

# Davison Van Cleve PC

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Matthew W. Perkins

November 19, 2004

*Via Facsimile, Electronically, and U.S. Mail*

Ms. Annette Taylor  
Oregon Public Utility Commission  
P.O. Box 2148  
Salem OR 97308-2148

Re: In the Matter of Oregon Electric Utility Company, LLC, et al., Application for  
Authorization to Acquire Portland General Electric Company  
**Docket No. UM 1121**

Dear Ms. Taylor:

Enclosed please find an original and six copies of the Motion to Strike of the  
Industrial Customers of Northwest Utilities in the above-captioned Docket.

Please return one file-stamped copy of the document in the self-addressed,  
stamped envelope provided. Thank you for your assistance.

Sincerely yours,



Ally Smith

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Motion to Strike of the Industrial Customers of Northwest Utilities upon the parties, shown below, on the official service list for Docket No. UM 1121, by causing the same to be electronically served on all parties who have an email address on the official service list, and by U.S. Mail, postage-prepaid, to those parties who do not have an email address on the official service list.

Dated at Portland, Oregon, this 19th day of November, 2004.



Ally Smith

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Docket No. UM 1121, Posthearing Report at 1 (Oct. 26, 2004) (emphasis added). Oregon Electric's Opening Brief consists of fifty pages of text and a nine-page appendix that includes Oregon Electric's proposed conditions that were previously submitted in Oregon Electric/501. Thus, the complete Opening Brief submitted by Oregon Electric is fifty-nine pages.

On November 15, 2004, counsel for ICNU contacted ALJ Logan to inquire whether it would violate the page limit established in the Posthearing Report if ICNU submitted an Opening Brief that included text and attached conditions that resulted in a combined total of more than fifty pages. Attachment A, Declaration of Matthew W. Perkins (Nov. 19, 2004). The conditions that ICNU intended to attach to its Opening Brief were those previously submitted in ICNU/301. ALJ Logan indicated that the combined total of text and attachments that exceeded fifty pages would exceed the page limit in the Posthearing Report. Id. As a result, ICNU reduced the number of pages of text in its Opening Brief to ensure that the combined total was fifty pages or less. Id.

ICNU is prejudiced by Oregon Electric's violation of the requirements in the Posthearing Report. ICNU significantly reduced its discussion of the substantive issues in its Opening Brief in order to comply with the page limit in the Posthearing Report. Oregon Electric indicates in its Opening Brief that it attached the proposed conditions for the Commission's convenience. Oregon Electric's Opening Brief at 2 n.5. ICNU attached proposed conditions to its Opening Brief for the Commission's convenience as well; however, ICNU also complied with the page limit established by the ALJs. Staff also attached proposed conditions to its Opening Brief, but Staff's Brief did not exceed the fifty-page limit. In fact, no party other than Oregon Electric submitted an opening brief that exceeded the fifty-page limit.

PAGE 2 – MOTION TO STRIKE OF ICNU

If the ALJs find that Oregon Electric's Opening Brief violates the requirements of the Posthearing Report, ICNU urges the ALJs to consider the following options for corrective action. First, the ALJs should consider striking nine pages of the text or appendix of Oregon Electric's Opening Brief in order to comply with the page limit. Second, OAR § 860-011-0025(2) provides that "[d]ocuments received by the Commission which are incomplete or not in substantial compliance with these rules, the Commission's orders, rulings or memoranda of an [ALJ], or statutes shall not be accepted for official filing." ICNU urges the ALJs to not accept Oregon Electric's Opening Brief for filing and require Oregon Electric to refile an Opening Brief that complies with the Posthearing Report. Finally, ICNU urges the ALJs to take any other corrective action that the ALJs deem appropriate.

WHEREFORE, ICNU requests that the ALJs grant this Motion and order appropriate corrective action.

Dated this 19th day of November, 2004.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.



Melinda J. Davison

Matthew Perkins

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Of Attorneys for the Industrial Customers of  
Northwest Utilities



## Attachment A

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Declaration of Matthew W. Perkins

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1121**

In the Matter of	)	
	)	
OREGON ELECTRIC UTILITY	)	DECLARATION OF MATTHEW W.
COMPANY, LLC, <i>et al.</i> ,	)	PERKINS
	)	
Application for Authorization to Acquire	)	
Portland General Electric Company.	)	
	)	
_____	)	

I, Matthew W. Perkins, hereby declare that I have personal knowledge of the matters set forth in this Declaration and am competent to testify to them:

1. My full name is Matthew William Perkins. I am an attorney at the law firm of Davison Van Cleve, P.C. in Portland, Oregon. My business address is: 1000 SW Broadway, Suite 2460, Portland, Oregon 97205. I represent the Industrial Customers of Northwest Utilities (“ICNU”) in Oregon Public Utility Commission (“OPUC” or the “Commission”) Docket No. UM 1121.

2. On November 15, 2004, I was present when Melinda J. Davison, another attorney at Davison Van Cleve P.C., contacted Administrative Law Judge (“ALJ”) Kathryn Logan to inquire about the page limit for opening briefs established in the October 26, 2004 Posthearing Report in this Docket. Ms. Davison stated that ICNU’s brief at the time consisted of: 1) less than fifty pages of text; and 2) an attachment that included conditions previously filed by ICNU in this proceeding. Ms. Davison stated that the combined total of the pages of text and attached conditions would exceed fifty pages and inquired whether this would comply with the

PAGE 1 – DECLARATION OF MATTHEW W. PERKINS

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page limit in the Posthearing Report. ALJ Logan responded that the combined total number of pages of text and attachment would exceed the page limit.

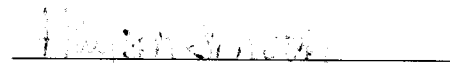
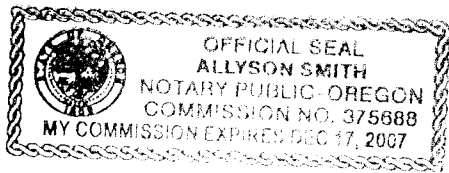
3. Following this phone conversation, I condensed the text and the conditions that were to be attached of ICNU's Opening Brief to reduce the number of pages in order to comply with the page limit in the Posthearing Report.

SIGNED THIS 19th day of November, 2004, at Portland, Oregon.



MATTHEW W. PERKINS

SUBSCRIBED and sworn to before me this 19th day of November, 2004, by Matthew W. Perkins.

  
NOTARY PUBLIC  
State of Oregon  
County of Multnomah