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Douglas C. Tingey
Assistant General Counsel

July 11, 2007

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission
Attention: Filing Center
550 Capitol Street NE, #215
PO Box 2148
Salem OR 97308-2148

Re: UE 180, 181 AND 184

Attention Filing Center:

Enclosed for filing in the captioned dockets are an original and five copies of:

- **PORTLAND GENERAL ELECTRIC COMPANY'S REPLY TO STAFF'S MOTION FOR ORDER ALLOWING RATES TO GO INTO EFFECT PERMANENTLY AND CUB'S MOTION TO REOPEN.** (Included are confidential and non-confidential versions. The confidential portion is subject to Protective Order 06-111 and therefore not to be posted on the PUC website).

This document is being filed by electronic mail with the Filing Center. Hard copies are to be sent via US Mail.

An extra copy of this cover letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

DOUGLAS C. TINGEY

DCT:jbf
Enclosure

cc: Service List-UE 180/181/184

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **PORTLAND GENERAL ELECTRIC COMPANY'S REPLY TO STAFF'S MOTION FOR ORDER ALLOWING RATES TO GO INTO EFFECT PERMANENTLY AND CUB'S MOTION TO REOPEN** to be served by electronic mail to those parties whose email addresses appear on the attached service list, and by First Class US Mail, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service.

Dated at Portland, Oregon, this 11th day of July 2007.

DCT

DOUGLAS C. TINGEY

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UE 180, UE 181, UE 184

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 180/ UE 181/ UE 184

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY Request for a General Rate Revision (UE 180),	)	PORTLAND GENERAL ELECTRIC COMPANY'S REPLY TO STAFF'S MOTION FOR ORDER ALLOWING RATES TO GO INTO EFFECT PERMANENTLY AND CUB'S MOTION TO REOPEN
In the Matter of PORTLAND GENERAL ELECTRIC COMPANY Annual Adjustments to Schedule 125 (2007 RVM Filing) (UE 181),	)	
In the Matter of PORTLAND GENERAL ELECTRIC COMPANY Request for a General Rate Revision relating to the Port Westward Plant (UE 184).	)	

Portland General Electric Company ("PGE") submits this reply to Staff of the Public Utility Commission's ("Staff")Motion for Order Allowing Rates to go Into Effect Permanently and the Motion to Reopen of the Citizen's Utility Board of Oregon ("CUB"). As discussed below, PGE urges the Commission to deny CUB's motion and allow the currently approved rates to become permanent.

INTRODUCTION

The Issue: On June 14, 2007, the Commission issued Order 07-273, which implemented the rates previously approved by the Commission, subject to refund, beginning June 15, 2007. That Order also confirmed the following process:

> [S]taff and intervenors have until the close of business on June 26, 2007, to submit a motion seeking a reopening of this docket for the re-examination of PGE's costs in light of changes since Order 07-015 was issued. The motion need not include an evidentiary showing, but should identify specific costs that have changed from the test year expenses and include an estimate of the cost impact. PGE, Staff, and the other parties will have until July 11, 2007 to file a reply to any motion. If Staff or an intervenor can establish that good cause exists for a reexamination of PGE's test year expenses, we will reopen this docket and conduct further proceedings to allow a thorough and complete review of PGE's expenses and, if warranted, adjust rates accordingly.

On June 26, two motions were filed. Staff moved for an order allowing rates to go into effect permanently. Staff stated: "Staff has conducted the review allowed under Order Nos. 07-015 and 07-723 and has concluded no further examination of PGE's rates for the Port Westward facility is necessary." CUB filed a Motion to Reopen seeking to have the docket reopened to "explore the more-significant diversion of the actual costs so far this year from those forecast in the test yean" CUB's analysis is in error and CUB has not made a showing of changes since Order 07-015 that warrant reopening this docket.

