commission. PGE has also posted a copy of this filing on its OASIS.

D. Brief Description of the Rate Schedule Change

The OATT changes are described fully in Section II above.

E. Reasons for the Rate Schedule Changes

¹³ See CAISO Tariff Sections 11.29.7.1 and 11.29.8.4.6

The reasons for the OATT changes are described fully in Section II above.

F. Showing that All Requisite Agreements have been Obtained

No agreements of other parties are necessary for the modifications proposed herein.

IV. Request for Waivers

Pursuant to Section 35.11 of the Commission's regulations,¹⁴ PGE respectfully requests waiver of the 60-day prior notice requirement so that its revised tariff sheets be made effective April 2, 2016, which is consistent with the effective date requested in PGE's original filing.

V. Communications

Communications regarding this filing should be sent to the following individuals:

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V. Conclusion

PGE respectfully requests that the Commission approve this OATT modification with an effective date of April 2, 2016 as PGE submits that the change is consistent with or superior to the *pro forma* OATT and strikes a fair resolution of the concerns identified in Noble's protest.

Respectfully submitted,

Cece L. Coleman
Assistant General Counsel

¹⁴ 18 .C.F.R. §35.11 (2014).

CERTIFICATE OF SERVICE

I hereby certify that I have on this day caused a copy of the foregoing document to be served via e-mail or first-class mail upon each of the parties listed in the official service list compiled by the Secretary in this proceeding.

Dated at Portland, Oregon, this 4th day of March, 2016.

/s/ Cece L. Coleman

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