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November 17, 2006

**VIA ELECTRONIC FILING
& FIRST CLASS MAIL**

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

Re: UE 180 – In the Matter of Portland General Electric Company
Request for a General Rate Revision

Dear Filing Center:

Enclosed for filing are an original and five copies of the Eugene Water & Electric Board's Initial Brief in the above-captioned proceeding.

Thank you for your assistance in this matter. Should you have any questions regarding this matter, please feel free to contact me. Thank you.

Very truly yours,



Edward A. Finklea

EAF/tr

Enclosure

cc: UE-180 Service List (via email & first class mail)
Judge Christina Hayes

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	
COMPANY)	
Request for a General Rate Revision)	Docket Nos. UE 180, 181 & 184
)	
)	
Annual Adjustments to Schedule 125)	
(2007 RVM Filing))	
)	
Request for a General Rate Revision)	
Relating to the Port Westward Plant.)	
)	

**OPENING BRIEF
OF THE
EUGENE WATER & ELECTRIC BOARD**

November 17, 2006

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I. INTRODUCTION

The Eugene Water & Electric Board (“EWEB”) has raised one issue in this proceeding that it requests the Oregon Public Utility Commission (“OPUC” or “Commission”) address in its final order. As part of its rate filing, Portland General Electric (“PGE”) proposes to reduce the annual contribution PGE makes to the Nuclear Decommission Trust (“NDT”) from the current level of \$14.04 million annually to \$4.65 million annually. Exhibit PGE/1000, p. 1, lines 7-10. In addition, PGE proposes to return approximately \$20 million that is currently in the NDT to customers as a one time refund. *Id.* EWEB sponsored the testimony of Ken Beeson, asking that regardless of whether the Commission approves PGE’s request, it should expressly state that PGE is authorized to continue collecting funds from ratepayers to complete the task of decommissioning Trojan, even if such funds must be collected beyond 2011. Exhibit EWEB/100, p. 5, lines 11-22.

II. ARGUMENT

As this Commission is aware, EWEB and PGE are co-owners and co-licensees of the Trojan Nuclear Project and the Trojan independent spent fuel storage installation (collectively, “Trojan”). *Id.* p. 1, lines 14-20. Activities relating to decommissioning and spent fuel responsibilities at Trojan are ongoing and will continue for many years into the future. *Id.* p. 4, line 18 to p. 5, line 22.

It is now a certainty that Trojan’s decommissioning will not be completed prior to the end of 2011. The primary reason is that the federal government has not completed the process of licensing and constructing a federal nuclear waste repository. *Id.* EWEB

and PGE are in agreement that the co-owners now must plan around having to safely contain the spent fuel onsite until at least 2023, with 2024 being the first year that EWEB and PGE can prudently assume that the Independent Spent Fuel Storage Installation (ISFSI) maintenance will be complete and all spent fuel will be transferred off site.

EWEB's interest in this proceeding is limited but vital. As PGE's partner, EWEB is urging this Commission to exercise its regulatory jurisdiction over the NDT in a manner that ensures that PGE, as majority owner of Trojan, maintains sufficient financial resources, on both a long-term and short-term cash flow basis, to meet its share of remaining Trojan decommissioning obligations. EWEB is not seeking any assistance from PGE's ratepayers to meet its own Trojan obligations.¹

Because of the circumstances surrounding Trojan's decommissioning, the Commission should grant PGE's request only if the Commission affirmatively rules that PGE has the authority to continue collecting money annually from its ratepayers to fund decommissioning expenses until the decommissioning is complete. Without such an assurance, it would be imprudent to reduce the funds in the NDT or to reduce the annual contributions from PGE's ratepayers.

In a previous order, the Commission stated that the collections from ratepayers for Trojan decommissioning would continue through 2011. *In re PGE*, OPUC Docket No. UE 88, Order No. 95-322, p. 61 (March 29, 1995) ("Order No. 95-322"). Given the uncertain status of the federal government's efforts to license and construct a permanent nuclear waste repository, this date is no longer appropriate. It would be imprudent to reduce the size of PGE's annual contribution to the NDT or to refund \$20 million from

¹ Mr. Beeson detailed in his testimony the joint nature of the PGE/EWEB liability to complete the task of decommissioning Trojan.

the fund at this time in EWEB's view. It is certainly imprudent to do so unless the Commission expressly conditions approval with an express authorization to continue annual contributions to the NDT funded by PGE ratepayers well beyond 2011. The 2011 date no longer has any relevance to the time when PGE will have completed the task of decommissioning Trojan.

EWEB is in no way looking to the OPUC for assistance in meeting its own Trojan obligations. EWEB's only concern is to avoid any uncertainty about PGE's ability to collect decommissioning expenses from ratepayers past 2011. If money is going to be refunded from the NDT at this time, and collections reduced prior to 2011, the Commission should explicitly state that the 2011 date referenced in Order No. 95-322 is no longer valid.

EWEB is also aware that there is some uncertainty regarding the appropriate treatment of Trojan investments in PGE's rates. *See Dryer v. PGE*, 341 Or 262 142 P3d 810 (Aug. 31, 2006). No Trojan related litigation, however, has challenged the ability of PGE to collect from ratepayers annually for ongoing expenses incurred for decommissioning Trojan. The cloud created by Trojan related litigation, however, makes it imperative that the OPUC affirmatively state in its final order that NDT collections will continue beyond 2011. So long as PGE is continuing to incur expenses associated with Trojan decommissioning, PGE must maintain an NDT that is adequately funded.

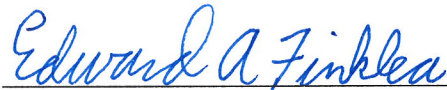
III. CONCLUSION

EWEB requests that the OPUC explicitly state in its final order that annual NDT surcharges can and will continue until PGE no longer faces Trojan decommissioning costs. This Commission should only adjust the level of the annual contribution from

\$14.04 million to \$4.65 million if the Commission also authorizes PGE to collect money from its ratepayers until decommissioning efforts are complete. Given the uncertain status of the federal government's efforts to license and construct a permanent nuclear waste repository, it would not be prudent to reduce the size of PGE's annual contribution to the NDT, or to refund \$20 million from the fund, unless the Commission expressly conditions approval with a ruling authorizing PGE to collect from ratepayers until decommissioning is complete.

Dated in Portland, Oregon on this 17th day of November, 2006.

Respectfully submitted,



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Of Attorneys for the
Eugene Water & Electric Board

CERTIFICATE OF SERVICE

I CERTIFY that I have on this day served the foregoing document **EUGENE WATER & ELECTRIC BOARD'S INITIAL BRIEF** upon all parties by routing a copy via electronic mail and/or by mailing a copy properly addressed with first class postage prepaid to each party indicated on the current service list maintained by the Oregon Public Utility Commission in this proceeding.

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Dated in Portland, Oregon, this 17th day of November, 2006.

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