170 FERC ¶ 61,244

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, DC 20426

(March 23, 2020)

In Reply Refer To:

Portland General Electric Company

Docket Nos. EL18-109-000

ER20-523-000

Mr. Donald J. Light

Portland General Electric Company

121 SW Salon Street

3WTC0407

Portland, Oregon 97204

Attention: Donald J. Light

Dear Mr. Light:

1. On December 5, 2019, Portland General Electric Company (Portland General) submitted proposed revisions to its open access transmission tariff (OATT) and a refund report in Docket No. ER20-523-000,[[1]](#footnote-2) to comply with the Commission’s November 5, 2019 order[[2]](#footnote-3) regarding Portland General’s response to the Commission’s March 15, 2018 tax rate-related order to show cause.[[3]](#footnote-4) In this order, we find that Portland General’s proposed OATT revisions and refund report comply with the Commission’s directives in the November 5 Order. As a result, we also terminate the proceeding instituted under section 206 of the Federal Power Act (FPA)[[4]](#footnote-5) in Docket No. EL18-109-000.
2. On March 15, 2018, the Commission issued several orders to address the effects of the Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act),[[5]](#footnote-6) which, among other things, reduced the federal corporate income tax rate from 35% to 21%.[[6]](#footnote-7) Of relevance here, pursuant to FPA section 206, the Commission issued the Stated Rate Order to Show Cause to public utilities that use stated transmission rates under an open access transmission tariff or transmission owner tariff.
3. On May 14, 2018, Portland General submitted an initial response to the Stated Rate Order to Show Cause and argued that under FPA section 206 the Commission must evaluate Portland General’s overall stated transmission rates, rather than a single component of those rates. Portland General contended that its stated transmission rates remain just and reasonable due to a combination of increased transmission investment and flat or declining demand since its rates were established in 2001.[[7]](#footnote-8) Additionally, Portland General committed to file a comprehensive analysis of its stated transmission rates using calendar year 2018 cost data after it filed its FERC Form No. 1 for the 2018 reporting year with the Commission.[[8]](#footnote-9) Portland General asserted that, if such analysis indicated that its stated transmission rates should be reduced, Portland General committed to issue refunds to its transmission customers, with interest, dating back to March 21, 2018 even if that date is beyond the 15-month refund period provided for under FPA section 206.[[9]](#footnote-10) Finally, Portland General requested that the Commission hold this proceeding in abeyance until Portland General could complete and submit its analysis.[[10]](#footnote-11)
4. On November 15, 2018, the Commission issued an order in Docket No. EL18-109-000 acknowledging that Portland General submitted a response to the Stated Rate Order to Show Cause and held this FPA section 206 proceeding in abeyance.[[11]](#footnote-12)
5. On July 25, 2019, Portland General submitted its supplemental response to the Stated Rate Order to Show Cause. In the response, Portland General states that it maintains two separate transmission rates―the transmission rate for its main transmission system (Main Transmission Rate) and the transmission rate for its Colstrip transmission system (Colstrip Rate).**[[12]](#footnote-13)** Portland General submitted a rate analysis based on the 2018 calendar year cost data reflected in Portland General’s FERC Form No. 1, including actual load data, adjusted for the effects of the Tax Cuts and Jobs Act. Portland General’s analysis demonstrated that its Main Transmission Rate could be higher than the currently stated rate, while its Colstrip Rate should be $0.63 kilowatt (kW) per month lower; a reduction from $1.64 per kW per month to $1.01 per kW per month. Portland General argued that while its analysis results in an expected rate that is less than its current Colstrip Rate, revisions are not necessary because: (1) Portland General’s marketing arm has been the only customer that has taken service over the Colstrip transmission system; (2) the expected increase for its Main Transmission Rate offsets the expected decrease for its Colstrip Rate; and (3) given the unique circumstances associated with the Colstrip transmission system, Portland General should not be required to address the Colstrip Rate outside of Portland General’s next transmission rate case.[[13]](#footnote-14)
6. In the November 5 Order, the Commission found that Portland General has shown cause as to why no revisions to its Main Transmission Rate were necessary but found that Portland General’s current Colstrip Rate was unjust and unreasonable. The Commission therefore directed Portland General to propose OATT revisions reducing its Colstrip Rate to $1.01 per kW per month, which the Commission found to be the just and reasonable rate. Additionally, consistent with Portland General’s commitment, the Commission directed Portland General to make refunds of all amounts collected from customers for periods after the March 21, 2018 effective date in excess of the revised Colstrip Rate, with interest.[[14]](#footnote-15)
7. On December 5, 2019, Portland General submitted, in Docket No. ER20-523-000, its compliance filing to the November 5 Order that proposes revised OATT records in eTariff format to implement the Colstrip Rate of $1.01 per kW per month, effective March 21, 2018. Additionally, Portland General filed a refund report documenting refunds for amounts collected in excess of the revised Colstrip Rate.[[15]](#footnote-16)
8. Portland General’s refund report applies the $1.01 per kW per month Colstrip Rate and covers the period from March 31, 2018 through the most recently executed billing period ending in October 31, 2019. Portland General states that it will issue the refunds, with interest, to its transmission customer that has taken service under its Schedule 9 since the effective date of the revised rate, which is Portland General’s marketing function.[[16]](#footnote-17)
9. Notice of Portland General’s December 5, 2019 filing was published in the *Federal Register*, 84 Fed. Reg. 67,740 (2019) with interventions and protests due on or before December 26, 2019. None was filed.
10. We find that Portland General’s proposed OATT revisions reducing its Colstrip Rate to $1.01 per kW per month and its refund report, which documents the refunds for amounts collected in excess of that revised rate, comply with the Commission’s directives in the November 5 Order. We therefore accept Portland General’s proposed revisions to its stated transmission rate for its Colstrip transmission system under its OATT, effective March 21, 2018, and its refund report, and terminate the proceeding instituted under FPA section 206 in Docket No. EL18‑109‑000.

