Portland General Electric Company
Legal Department
121 SW Salmon Street • Portland, Oregon 97204
(503) 464-8926 • Facsimile (503) 464-2200

Douglas C. Tingey
Assistant General Counsel

September 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 188

Attention Filing Center:

Enclosed for filing in the above-captioned docket is an original and five (5) copies of the Opening Brief of Portland General Electric Company in the above-captioned docket. This document is being filed electronically. Hard copies will be sent via postal 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:saa
Enclosures
cc: Service List-UE 188

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing **OPENING BRIEF OF PORTLAND GENERAL ELECTRIC COMPANY** 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 September 2007.

DOUGLAS C. TINGEY

SERVICE LIST
UE 188

Lowrey R. Brown Utility Analyst Citizens' Utility Board of Oregon lowrey@oregoncub.org (*waived paper service)	Jason Eisdorfer Energy Program Director Citizens' Utility Board of Oregon jason@oregoncub.org (*waived paper service)
Robert Jenks Citizens' Utility Board of Oregon bob@oregoncub.org (*waived paper service)	Daniel W. Meek Attorney at Law 10949 SW 4th Ave Portland, Oregon 97219 dan@meek.net
Stephanie S. Andrus Assistant Attorney General Department of Justice Regulated Utility and Business Section 1162 Court NE Salem, OR 97301 -4096 stephanie.andrus@state.or.us	Matthew W Perkins Davison Van Cleve PC 333 SW Taylor – STE 400 Portland, OR 97204 mwp@dvclaw.com
Randall J. Falkenberg RFI Consulting Inc. PMB 362 8343 Roswell Road Sandy Springs, GA 30350 consultingrfi.aol.com	Judy Johnson Public Utility Commission PO Box 2148 Salem, OR 97308-2148 Judy.johnson@state.or.us
Ken Lewis 2980 NW Monte Vista Terrace Portland, OR 97210 kl05pdx@comcast.net	

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UE 188

In the Matter of the Revised Tariff Schedules for Electric Service in Oregon filed by PORTLAND GENERAL ELECTRIC COMPANY	)))))

OPENING BRIEF OF

PORTLAND GENERAL ELECTRIC COMPANY

September 11, 2007

Pursuant to the order of the Administrative Law Judge, Portland General Electric Company ("PGE") submits this brief.

I. BACKGROUND AND INTRODUCTION

This docket has been somewhat unusual for a general rate case. PGE filed this rate case seeking ratemaking treatment of the first phase of the Biglow Canyon wind project that PGE is currently constructing in Sherman County, Oregon ("Biglow Canyon 1"). While PGE complied with the requirements of a general rate case in this docket, PGE only sought a change in rates reflecting the costs and benefits of Biglow Canyon 1. PGE did not seek re-examination of the issues addressed in PGE's previous rate case, docket UE 180/181/184, in which a final order had been issued less than two months prior to the beginning of this rate case. PGE proposed to reflect Biglow Canyon 1 costs and benefits in rates through a supplemental tariff, Schedule 120.

The other active parties in this docket, Staff, the Citizens' Utility Board ("CUB"), and the Industrial Customers of Northwest Utilities ("ICNU") agreed with the proposed scope of this rate case and have limited their inquiry to Biglow Canyon 1 costs. That has allowed this rate case to be completed with two less rounds of testimony than usual and helped settle all but one issue in this case.

On June 20, 2007, PGE, Staff, CUB, and ICNU entered into a Stipulation in this docket. That Stipulation memorialized three changes PGE had agreed to make to its initial filing due to additional information that had become available during the proceeding. In addition, the Stipulation settled nine specific issues:

1. The composite income tax rate to be used in calculating the revenue requirement under Schedule 120;
2. The reflection in Schedule 120 rates of any property tax exemption granted by Sherman County and the State of Oregon for the Biglow Canyon 1 project;

3. The ratemaking treatment of an expected payment from the Energy Trust of Oregon related to Biglow Canyon 1;
4. A compromise level of integration costs for Biglow Canyon 1 to be used in this docket. The parties further agreed to provisions regarding the examination of integration costs of Biglow Canyon 1 and other wind projects in PGE's 2009 Annual Power Cost Update Tariff proceeding;
5. The ratemaking treatment of Biglow Canyon 1 net variable power costs in 2009 and beyond;
6. The book life of Biglow Canyon 1 related utility assets. This includes two parts: transmission upgrades to the BPA system, and the Biglow Canyon 1 generating assets themselves;
7. The ratemaking treatment for any delay in the completion of Biglow Canyon 1 beyond January 1, 2008;
8. Updates to the dispatch benefits of Biglow Canyon 1; and
9. Special Condition 4 to Schedule 120, which addresses how power produced by Biglow Canyon 1 prior to January 1, 2008, will be valued for purposes of PGE's Annual Power Cost Variance Mechanism, Schedule 126.

