139 FERC ¶ 61,133
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Portland General Electric Company Docket No. ER12-1293-000

ORDER GRANTING REQUEST FOR LIMITED WAIVER

(Issued May 18, 2012)

1. On March 19, 2012, Portland General Electric Company (Portland General) requested that the Commission grant a one-year waiver of certain provisions of its open access transmission tariff (OATT) that govern interconnection studies and transmission service requests for the Cascade Crossing Transmission Project (Cascade Crossing). For the reasons set forth below, the Commission will grant Portland General's request.

I. Background

2. Portland General is a vertically-integrated public utility located in the Western Electricity Coordinating Council region. Portland General owns generation, transmission, and distribution facilities that serve both wholesale and retail customers in Oregon.

3. Portland General explains that Cascade Crossing is a 500 kV transmission line that it is developing to connect renewable and other generating resources that are located east of the Cascade Mountains to Portland General's transmission system.[1] Portland General states that the project's development is in response to numerous requests for interconnection and transmission service. Portland General states that it has received approximately 3000 MW of requests for interconnection service, and another 1500 MW of requests for transmission service associated with Cascade Crossing.[2] Portland General

[1] Portland General's Transmittal Letter at 2. Portland General proposes to construct Cascade Crossing on a path parallel to an existing high-voltage transmission line from Boardman to Salem, Oregon. *See* http://www.cascadecrossingproject.com/pge.aspx.

[2] *Id*. at 3.

estimates that the cost of Cascade Crossing is between $800 million and $1 billion, which it states is "significantly in excess" of Portland General's current transmission rate base.[3] As a result of challenges in financing a project of this magnitude, Portland General states that it has been exploring the possibility of jointly constructing Cascade Crossing with other transmission providers in the region.[4]

II. Portland General's Filing

4. Portland General asserts that with approximately 3000 MW of requests in its interconnection queue and 1500 MW of requests in its transmission service queue, it is difficult to evaluate each request serially, even though all requests seek service over the same transmission project. Moreover, assessing the overall demand for Cascade Crossing and the commercial viability of the configuration options for the project has been challenging using the current study approach.[5] Such serial evaluation is currently set forth in sections 6-8, 19-20, and 32, and section 7.4 of Attachment O of Portland General's OATT.

5. Portland General states that, because of the high volume of requests associated with Cascade Crossing, in June 2011, it notified customers that it proposed to hold an "open season" to solicit financial commitments to purchase transmission capacity and interconnection services on Cascade Crossing.[6] Portland General then held a customer meeting and solicited comments on its open season proposal. Portland General observed that, while customers had questions, none objected to having its individual study placed on hold.[7] After a second customer meeting in November 2011, Portland General decided

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[3] *Id*.

[4] Portland General explains that it entered into memoranda of understanding with Idaho Power Company in October 2008 and with PacifiCorp in July 2010 to consider the possibility of joint development and ownership options for Cascade Crossing. Portland General states that, while no agreements have yet been reached, it is still in negotiations with Idaho Power Company and PacifiCorp. *Id.*

[5] The two main configurations are: (1) a single 500 kV circuit with a minimum of 1200 MW of capacity, or (2) a double 500 kV circuit with greater capacity if connected both to Portland General's Bethel substation and a Bonneville Power Administration substation. *Id*.

[6] To facilitate the open season process, Portland General notified its customers that it intended to suspend action on queue-based individual studies.

[7] *Id*. at 4.

not to move forward with the open season because many generators in the interconnection and transmission service queues for Cascade Crossing intend to participate in Portland General's future request for proposals (RFP) for generating capacity.[8] As a result, Portland General contends that the continuation of an open season would require existing customers to post substantial financial security without knowing the results of the RFP to determine their projects' commercial viability.[9] In Portland General's estimation, this uncertainty could potentially undermine the value of the open season in assessing aggregate demand for the project or allocating its limited capacity.[10]

6. Additionally, Portland General asserts that many critical issues remain to be negotiated, particularly the allocation of capacity to the project in the West of Cascades South Path. For this reason, the total allocated capacity of the project remains uncertain, further complicating Portland General's ability to hold an open season for that capacity. Therefore, Portland General proposes to postpone the open season and, in the interim, conduct a general facilities study, which is effectively a cluster study of the network upgrades necessary to serve all customers in the queue for interconnection or transmission service from Cascade Crossing (General Facilities Study).[11] Portland General states that no customers objected to its proposal.[12]

7. Portland General explains that its instant waiver proposal has four key elements. First, Portland General requests Commission approval to defer, for one year from the date of Commission action in this proceeding, the processing of the requests in its interconnection and transmission service queues associated with Cascade Crossing.

8. Second, Portland General intends to conduct the General Facilities Study of Cascade Crossing so as to effectively replace the individual facilities studies that are

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[8] According to Portland General's submittal, winning bids from the RFPs will not be selected until late 2012 or early 2013, at the earliest.

[9] *Id.*

[10] *Id.*

[11] Portland General states that it will bear all costs associated with conducting the General Facilities Study for Cascade Crossing. *Id*. at 5, n.4.

[12] *Id*.

required under its OATT.[13] The General Facilities Study will include a nonbinding estimate of the costs of the two main configuration options for Cascade Crossing, and Portland General will post the study on its open access same time information system when it is completed.

