

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1121

In the Matter of

OREGON ELECTRIC UTILITY COMPANY,  
LLC, *et al.*,

Application for Authorization to Acquire  
Portland General Electric Company.

**EXHIBIT 1**

DIRECT TESTIMONY  
OF  
ROBERT S. BINGHAM  
IN BEHALF OF ENRON CORP.

1 **Q: Please state your name and occupation.**

2 A: Robert S. Bingham, Consultant. I am a CPA (NJ) and a Certified Insolvency and  
3 Restructuring Advisor.

4 **Q: What are your current responsibilities?**

5 A: I am a Director of Kroll Zolfo Cooper LLC, assigned as Associate Director of  
6 Restructuring for Enron Corp. (Enron) and Debtor affiliates. My responsibilities include  
7 working with Debtors and their outside professionals, the official committee of unsecured  
8 creditors (the Creditors' Committee) and the Enron North America Examiner (ENA Examiner)  
9 and their respective outside professionals in developing and confirming a bankruptcy plan for  
10 Enron Corp. and its Debtor affiliates. I have been a member of the Portland General Electric  
11 Company (PGE) board of directors since early 2003. I also serve as chairman of the audit  
12 committee of the board of directors of PGE and as a member of the PGE compensation  
13 committee.

14 **Q: What is the purpose of your testimony?**

15 A: My testimony responds to the request of the Staff (Staff) of the Oregon Public Utility  
16 Commission (OPUC) that Enron describe how it will dispose of its ownership of the common  
17 stock of PGE.

18 **Q: Please describe Enron's ownership of Portland General Electric.**

19 A: In 1997, Enron purchased 100% of the issued and outstanding common stock of PGE  
20 (PGE Shares). Enron continues to own the PGE Shares.

21 Commencing on December 2, 2001 and continuing thereafter, Enron and certain of its  
22 affiliates (collectively, Debtors) filed voluntary petitions under chapter 11 of title 11 of the  
23 United States Code (Bankruptcy Code). These chapter 11 cases are being jointly administered

1 under Case No. 01-16034(AJG) in the United States Bankruptcy Court for the Southern District  
2 of New York (the Bankruptcy Court). The PGE Shares are an asset of Enron's bankruptcy estate  
3 and will be disposed of in the manner approved by the Bankruptcy Court. It should be noted that  
4 PGE has not filed a chapter 11 case.

5 **Q: Please describe the status of Enron's bankruptcy proceedings.**

6 A: The Debtors have filed their Fifth Amended Joint Plan of Affiliated Debtors Pursuant to  
7 Chapter 11 of the United States Bankruptcy Code (the Plan) and accompanying Disclosure  
8 Statement for Fifth Amended Joint Plan of Affiliated Debtors Pursuant to Chapter 11 of the  
9 United States Bankruptcy Code (the Disclosure Statement). On January 9, 2004, the Bankruptcy  
10 Court entered an order, *inter alia*, approving the Disclosure Statement as containing adequate  
11 information to allow a holder of claims against or interests in the Debtors to vote for or against  
12 the Plan and establishing solicitation procedures with respect thereto. Thereafter, the Debtors  
13 filed their Plan Supplement containing Exhibits A through DD to the Plan. A hearing for the  
14 Bankruptcy Court to consider approval or confirmation of the Plan is scheduled to commence on  
15 June 3, 2004.

16 The Securities and Exchange Commission, under the Public Utilities Holding Company  
17 Act, approved the Plan and authorized the dissemination of the Plan, Disclosure Statement and  
18 other materials in connection with the solicitation of creditor votes. Among other things, the  
19 Debtors distributed copies of the Disclosure Statement, the Plan, and ballots to creditors who are  
20 entitled to vote pursuant to the Bankruptcy Code and requested that they vote in favor of the  
21 Plan. In the Disclosure Statement, the Debtors urge the creditors to vote in favor of the Plan. In  
22 addition, the solicitation packages sent to creditors entitled to vote included letters from the  
23

1 Creditors' Committee and the ENA Examiner expressing their support for the Plan and  
2 recommending that creditors vote in favor of the Plan.

3 **Q: Do you anticipate that the Bankruptcy Court will approve the Plan?**

4 A. I do not know. However, Enron believes that the Bankruptcy Court should approve the  
5 Plan because Enron believes that the Plan satisfies the requirements of the Bankruptcy Code and  
6 is in the best interests of the creditors.

7 The remainder of my testimony assumes that the Plan is confirmed by the Bankruptcy  
8 Court without material modification.