If the Stipulation is approved by the Commission, only one other issue remains for Commission decision.

II. THE ISSUE

The only remaining issue in this case is a significant regulatory policy issue. CUB raises the question of whether it is appropriate to establish in this docket a process to update the fixed cost revenue requirement of Biglow Canyon 1 outside of a general rate case. ICNU offers an alternative approach of establishing a levelization mechanism to anticipate and estimate post-2008

test year changes in the Biglow Canyon 1 revenue requirement and factoring those into Schedule 120 beginning January 1, 2008.[1] As discussed thoroughly in PGE's Rebuttal Testimony, PGE/500/Dahlgren-Tinker, neither approach is appropriate.[2]

Staff's position. Staff does not support an annual update procedure for Biglow Canyon 1's fixed revenue requirement. Staff/100/Owings/4. Staff notes that other parties are suggesting only an update to the ratebase component to Biglow, while not updating other costs associated with the project, such as Operation and Maintenance costs and Capital costs. *Id*. Staff testimony states:

> without a thorough discussion of policy arguments, Staff is not yet able to recommend whether such a mechanism should adjust ratebase only. Staff believes the Commission should investigate whether it should look more broadly at all costs associated with the facility that would reset the Company's revenue requirement, should the Commission consider an Annual Update to be appropriate.

Id. at 5. Staff also asks: "How would the Commission justify isolating an annual adjustment to only Biglow Canyon and not to all of the Company's ratebase?" *Id*. Further, Staff states that it believes "the issue needs more thorough consideration and potentially, an investigation as to what a proper Annual Update would look like; what the implications of such a mechanism would be; and the most appropriate manner in which to apply such a mechanism." *Id*. at 5-6. After listing other potential problems with an annual update, Staff recommends that the Commission "review the merit of any proposal to annually update ratebase in a separate investigation." *Id*. at 6.

PGE agrees with Staff that no update should be made in this docket.

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[1] This issue may be purely policy in this case without practical effect. Any such update would occur in 2009 and beyond and only if PGE did not file general rate case. Due to several factors, PGE may file a 2009 test-year rate case. If that happens, the Schedule 120 supplemental tariff would cease and Biglow Canyon 1 costs and benefits would be included with all other costs and benefits in the rate case.

[2] With only one issue to address, all parties have thoroughly addressed this issue in their testimony both from a factual and policy point of view. We will attempt to make this brief a succinct, though not comprehensive, discussion of that testimony.

CUB. While CUB states that Schedule 120 should, "to the extent reasonable, track the true expected costs of the plant" (CUB/100/Jenks/1), it proposes that the Commission order an update to Biglow Canyon 1 costs only for changes in accumulated depreciation and customers, but nothing else. To support that position, CUB's testimony also goes on at length about a claimed shift in regulatory balance and a discussion of regulatory lag.

CUB's arguments are not supported by the historical record and go against sound regulatory policy. CUB's arguments espouse the benefits, for customers, of regulatory lag in bringing generating assets into rates. As a fundamental matter, in the short run it would always benefit ratepayers to delay inclusion of costs in rates so that rates do not reflect all of the cost of providing service from which customers derive benefits. That, however, would certainly not be fair, just and reasonable, not responsible regulation, and not in the long-term best interests of the company, or ratepayers.[3]

CUB's claims that recent regulatory practices have lowered regulatory lag are not supported by historical facts. The basic principle of regulatory lag relates to the overall earnings of a utility. As Bonbright states, it is "the quite usual delay between the time when reported rates of profit are above or below standard and the time when an offsetting rate decrease or increase may be put into effect by commission orders or otherwise." Bonbright, Danielsen, Kamerschen, Principles of Public Utility Rates, 96 (Public Utility Reports, Inc., Second Edition 1988), *quoted in* PGE/500/Dahlgren-Tinker/3. If, as CUB suggests, the regulatory environment in general and specifically with respect to regulatory lag has been tilted to favor utility companies, one would

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[3] While the regulatory approach to regulatory lag may not have changed, the financial impact on utilities of a delay in including new generating plants into rates has changed. The costs associated with such a large investment will affect the taxable income of the utility, and thereby affect its tax liability. With the implementation of SB 408, the financial impact on a utility of costs not included in rates is magnified.

expect there to be persistent excess earnings by utilities. That, however, is certainly not the case for PGE. PGE has earned less than its authorized ROE in 5 of the last 6 years, sometimes significantly below the authorized level. PGE/500/Dahlgren-Tinker/3.