History: Before addressing the motions it is appropriate to remember why we are here; that is, why the Port Westward plant did not come on-line in the expected time-frame. The Port Westward plant was part of the Action Plan from PGE's 2002 Integrated Resource Plan process, which included an extensive RFP process. Black & Veatch, an international engineering and construction firm, was selected as the engineering, procurement and construction ("EPC") contractor. Black & Veatch was responsible for constructing the Port Westward plant to the contract specifications, including output and heat rate guarantees. Construction proceeded according to the contractual schedule, and at times ahead of schedule. However, during testing of the plant, damaged blades in the compressor section of the gas turbine were discovered by the construction contractor. As a result, the on-line date was delayed to allow time for repairs and to conduct additional inspections and testing. The needed repairs were completed. Inspection and repair costs were borne by the contractor under the fixed price contract with PGE. PGE worked with the contractor to insure that all damage was properly repaired and the Port Westward plant met the contractual specifications prior to PGE's acceptance of ownership of the plant. The time it took to accomplish this, and conduct necessary testing, delayed the on-line date to June 11, 2007. In short, PGE insured that before the Port Westward plant was put into service for customers, PGE and its customers received what they would pay for - a plant that met the contractual standards. The delay was unfortunate, but necessary.

DISCUSSION

Port Westward Costs. The delay in the on-line date did not significantly change the construction costs of the Port Westward plant. The EPC contract was for a fixed price. In addition the contract provided for liquidated damage payments if the plant was not completed prior to May 1, 2007. Other costs, notably property tax,[1] have also changed from those assumed in this docket. The cumulative effect of these changes would be an increase in Port Westward's revenue requirement of over $2 million if these updates were made. See PGE's response to CUB Data Request 43, submitted with CUB's motion. It is also noteworthy that Port Westward costs are also under the original budget for the plant. Staff has submitted their analysis of these costs and concluded that there is not a material change to warrant reexamination of PGE's costs in

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[1] There seems to be confusion about why property tax expense in 2007 will be higher than the forecast used in this docket. The increase has nothing to do with the plant being delayed from March to June. To qualify for a property tax exemption the plant must be operational by January 1 of that year. (See Or. Rev. Stat. 285C.175). So, whether Port Westward came on line in March or June had no effect on its eligibility for a property tax exemption in the 2007-08 tax year. This was explained in PGE's First Supplemental Response to Staff Data Request 682, a copy of which is attached hereto as Attachment A.

rates for Port Westward.[2]

Overall costs. Overall financial projections for the test year also do not warrant a reopening of this docket. CUB has pointed to two cost elements that are less than projected to support its motion - state taxes and power costs. In doing so, CUB has ignored other cost elements that arc higher than projected, and used incorrect comparators to support its motion.

Income taxes. CUB's arguments are unclear. In its motion CUB seems to agree with PGE that it would be inappropriate to adjust rates for only one change "but not other known changes. . ." CUB motion at 4. Yet, CUB also argues for a change based solely on a change in income tax without looking at any other cost changes. Specifically CUB points to a reduction in PGE's Oregon tax rate due to a change in the apportionment methodology, resulting in an estimated $2.8 million reduction. CUB attached to its motion PGE's response to CUB data request 43 to support its argument. Yet CUB ignores other known changes, including those listed in that very data request response. As PGE pointed out in that data response, forecast 2007 O&M is higher than the approved level, with support O&M expected to be approximately $8 million higher than those used to set rates in this docket. The revenue requirement of Port Westward itself would be approximately $2 million higher than that approved in rates. Other costs are lower, such as net variable power costs ("NVPC"). But NVPC is subject to a PCA adopted in this docket that shares variances with customers. It is overall earnings expectations that should determine whether the rates are reasonable. PGE's overall earnings are in line with those approved in this docket.

CUB's comparison. CUB's comparison in their Attachment B is misleading. CUB incorrectly compares a forecast for 2007 to the 2007 budget - the budget is not what the

[2] Staff's analysis included an adjustment to property tax expense that PGE does not agree with. This is addressed below in this reply. Even with that adjustment, however, Staff does not find a material change.