9 **Q: How does the Plan affect the PGE Shares?**

10 A. Enron and its creditors are required to follow the Plan. The Plan provides for the sale of  
11 the PGE Shares or the cancellation of the PGE Shares and the distribution of new PGE Shares to  
12 creditors, as described below. Enron agreed to sell the PGE Shares to Oregon Electric Utility  
13 Company (Oregon Electric) pursuant to a Purchase and Sale Agreement dated as of November  
14 18, 2003. The Bankruptcy Court approved the sale of the PGE Shares to Oregon Electric. As a  
15 result, in accordance with the Bankruptcy Court order approving the sale and the Purchase and  
16 Sale Agreement, as allowed by the Plan, and subject to the satisfaction or waiver of the closing  
17 conditions set forth in the Purchase and Sale Agreement (including, but not limited to, regulatory  
18 approval), the PGE Shares will be sold to Oregon Electric. When that occurs, the PGE Shares  
19 will cease to be assets of Enron's bankruptcy estate and will be replaced by the cash received by  
20 Enron from Oregon Electric. The cash received from the sale will be distributed to Enron's  
21 creditors as provided in the Plan, and Oregon Electric will become the new owner of the PGE  
22 Shares.

23

1           The remainder of my testimony assumes that the Purchase and Sale Agreement with  
2 Oregon Electric has been terminated and Enron has not entered into another agreement with any  
3 third party to sell the PGE Shares.

4       **Q:    Please describe the Effective Date of the Plan and the importance of the Effective**  
5 **Date.**

6       A:    Distributions to creditors under the Plan, including the distribution of Enron's interest in  
7 PGE, would not begin until after the Effective Date. Section 37.1 of the Plan establishes the  
8 conditions precedent to the Effective Date. These conditions include the entry of a confirmation  
9 order by the Bankruptcy Court, that all other actions and documents necessary to implement the  
10 Plan have been effected or executed and that certain consents be obtained. Under certain  
11 circumstances, the Debtors, with the consent of the Creditors' Committee, may waive each of the  
12 conditions to the Effective Date.

13       **Q:    Please describe the distribution of PGE Shares.**

14       A.    In the event that the sale to Oregon Electric does not close and Enron does not enter into  
15 any alternative transaction for the sale of PGE, the distribution of Enron's entire interest in PGE  
16 will occur in a single transaction (i) after Enron and PGE have received the required consents  
17 and (ii) after the Bankruptcy Court has allowed general unsecured claims in an amount which  
18 would result in the distribution of 30% of the issued and outstanding shares of PGE common  
19 stock. At distribution, the PGE Shares owned by Enron will be canceled, and PGE will issue  
20 New PGE Shares. A portion of the New PGE Shares will be issued pro rata to the appropriate  
21 creditors. The remainder of the New PGE Shares will be issued to the Disbursing Agent  
22 (described below) to be held in a reserve for disputed claims (the Disputed Claims Reserve),  
23 which I discuss in more detail below.

1 **Q: What OPUC consents apply to the distribution of New PGE Shares?**

2 A. The Plan provides that, at the time of the distribution, the PGE Shares held by Enron will  
3 be canceled and New PGE Shares representing 100% of the common stock of PGE will be issued  
4 by PGE to the appropriate holders of allowed claims and to the Disbursing Agent for the  
5 Disputed Claims Reserve, as described above. I have been informed by counsel that Oregon law  
6 requires that the OPUC approve the issuance of any securities by PGE, including the New PGE  
7 Shares to be issued to the appropriate holders of allowed claims and the Disputed Claims  
8 Reserve. In addition, the Disbursing Agent for the Disputed Claims Reserve will hold up to 70%  
9 of the New PGE Shares after the distribution. The Disbursing Agent, subject to the direction and  
10 approval of the DCR Overseers (described below), will vote the New PGE Shares held in the  
11 Disputed Claims Reserve. I have been informed by counsel that the authority acquired by the  
12 DCR Overseers to direct the voting of the New PGE Shares will be subject to the consent of the  
13 OPUC under ORS 757.511.

14 **Q: How will the Disputed Claims Reserve be operated?**

15 A: In the event that the distribution of New PGE Shares occurs, the New PGE Shares will be  
16 held by and registered in the name of the Disbursing Agent, which the Plan contemplates will be  
17 Stephen Forbes Cooper LLC. The Disbursing Agent will release New PGE Shares to the holders  
18 of allowed claims periodically until all of the New PGE Shares have been released to the  
19 creditors. In addition, the Disbursing Agent will distribute any dividends declared and paid with  
20 respect to the New PGE Shares to such creditors on the same basis. Notwithstanding this, until  
21 all of the disputed claims have been allowed, in whole or in part, by a final order of the  
22 Bankruptcy Court, the Disbursing Agent will hold in the Disputed Claims Reserve at least 1% of  
23

1 the New PGE Shares pending the final determination of all claims and a final distribution of all  
2 of the assets of Enron's bankruptcy estate.

3 **Q: How will the Disputed Claims Reserve be governed and administered?**

4 A: The Disputed Claims Reserve will be administered by the Disbursing Agent. Any voting  
5 or sale of the New PGE Shares will be subject to the direction and approval of the DCR  
6 Overseers. The DCR Overseers will consist of five persons selected by the Debtors with the  
7 consent of the Creditors' Committee with respect to four of the Debtor selections and with the  
8 consent of the ENA Examiner with respect to one of the Debtor selections. The DCR Overseers  
9 have not been selected at this time.