By direction of the Commission.

( S E A L )

Kimberly D. Bose,

Secretary.

1. On December 9, 2019, Portland General submitted an *errata* to correct a calculation error in the initial refund report submission. [↑](#footnote-ref-2)
2. *Portland Gen. Elec. Co.*, 169 FERC ¶ 61,096 (2019) (November 5 Order). [↑](#footnote-ref-3)
3. *Alcoa Power Generating Inc.―Long Sault Division*, 162 FERC ¶ 61,224 (2018) (Stated Rate Order to Show Cause). [↑](#footnote-ref-4)
4. 16 U.S.C. § 824e (2018). [↑](#footnote-ref-5)
5. Tax Cuts & Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017). [↑](#footnote-ref-6)
6. Stated Rate Order to Show Cause, 162 FERC ¶ 61,224. [↑](#footnote-ref-7)
7. Portland General, Initial Response, Docket No. EL18-109-000, at 8 (filed May 14, 2018). [↑](#footnote-ref-8)
8. *Id.* at 1-2, 11-12. [↑](#footnote-ref-9)
9. *Id.* at 2, 11-12. [↑](#footnote-ref-10)
10. *Id.* at 12-13. [↑](#footnote-ref-11)
11. *Portland Gen. Elec. Co.*, 165 FERC ¶ 61,129 (2018). [↑](#footnote-ref-12)
12. Portland General, Supplemental Response, Docket No. EL18-109-000 at 5 (filed July 25, 2019). [↑](#footnote-ref-13)
13. *Id.* at 5-6. [↑](#footnote-ref-14)
14. November 5 Order, 169 FERC ¶ 61,096 at PP 12-15. [↑](#footnote-ref-15)
15. Portland General, Compliance Filing, Docket No. ER20-523-000, at 1 (filed December 5, 2019). [↑](#footnote-ref-16)
16. *Id.* [↑](#footnote-ref-17)