

143 FERC ¶ 61,152
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Portland General Electric Company

Docket No. ER13-1129-000

ORDER GRANTING REQUEST FOR EXTENSION OF LIMITED WAIVER

(Issued May 17, 2013)

1. On March 19, 2013, Portland General Electric Company (Portland General) requested that the Commission grant an extension of its previously-granted one-year waiver of certain provisions of Portland General's open access transmission tariff (OATT) governing studies for interconnection and transmission service requests for Portland General's Cascade Crossing Transmission Project (Cascade Crossing or Project). For the reasons set forth below, the Commission grants Portland General's request for a one-year extension of its waiver.

I. Background

2. Portland General states that it is developing Cascade Crossing in response to multiple requests for interconnection and transmission services from renewable resources and other generation resources located east of the Cascade Mountain range, and that its Project would significantly increase transmission capacity from that area to load centers in the Willamette Valley Region. According to Portland General, there are approximately 3,200 MW of requests for interconnection service associated with Cascade Crossing and approximately 1,500 MW of requests for both network and long-term firm point-to-point transmission service.

3. In a prior filing, Portland General sought a one-year waiver of certain provisions of its OATT governing interconnection and transmission service request studies for projects that will use Cascade Crossing. Portland General asserts that the impetus for seeking the initial waiver was significant challenges in planning Cascade Crossing that occurred as a result of the iterative, queue-based (or serial) process set forth in the OATT, which requires Portland General to evaluate each request one at a time. Portland General states that the planning process was further complicated because there were two large groups of requests – those for interconnection service and those for transmission service – competing for the same limited capacity on a single transmission line.

4. Portland General states that, consequently, it became difficult to assess the overall demand for Cascade Crossing by evaluating each individual request for interconnection or transmission service one at a time. According to Portland General, it initially considered attempting to address these challenges by proposing to hold an open season to solicit binding financial commitments to purchase transmission capacity on Cascade Crossing. Portland General states that, based on feedback from customers, it determined that the open season approach was not viable at that time because significant uncertainty (i.e., project costs, configuration, and the results of pending requests for proposals for generating capacity) made it difficult for customers to make binding financial commitments for capacity on the Project.

5. On May 18, 2012, the Commission granted Portland General's request for a one-year waiver of certain OATT provisions, permitting Portland General to postpone the open season, among other things, and in the interim, conduct a General Facilities Study to study the network upgrades necessary to serve all customers in the queue for interconnection or transmission services for Cascade Crossing.¹ In the Waiver Order, the Commission concluded that the requested waiver was limited in scope,² addressed a concrete problem that needed to be remedied,³ and would not have undesirable consequences, such as harming third parties.⁴

¹ *Portland Gen. Elec. Co.*, 139 FERC ¶ 61,133, at P 15 (2012) (Waiver Order).

² Specifically, the Commission found that the request for waiver was limited in scope because it would only be in effect for one year and would only apply to interconnection and transmission service queues related to Cascade Crossing. *Id.*

³ The Commission found that Portland General's request addressed a concrete problem insofar as Portland General would be conducting the General Facilities Study for a project where it was faced with multiple requests for interconnection and transmission services but where it also was unclear which potential project participants would, in fact, be able and willing to go forward. *Id.*

⁴ The Commission found that, under the circumstances, the waiver would not have undesirable consequences, noting that Portland General remained committed to perform serial studies for customers that might request one. The Commission further noted that all costs associated with the General Facilities Study would be paid by Portland General, as opposed to directly assigned to individual customers, and that the study would not affect existing customers' queue positions for Cascade Crossing. *Id.* PP 15-16.

II. Portland General's Filing

6. Portland General now requests a one-year extension of the previously-granted waiver. It states that the waiver extension would permit Portland General to defer, for an additional one-year period through May 18, 2014, the processing of requests in its transmission and interconnection queues that seek to utilize Cascade Crossing. It notes that the provisions that govern the serial studies for transmission and interconnection services are set forth in sections 19 and 32 of the Portland General OATT and sections 6-8 of the Large Generator Interconnection Procedures, Attachment O to its OATT.⁵

7. Portland General notes that it completed the General Facilities Study on August 31, 2012. According to Portland General, the General Facilities Study provided information regarding the estimated costs of Cascade Crossing, but noted that multiple uncertainties remained regarding its configuration, scope and siting such that actual costs could differ materially from the estimates.⁶

8. Portland General states that on January 11, 2013, it entered into a Memorandum of Understanding (MOU) with Bonneville Power Administration (Bonneville). Portland General states that the MOU sets forth a framework for exploring an alternative configuration for Cascade Crossing that may significantly reduce the environmental impact of the Project.⁷ Portland General states that under the framework described in the MOU, it would obtain up to 2,600 MW of transmission capacity between Boardman, Oregon and the Willamette Valley by making certain investments in Bonneville's transmission system, by the parties' exchange of existing transmission assets or transfer capability, and by joint implementation of non-wires solutions. Like the original Cascade Crossing configuration, the capacity would be offered under the Portland General OATT and would provide customers located east of the Cascade Mountain range with access to delivery points in Portland General's territory in the Willamette Valley. Portland General contends that the MOU would allow it to take advantage of an existing Bonneville transmission corridor that runs through a national forest and a Native American

⁵ Portland General's March 19, 2013 Request for Waiver (Waiver Request) at 1, 6.