10 **Q: If the distribution of New PGE Shares to creditors occurs, how will the PGE Board**  
11 **be selected?**

12 A: A vote of the shareholders of PGE will determine the Board. Shares held in the Disputed  
13 Claims Reserve by the Disbursing Agent will be voted in a manner directed by the DCR  
14 Overseers.

15 **Q: Does the Plan permit the PGE Shares or New PGE Shares to be sold to a third party**  
16 **if they are not sold to Oregon Electric?**

17 A: Yes. Enron, with the approval of the Bankruptcy Court, will have the authority to enter  
18 into an agreement to sell the PGE Shares prior to the Effective Date. After the Effective Date  
19 and after the distribution of New PGE Shares to holders of allowed claims and to the Disbursing  
20 Agent for the Disputed Claims Reserve pursuant to the Plan, the decision as to whether or not to  
21 sell New PGE Shares will be made by the creditors who have received New PGE Shares in a  
22 distribution (and their assignees) and by the DCR Overseers with respect to the New PGE Shares  
23 held in the Disputed Claims Reserve. The Plan Documents require that if the DCR Overseers

1 agree to sell the New PGE Shares held in the Disputed Claims Reserve to a third party, the third  
2 party must make a tender offer to all of the other holders of the New PGE Shares (the creditors  
3 and their assignees) to purchase their shares on the same terms and conditions as offered for the  
4 New PGE Shares held in the Disputed Claims Reserve.

5 **Q: Please describe the PGE Trust.**

6 A: The Plan provides that the Debtors and the Creditors' Committee may jointly determine  
7 to form the PGE Trust as an interim step to the sale of the PGE Shares to Oregon Electric or a  
8 third party or the distribution of the New PGE Shares. The PGE Trust Agreement is set forth in  
9 Exhibit E of the Plan Supplement. The Plan permits the PGE Trust to be formed for any reason.

10 **Q: Please describe the operation of the PGE Trust.**

11 A. If the PGE Trust is formed, the PGE Trust will ultimately (i) deliver the PGE Shares to  
12 Oregon Electric upon consummation of the sale of PGE to Oregon Electric, (ii) sell the PGE  
13 Shares to a third party, or (iii) release New PGE Shares to certain holders of allowed claims (and,  
14 if applicable, holders of allowed equity interests) and the Disbursing Agent to be held in the  
15 Disputed Claims Reserve pursuant to the Plan. In the case of clause (iii) above, the PGE Trust  
16 may either receive the New PGE Shares after the PGE Shares held by Enron are canceled or  
17 receive the PGE Shares in a transfer from Enron. If the PGE Trust receives PGE Shares, those  
18 shares will be canceled at the time of the distribution, and PGE will issue the New PGE Shares to  
19 the PGE Trust. In that event, the PGE Trust will not hold the New PGE Shares but will release  
20 them to the creditors and the Disbursing Agent to be held in the Disputed Claims Reserve as  
21 provided in the Plan and as described above.

22 The initial trustee of the PGE Trust is contemplated to be Stephen Forbes Cooper LLC.

23 The trust board supervises the trustee. The trust board consists of five persons selected by the

1 Debtors, four of them in consultation with the Creditors' Committee and one of them in  
2 consultation with the ENA Examiner. The trust board has the authority to oversee, review and  
3 guide the activities of the trustee. The trustee is required to obtain the approval of the trust board  
4 prior to voting the PGE Shares (or New PGE Shares) and for any sales of the PGE Shares (or  
5 New PGE Shares).

6 **Q: Assuming that the PGE Shares are not sold, how long will it take for the Plan to**  
7 **become effective, and how long will it take before there is a final distribution of the PGE**  
8 **Shares?**

9 A: There is no certain answer. The Plan has not yet been confirmed. Assuming it is  
10 confirmed by the Bankruptcy Court in June 2004, my best estimate is that the Effective Date of  
11 the Plan will occur between July 1, 2004 and early 2005. I am unable to estimate when a final  
12 release of the PGE Shares to creditors might be made from the Disputed Claims Reserve. This  
13 timing is controlled by the settlement, disallowance, allowance and/or withdrawal of the disputed  
14 claims. To date, approximately 25,000 claims have been filed in the Enron bankruptcy, the  
15 Debtors have filed 33 omnibus claims objections, and approximately 8,500 claims have been  
16 expunged by court order. Many more claims remain pending objection, reconciliation and  
17 resolution, and many objections are pending with the Bankruptcy Court. Although the Debtors  
18 have streamlined procedures to estimate over 6,000 contingent and unliquidated claims, there can  
19 be no assurances as to when the claims resolution process will be completed.

20 **Q: Does this conclude your testimony?**

21 A: Yes.

22

23 009697 00012\571488 V008