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December 3, 2004

By E-Mail and Regular Mail

Honorable Kathryn Logan  
Administrative Law Judge  
Public Utility Commission of Oregon  
P.O. Box 2148  
Salem, Oregon 97308-2148

Re: In the Matter of Oregon Electric Utility Company, LLC et al., Application for  
Authorization to Acquire Portland General Electric Company, UM 1121

Dear Judge Logan:

Enclosed please find an original and five copies of Reply Brief of Renewable Northwest  
Project.

Thank you.

Yours truly,

/s/

John W. Stephens

JWS/mec  
cc: Service List  
Client  
Enclosures

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1121

In the Matter of )  
 )  
OREGON ELECTRIC UTILITY ) REPLY BRIEF OF RENEWABLE  
COMPANY, LLC et al., Application for ) NORTHWEST PROJECT  
Authorization to Acquire Portland General )  
Electric Company. )

**I. Introduction**

The Renewable Northwest Project reiterates its position that, if the Commission approves Oregon Electric’s Application to acquire PGE, it should condition the acquisition with a robust commitment to renewable resources. Specifically, Applicants should be required to meet 10% of its energy needs with new non-hydro renewable resources within the next 10 years. There are two additional issues that remain to be addressed in relation to this position. First, PUC Staff’s list of recommended conditions is incomplete. Second, Applicants’ Opening Brief omits an earlier commitment to renewable resources related to transmission.

**II. PUC Staff’s Failure to Include Public Interest Issues in its Conditions Is an Overly Narrow Interpretation of the Legal Standard.**

If the Commission approves the Application, it should impose additional conditions on Applicants. Staff’s opening brief provides the Commission with conditions that, if included, would allow Staff to recommend approval of the Application. Staff Opening Brief at 2. None of Staff’s proposed conditions, however, address public interest issues, such as renewable resources, or low income assistance. Staff’s brief fails to address any public interest issues. As CUB notes, “[s]taff’s view of the public interest is simply too narrow.” CUB Opening Brief at 42.

In the case of renewable resources, this omission stands out because even Applicants have asserted that their plans for renewable resources should be considered among the benefits of the transaction. Applicants' "increased commitment to renewable resources" is included in their list of the "Substantial and Concrete Benefits to PGE's Customers." Oregon Electric Opening Brief at 19. Further, Applicants addressed renewable resources briefly in their Application and included their initial commitment to renewables in Mr. Davis' supplemental testimony. In other words, renewables – and other public interest issues – have been at issue in this proceeding from the beginning, and should have been acknowledged by Staff in their recommended conditions to the Commission.

As the Commission itself has stated, the net benefit standard is not just a consideration of economic factors, that it will "consider the total set of concerns presented by each merger application in determining how to assess a net benefit." *In the Matter of the Legal Standard for Approval of Mergers*, Order 01-778 (2001), at 11. As described in RNP's opening brief, Oregon state policy as determined by the legislature, and Commission orders make the development of sustainable energy resources an important priority. ORS 469.010 *et seq.*; *see also Re Investigation into Least-Cost Planning for Resource Acquisitions by Portland General Electric Co.*, LC-15, Order No. 96-224 (1996). Public interest issues like the Applicants' commitment to renewable resource, and the adequacy of that commitment, are an important part of the assessment whether the net benefits standard has been met.

### **III. The Applicant Fails to Include Previously Stated Commitment to Renewable Resources.**

Oregon Electric's opening brief reiterates earlier commitments to renewable resources. These include a pledge "to vigorously pursue a goal of meeting 10% of capacity with renewable resources by 2012, if economical" and "to appoint a manager within PGE with appropriate

responsibility and authority to work with advocacy groups for renewable energy sources, sustainability, energy efficiency and environmental matters.” Oregon Electric Opening Brief at 19-20. Oregon Electric also restates its intent to pursue the renewable resource goal through the Least Cost Planning Process. *Id.* at 19, n 94.

RNP’s opening brief responds in detail to Applicants’ renewable resource commitment. However, it is worth repeating here that their commitment is too modest and too hedged to be included in the assessment of whether the net benefits standard has been met. While Applicants are to be commended for including a commitment to renewables in the list of benefits to PGE customers of the transaction, the goal is not substantive enough to represent a real benefit to customers. The Commission should require a more robust commitment – meeting 10% of PGE’s energy needs with renewable resources over 10 years – if the application is approved.

Further, Applicants failed to include in its opening brief one of the earlier commitments to renewables, related to transmission. Mr. Davis stated in testimony that Oregon Electric pledged to “work with stakeholders toward resolving the transmission, system integration, and other issues posed by wind and other renewable generation.” (OEUC/ 22/Davis/12). As noted in RNP’s opening brief, this is a very important pledge, one that can be strengthened, and one that should be included as a condition of the approval. Applicants, however, do not include this pledge in its discussion of renewable resources in the opening brief. Oregon Electric Opening Brief at 19-20. Perhaps, this was an oversight by Applicants. If not, it reflects a step backwards in their commitment to renewable resources. If Applicants expect their commitment to renewable resources to be considered a benefit of the transaction, they, at a minimum, should be consistent in their statements.

...

#### **IV. Conclusion**

The Commission should consider a commitment to acquire renewable resources as part of its review of this transaction. If the Commission approves the application, it should condition the approval with a more substantial commitment to renewable resources.

DATED this 3<sup>rd</sup> day of December, 2004.

ESLER, STEPHENS & BUCKLEY

By: \_\_\_\_\_/s/  
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## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **REPLY BRIEF OF RENEWABLE NORTHWEST PROJECT** on the following persons on December 3, 2004, by hand-delivering, faxing, or mailing (as indicated below) to each a copy thereof, and if mailed, contained in a sealed envelope, with postage paid, addressed to said attorneys at the last known address of each shown below and deposited in the post office on said day at Portland, Oregon:

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