⁶ Waiver Request at 5. Portland General estimates the cost of the full scope of the project, as modified, to be at least \$800 million. *Id.* at 3.

⁷ *Id.* at 5.

reservation, which could avoid the need for new construction in those environmentally-sensitive and difficult-to-site areas.⁸

9. Portland General asserts that a one-year extension of the waiver is necessary due to continuing uncertainty making it difficult for Portland General to plan Cascade Crossing on an efficient and coordinated basis and for customers to make binding financial commitments for service. Portland General notes that, although the MOU is a positive development that could result in significant improvements to Cascade Crossing, it has increased uncertainty regarding the costs, configuration and routing of Cascade Crossing, which makes customers less willing to make binding financial commitments, as would be required in an open season. Portland General commits that it will hold a customer meeting on September 30, 2013, and prior to the meeting will make additional information available regarding the configuration and costs of Cascade Crossing to the extent practicable. Portland General further states that, prior to the end of the one-year waiver period, it will discuss with its customers the next steps that may be appropriate regarding Cascade Crossing, which may include an open season or other process to seek binding financial commitments on a nondiscriminatory basis to support construction of the Project. Portland General states that, once the next steps are selected, it will make a filing with the Commission prior to the conclusion of the waiver period and request any necessary approvals.

10. Portland General contends that the waiver extension is in the best interests of customers as it will permit Portland General to move forward with the planning for Cascade Crossing, without imposing financial demands on customers who may not yet have sufficient certainty to make binding financial commitments. In addition, Portland General states that the extension will allow Portland General and Bonneville to develop their plans under the MOU, which may result in a more efficient and environmentally-sound solution.⁹ Portland General also asserts that its waiver request is consistent with Commission precedent and promotes the Commission's policy in favor of interregional coordination in transmission planning.¹⁰

⁸ *Id.*

⁹ *Id.* at 8.

¹⁰ *Id.* at 8 (citing *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g and clarification*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012) *appeal docketed sub nom. S.C. Pub. Serv. Auth. v. FERC*, Nos. 12-1232, et al. (D.C. Cir. May 25, 2012); *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC

(continued...)

11. Portland General asserts that its request for a one-year extension of its waiver is consistent with the Commission's standards because it is of limited scope, addresses a concrete problem, and will not have undesirable consequences.¹¹ It emphasizes that the request is limited in scope because it will last for one year, and only apply to service requests in the queues that are related to service over Cascade Crossing. Portland General states that the waiver addresses a concrete problem – the inability to study the Project effectively under the serial study process set forth in its OATT, combined with the inability to conduct an effective open season due to uncertainty that impedes customers' willingness to make binding financial commitments. Lastly, Portland General contends that the waiver extension should benefit third parties because it will allow Portland General to move forward with Cascade Crossing without imposing financial obligations on customers, and because it will allow Portland General and Bonneville to develop more efficient, cost-effective and environmentally-friendly modifications to the Project under the MOU than originally proposed. 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 ability to request a customer-specific study.¹²

III. Notice of Filing and Responsive Pleadings

12. Notice of Portland General's filing was published in the *Federal Register*, 78 Fed. Reg. 18,579 (2013), with interventions and protests due on or before April 9, 2013. None was filed.

IV. Commission Determination

13. The Commission finds that a one-year extension of the previously-granted waiver is appropriate under the particular circumstances at issue here. 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.¹³ We find that an extension of Portland General's request for waiver

Stats. & Regs. ¶ 31,241, *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), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

¹¹ Waiver Request at 9-10.

¹² *Id.*

¹³ 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).

continues to be limited in scope because it will be in effect for one year, and will only be applicable to interconnection and transmission service queues related to Cascade Crossing. Additionally, we find that Portland General's request addresses a concrete problem, namely the inability to proceed with the originally-proposed Project, due to existing uncertainties regarding the costs, configuration and routing of the Project. Finally, we find that, under the circumstances, the waiver will not have undesirable consequences because the waiver extension will have no effect on the existing queue position of any customers and will not affect a customer's ability to request a customer-specific study of its interconnection facilities. For these reasons, we grant Portland General's request for a one-year extension of its waiver.

The Commission orders:

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.