Commission authorized in rates, and what was authorized in rates is the correct comparator. In some of its analysis CUB also compares four months of actual costs to four months of budget. This is incorrect for same reason, and also because ratemaking sets annual rates based on test years not test months. It is also incorrect for another reason - retroactive ratemaking. Using past "profits" as a reason to reduce future rates is retroactive ratemaking.[3]

The appropriate comparison of PGE's projected earnings for 2007, which include four months of actual results, is provided in Confidential Attachment B. The expected level of after-tax operating income from UE 180 is $166.5 million. (See cell C32 of Attachment B.) The current projection of 2007 after-tax operating income, properly adjusted for the out of period events described above as well as regulatory disallowances, is [redacted]. CUB erroneously compares pre-tax income figures and erroneously uses PGE's 2007 budget as representative of the approved amounts in UE 180. After-tax figures should be used as they represent amounts left over after operating costs to cover financing costs, including the provision of a return on common equity. The 2007 budget figures should not be used as representative of the approved amounts in UE 180. [redacted]

CUB also erroneously provides a comparison of monthly figures in their Attachment B. Rate cases are based on test years, not test months. The Commission authorizes rates to recover prudently incurred costs and provide for a reasonable return on equity over the test year, in this case 2007. Actual earnings for a utility reflect seasonality, as rates are based on average expected costs for a test year, and many actual costs, such as power costs, reflect a strong

[3] Using a historic test year, with appropriate adjustments to remove one time events, to track normal weather and other normalizing adjustments, is not retroactive ratemaking. That is not what CUB is proposing, however.

seasonal shape. It is therefore unreasonable to extrapolate expected annual results by multiplying four months of actuals by three, as suggested by CUB. Thus, CUB's analysis that suggests PGE can be expected to over-earn by $60 million for 2007, or that PGE over-earned in the first four months of the year, should be given no weight. An appropriate examination of expected earnings reflects expectations for the year, not an examination of a few months, or an extrapolation of such results. Also, as stated above, using past "profits" to reduce future rates is retroactive ratemaking.

PGE's income. [redacted] in PGE's response to CUB Data Request No. 035, we compared PGE's forecasted earnings for 2007 against the authorized UE 180 forecast (test year) and our 2007 revised budget. PGE provided the 2007 revised budget because CUB requested monthly detail, which is not available for the test-year but is available for the budget. The 2007 forecast consists of monthly actual results from January through April and updated monthly budgets from May through December.

Summary results for these three scenarios are provided in Confidential Attachment B. For Attachment B and our response to CUB Data Request No. 035, PGE adjusted the 2007 forecast and revised budget to adjust for the following items that would not be included in a rate filing or earnings review:

- Remove a $20.4 million credit to net variable power costs (NVPC). This represents PGE's February accrual for the Boardman deferral in accordance with Commission Order No. 07-049 and relates to costs incurred during 2005 and 2006.
- Remove a $5.5 million credit to NVPC. This represents PGE's March accrual for the resolution of California receivables dating from 2000 and 2001.

- Remove approximately $7.7 million from A&G costs to reflect regulatory adjustments from UE 180 and prior rate cases.

These types of adjustments would be required for using a "historical" test year. After these adjustments are applied, utility operating income (UOI) for the revised budget is within [redacted] of the test-year, and UOI for the 2007 forecast is within [redacted] of the test-year.[4] [redacted]. Comparing either unadjusted results or pre-tax earnings is inappropriate and not performed in either rate-making or earnings-review processes.

There are also other factors to consider when comparing the 2007 forecast with the test-year, including:

- [redacted]
- [redacted], this factor is subject to the power cost adjustment mechanism (PCAM) per Commission order No. 07-015.