9. Third, Portland General submits that, although the General Facilities Study will not include sole use interconnection facilities for those generators that may connect to the project, it will perform such studies upon request.[14] Portland General commits that, if a customer requests a study of its specific interconnection facilities during the one-year waiver period, it will conduct a separate study and will charge the customer the associated costs for processing the study.[15]

10. Fourth, before the end of the one-year waiver period, Portland General states that it will discuss with its customers the appropriate next steps for service on Cascade Crossing, which may include an open season or other process to seek the requisite financial commitments to support the project's construction. Once the next steps are chosen, Portland General will make a filing with the Commission before the conclusion of the waiver period and request any necessary approvals.[16] Portland General notes that it does not anticipate incurring any incremental costs to perform the General Facilities Study and commits that, in any event, it will not directly assign any costs for the study to customers in the interconnection or transmission service queues.[17]

11. Portland General asserts that its waiver proposal is consistent with Commission precedent that encourages public utilities to evaluate their queue management procedures, particularly interconnection practices. Portland General states that while the "first-come,

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[13] Portland General explains that the General Facilities Study will utilize the same design that is currently proposed in its state, federal, and tribal permitting processes. *Id.* at 5.

[14] *Id*.

[15] Portland General acknowledges that there may be instances where some discrete network upgrades associated with specific requests for service will not be fully evaluated until a customer-specific interconnection facilities study is performed. Portland General nevertheless asserts that the General Facilities Study will evaluate the vast majority of all anticipated network upgrades associated with Cascade Crossing. *Id.* at 5, n.3.

[16] *Id*. at 6.

[17] *Id*. at 5, n.4.

first-served" approach of Order No. 2003[18] made sense at the time it was issued, such approach may have inadvertently led developers to reserve space in interconnection queues for projects that were not commercially viable.[19] Portland General adds that in Order No. 890, the Commission observed that coordinated studies could be more beneficial to transmission planning than individual studies performed iteratively.[20]

12. Portland General asserts that its request for a one-year waiver is consistent with the Commission's standards because it is of limited scope, addresses a concrete problem, and will not have undesirable consequences.[21] It emphasizes that the waiver request is limited in scope from the perspective that it will only last for one year, and only apply to Cascade Crossing. In addition, Portland General states that the limited waiver will have no effect on the existing queue position of any customers or the customer's right to request an individual study.[22] Portland General states that its proposal is consistent with or superior to the *pro forma* OATT in several respects. First, all customers in the Cascade Crossing queue will have the benefit of a general study while they wait to learn if their proposals have been selected; second, Portland General will comply with all remaining obligations of its OATT, including facilities studies; and third, before the expiration of the one-year waiver period, Portland General will communicate with its customers and the Commission about any changes to Portland General's OATT needed at that time to accommodate Cascade Crossing.

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[18] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

[19] *Id*. at 6, citing *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at P 15 (2008), and Order No. 2003, *supra* n.18.

[20] *Id*., citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 543, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009).

[21] *Id*. at 9.

[22] *Id*.

III. Notice of Filing and Responsive Pleadings

13. Notice of Portland General's filing was published in the *Federal Register*, 77 Fed. Reg. 19,660 (2012), with interventions and protests due on or before April 9, 2012. None was filed.

IV. Commission Determination

14. The Commission has found good cause to grant waiver where the waiver is of limited scope, where there are no undesirable consequences, and where there are resultant benefits to customers.[23]

15. The Commission finds Portland General's arguments in support of its request for a limited waiver, i.e., that circumstances warrant such a waiver, to be persuasive, and grants the requested waiver. Portland General's request for waiver of certain OATT provisions that provide for individual studies for both interconnection and transmission services, for the limited period of one year, satisfies the Commission's standards for tariff waivers.[24] Specifically, we find that Portland General's requested waiver is limited in scope, addresses a concrete problem that needs to be remedied, and will not have undesirable consequences, such as harming third parties.[25] We also find that Portland General's request for waiver is limited in scope because it will only be in effect for one year and will only be applicable to interconnection and transmission service queues related to the Cascade Crossing project. Additionally, we find that Portland General's request addresses a concrete problem insofar as Portland General will be conducting the General Facilities Study for a project where it was faced with multiple requests for interconnection and transmission service but where it also was unclear which potential project participants would, in fact, be able and willing to go forward. We also find that

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[23] *See, e.g., Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,020, at P 8 (2010); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,132, at P 14 (2010), *order on reh'g*, 137 FERC ¶ 61,062 (2011); *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031, at P 19, *reh'g denied*, 124 FERC ¶ 61,293 (2008); *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226, at P 24, *order on clarification*, 120 FERC ¶ 61,180 (2007).

[24] *See, e.g., Pub. Serv. Co. of N.M.*, 136 FERC ¶ 61,231, at P 79 (2011) (allowing clustering when doing interconnection studies); *see generally* Order No. 890, FERC Stats. & Regs. ¶ 32,241 at P 543.

[25] *See, e.g., PJM Interconnection, L.L.C.*, 128 FERC ¶ 61,162, at P 8 (2009); *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (addressing temporary tariff waivers).

under the circumstances the waiver will not have undesirable consequences. Although Portland General believes that the need for individual studies would be highly unlikely, it also remains committed to perform serial studies for customers who may request one.

16. Moreover, all costs associated with conducting the General Facilities Study for Cascade Crossing will be paid by Portland General, as opposed to directly assigned to individual customers, and the study will not affect existing customers' queue positions for Cascade Crossing.[26]

The Commission orders:

The Commission hereby grants Portland General's limited waiver request, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.