The Commission adopted the PCAM in UE 180 to "capture power cost variations that exceed those considered part of normal business risk" (Order 07-015, page 26). To identify normal business risk, the Commission specified a power cost dead band and sharing mechanism. The Commission also stated that an earnings review should be applied "to determine whether the

[4] Specifically, we compare line 21, columns (e) and (c) of Attachment B to line 21, column (a).

utility is earning an acceptable rate of return. An earnings test serves to protect customers from paying higher-than-expected power costs when the utility's earnings are reasonable, while it protects the Company from refunding power cost savings when it is underearning" *(Id.)*. In summary, the Commission has already created a mechanism to review PGE's power cost variations and this is the only major category that compares favorably to the 2007 test-year.

It is particularly curious that CUB is arguing for an exact update of power costs, CUB argued at length in this docket (and elsewhere) that variations in power costs are to be borne by the company.[5] CUB argued strongly that there should at least be large deadbands in a PCAM because power cost variability is the Company's risk to manage. Yet now, CUB seeks to adjust test year power costs based on four months of actual expenses to the dollar. And CUB makes this proposal with no evidence that normalized annual power costs will differ significantly from those projected in this case. As stated above, the Commission set up a PCAM to deal with annual power cost variances. Policy decisions were made regarding what variances should be included in rates, and that is what will happen. It is not appropriate to address power cost variation at this time.

Time to examine data. In its motion CUB made numerous statements that it has had limited time to review PGE's costs and "the timing has not allowed for us to conduct follow-up discovery." *CUB motion at 3.* CUB, Staff and other intervenors were kept apprised of the status of Port Westward throughout this docket. This included a press release on April 19 stating that completion of the plant had been delayed to June 2007. A copy of that press release was sent to CUB and others that day along with a notation that PGE filed a Form 8k with the SEC and it was

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[5] For example, CUB's testimony stated: "The above quotes from PGE's testimony suggest an underlying presumption that Oregon regulation strives to cover each specific utility cost to the dollar on an annual basis. This is absurd . . . " : *Rate Case Testimony of Citizens' Utility Board, CUB/200,* page 6. "The inexactitude of cost recovery is an integral part of the regulatory incentive for an electric utility to actively and prudently manage its power supply assets." *Id*, at 11.

available on PGE's website. PGE encouraged the parties to submit data requests. On May 7, 2007, Staff submitted a set of data requests regarding the delay and costs. On May 10, 2007, CUB sent a request seeking copies of PGE's responses to Staffs requests. Responses to Staff's requests were sent to Staff on May 21, 2007, and copies were sent to CUB on May 22, 2007. CUB submitted additional data requests on May 21, 2007, and one request on June 14, 2007. CUB and others have had sufficient time to review PGE's costs.

Staff's Motion. Staff moves for an order allowing the existing rates to go into effect permanently. PGE agrees with that part of Staff's motion. There are two other aspects of Staff's filing that PGE does not agree with.

In its analysis of PGE's costs Staff spread the property tax expense over five years. PGE does not believe this is appropriate. The tax expense is a test year expense, and should be recognized. Choosing five years to spread it over is arbitrary, and subjects PGE to risks of non-recovery of this expense in future ratemaking. Such treatment would also create a regulatory asset with associated earnings and it is not clear if Staff took this into account in its analysis.

Staff's motion also requests that the Commission order that "customers will be held harmless should Staff discover an impact to power costs caused by the delay of the Port Westward facility during the review of power costs for the Annual Power Cost Update mechanism." Such an order is not necessary and would not be appropriate. First, PGE is unsure whether this docket is the appropriate place to address this issue. In addition, Staff's position seems to be that customers should receive power cost benefits, if any, through a PCAM, from a plant before that plant is included in rates, and even before that plant is completed and providing service. The dispatch benefit of Port Westward is included in the rates that became effective after Port Westward came into service. Customers did not, and were not asked to, pay the costs of this plant until it was providing service to customers. The flow of power cost benefits should parallel when costs are in rates, and it has. Further, attempting to provide customers with speculative power cost benefits of a plant before that plant is operational and providing service to customers would not be fair or reasonable.

CONCLUSION

There has not been a showing that PGE's costs have changed since the issuance of Order 07-015 such that this docket should be reopened. PGE's income is [redacted] The rates approved by the Commission are fair, just and reasonable and PGE requests that the Commission make the rates currently in effect permanent and close this docket.

DATED this 11th day of July, 2007

Respectfully submitted,

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May 24, 2007

TO: Vikie Bailey-Goggins
Oregon Public Utility Commission

FROM: Randy Dahlgren
Director, Regulatory Policy & Affairs

PORTLAND GENERAL ELECTRIC
UE 180
PGE's *First Supplemental* Response to OPUC Data Request
Dated May 7, 2006
Question No. 682

Request:

Please update the following estimates provided for Port Westward in the UE 180 rate application:

a.	**Capital Costs**	**$285,205**
b.	**O&M savings**	**$ 11,746**
c.	**Production expenses**	**$ 8,440**
d.	**Depreciation expense**	**$ 10,667**
e.	**Fuel Costs or avoided fuel cost assumptions**	
f.	**Additional capacity costs or storage expenses**	

Response (May 21, 2007):

The Response first addresses Parts a-f. It then provides a revision to property tax expenses.

a. Capital Costs $285,205

For new on-line dates of June 1, June 16, and July 1, 2007, our current capital cost estimates are:

June 1: $281.87 million
June 16: $281.96 million
July 1: $282.05 million

Attachment 682-A is an Excel file "DR_682_Attach A_CONF.xls," which provides details for these current estimates. This attachment is confidential and subject to Protective Order No. 06-111. It is provided electronically (CD) under separate cover.

b. O&M Expenses $8,440

Note that sub-requests b. and c. have the amounts reversed. PGE does not expect O&M expenses to change materially with the delay. However, as noted in part g. below, property taxes need to be included in the test year revenue requirement.

c. Production expenses (dispatch benefits) $11,746

Note that sub-requests b. and c. have the amounts reversed. Consistent with Order No. 07-015, Appendix E, Page 2, Commission approved annualized dispatch benefits were $8.9 million. This is based on a full 12-month view of these benefits, per the discussion of Page 49 of Order No. 07-015. Therefore, the approved annualized dispatch benefits, $8.9 million, are independent of the new on-line date.

The $8.9 figure is calculated specifically as the 10-month, March-December 2007, dispatch benefits per the November 9, 2006 Monet runs, multiplied by the ratio of 12-month to 10-month (March-December) loads, plus ICNU's $1.9 million adjustment to calculate benefits based on a full 12-month analysis. Specifically:

[(Monet Power Costs w/o PW) – (Monet Power Costs w PW)] * [(12-mo. Loads) / (Mar-Dec Loads)] + 1,922

or ($000):

[782,010 – 776,274] * [19,574,761 / 16,054,334] + 1,922 = 5,736 / 82.02% + 1,922 = 6,993 + 1,922 = 8,915

d. Depreciation expense $10,667

With the UM 1233 Stipulation, the depreciation expense changed to $8.7 million. This was reflected in OPUC Order No. 07-015.

For new on-line dates of June 1, June 16, and July 1, 2007, our current depreciation cost estimates are:

June 1:	$8.577 million
June 16:	$8.580 million
July 1:	$8.583 million

e. Fuel Costs or avoided fuel cost assumptions

See Response to Part c.

f. Additional capacity costs or storage expenses.

See Responses to Parts c and e.

g. Property taxes.

The revenue requirement that PGE filed in this proceeding effectively assumed no property taxes for Port Westward because of a property tax "holiday." However, we now know that this property tax "holiday" will not begin until July 1, 2008. Therefore, PGE will incur property taxes of approximately $2.418 million between July 1, 2007 and June 30, 2008. We include this amount in the summary revenue requirement calculations in our Response to OPUC Staff Request No. 685.

First Supplemental Response (May 24, 2007):

Pursuant to a follow-up request from OPUC Staff, Attachment 682 Supp 1-A is a Word document that outlines the statutory basis for PGE's statement in Part g. above, that the property tax "holiday" will not begin until July 1, 2008. Attachment 682 Supp 1-B is an Excel file that calculates the amount of property taxes for the period between July 1, 2007, and June 30, 2008, approximately $2.4 million.

UE 180
Attachment 682-Supp 1-A

Basis for Property Taxes for July 1, 2007 – June 30, 2008

First Supplemental Response to OPUC Data Request No. 682

Relevant statutes and definitions are:

- ORS § 285C.175 states that "the exemption allowed under this section applies to the first tax year for which, as of January 1 preceding the tax year, the qualified property is in service."
- ORS § 295C.050 states that in service "means being used or occupied or fully ready for use or occupancy for commercial purposes consistent with the intended operations of the business firm as described in the application.."
- The tax year is July 1 through June 30.
- ORS § 285C.220 states that "after January 1 and on or before April 1 of the assessment year immediately following the year in which qualified property in an enterprise zone is placed in service, and of each assessment year thereafter for which an exemption is sought, an authorized business firm may file a claim for the exemption allowed..."

Port Westward was not in service January 1, 2007. Therefore, it does not qualify for the tax holiday for the July 1, 2007 through June 30, 2008 tax year. Port Westward will be in service before January 1, 2008. Therefore, it should qualify for the tax holiday beginning with the July 1, 2008 through June 30, 2009 tax year.

Since Port Westward will be in service, but not qualifying for the property tax holiday for the approximately one-year period prior to July 1, 2008, it will incur property taxes over that period.

UE 180
Attachment 682-Supp 1-B

Calculation of Property Taxes for July 1, 2007 – June 30, 2008

Port Westward Taxes

				2007		2008	
Description	Total Utility Accrual	Port Westward Calculation	2006 Booked	Budget/Forecast	Booked	Budget/Forecast	Booked
2006/07 Taxes in Original Budget							
Assessed Value=Cost	2,046,000,000	60,609,286					
Avg Tax Rate Colu Cty		10.8348					
Net Taxes	29,107,437	636,989					
Operating	27,518,447	169,741		84,870			
CWIP	1,037,845	467,248					
Total		636,989					
2006/07 Taxes Actual							
Assessed Value		60,609,286					
Tax Rate		10.5877					
Net Taxes		622,461.55					
Operating							
CWIP			696,179.10				
Total							
2007/08 Taxes in Original Budget							
Assessed Value	2,302,055,000	265,488,137					
Avg Tax Rate Colu Cty		10.9431					
Net Tax	32,311,200	2,818,105					
Operating	28,957,680	416,545		208,260			
CWIP	2,821,560	2,401,560					
Total		2,818,105					
				293,130			
2007/08 Taxes in Forecast(1/07 Chg)							
Assessed Value							
Avg Tax Rate Colu Cty							
Net Tax							
Operating		2,836,800		1,096,500		1,096,500	
CWIP		0					
Total							
				1,389,630			
What should it be as of 4/19/2007 estimates assuming 5/1 in service:				s/b in 2007		s/b in 2008	
2006/07 Actual		622,462					
Operating		103,744		103,744			
Capital		518,718		207,488			
2007/08 Estimate							
CWIP Cost/Value		235,465,116					
2006/07 Tax Rate		10.5877					
Net Taxes		2,418,243					
Operating		2,418,243		1,209,122		1,209,121	
Capital		0		0			
Total				1,520,354		1,209,121	
Operating				1,312,866		1,209,121	
Capital				207,488		0	

*CWIP is calculated in the property tax estimate however, are not budgeted. We book capitalized taxes for the fiscal year once in Nov. only.
For the budget, 2006/07 Taxes for Port Westward is 3/4 year to CWIP and rest to Oper; in capitalizing 2006/07 actual I overcapitalized by not excluding the progress payment in the assessed value allocated to CWIP (06/07 taxes for exempt items = $160,647..82)
An adjustment will be made on the books in June 2007 when we know when the plant is in service.