CUB is also incorrect in its assertion that PGE's Annual Update Tariff and PCA minimize regulatory lag for customers. Both of those tariffs were designed to treat both increases and decreases in power costs, one on a projected basis and the other on an actuals basis. If there is a reduction of regulatory lag with this component of costs, it is a reduction for both PGE and customers.

In addition, CUB's claim about historical lag in bringing generating assets into rates is incorrect. As pointed out in PGE's rebuttal testimony, new PGE generating assets have been brought into rates very close to their completion date since at least 1980. There is no empirical evidence to support CUB's claim regarding a new regulatory approach to generating plants.

The irony of CUB's arguments is that after espousing the benefits of regulatory lag, and bemoaning CUB's perceived change in approach to regulatory lag, CUB's solution is not to support regulatory lag but to eliminate it for a portion of Biglow Canyon 1 costs – and only for those costs that are expected to decrease, while not adjusting for all other costs. CUB's proposal should not be adopted because it is factually incorrect and biased.

ICNU. ICNU also proposes an annual adjustment to Biglow Canyon costs, though its proposed update appears broader. ICNU/100/Falkenberg/11. ICNU makes some of the same claims as CUB. ICNU's arguments are based on the premise that this docket is not a general rate case and is in fact part of "piecemeal ratemaking". ICNU's testimony goes so far as to admit that the issue it seeks to raise would likely not be addressed in a general rate case. ICNU/100/Falkenberg/11. Well, this is a general rate case. PGE proposed a supplemental tariff because it saw it as administratively simple, and it fit with the 2008 Annual Update Tariff

("AUT") filing. It also was consistent with our desire to limit the case to Biglow Canyon costs to which the other parties agreed. PGE, however, could have proposed a change in base rates to include the costs of Biglow Canyon and the Commission could still include the costs in base rates. But, if they are included in the proposed Schedule 120, that does not change the substance of this case. ICNU's arguments are form over substance.

In the alternative ICNU proposes a levelization approach to Biglow Canyon 1. PGE is not aware of the Commission ever using a levelization approach for the cost recovery of an asset, and it should not be used here. Levelization, as proposed by ICNU, raises several potential problems. The basic premise of levelization is to have a lower level of costs reflected in rates now in exchange for a promise of higher costs being reflected in customer rates in the future. That will, however, by definition not permit a utility to recover its prudently incurred costs, including an opportunity to earn its authorized ROE, during the test year. A related issue is that the cash flow of the utility is reduced in the early years relative to traditional rate making and relative to actual capital requirements. This could result in the incurrence of additional capital costs.

Levelization is also inconsistent with the use of a test year in ratemaking. Levelization requires a forecast of expenses many years beyond the test year, including return requirement estimates. Ratemaking does not project other post test-year changes and then levelize the associated revenue requirement. It is unclear how it would be appropriate to do so only for Biglow Canyon 1.

Levelization also introduces a new element of uncertainty into ratemaking. Again, the basic premise is that future Commissions will allow higher costs that they otherwise would. But, those Commissions are not bound by the decisions of this Commission. As a result, there is the risk that while lower costs would be reflected in rates in the early years, higher costs may not be included in later years to offset the earlier decreased revenues.

As discussed in PGE's testimony, ICNU's levelization proposal does not use an appropriate time period. PGE/500/Dahlgren-Tinker/12-14. Particularly for an asset such as Biglow Canyon 1 with a rapid tax depreciation schedule, and expected tax credits for part of its life, the choice of a time period can dramatically alter the results. This would not only require careful thought, but could also lead to gamesmanship in parties advocacy for the appropriate time period. Levelization should not be adopted for Biglow Canyon 1.

PGE Recommendation. For the reasons set forth in its testimony, PGE recommends that the Commission neither update the fixed revenue requirement of Biglow Canyon 1, nor use the levelization alternative proposed by ICNU. Both approaches are a significant departure from Oregon regulatory policy. And the problem parties claim needs to be addressed only exists if one takes a narrow, and incorrect, view of this docket, and ratemaking in general. This is a general rate case where, because another general rate case had just been decided, the parties limited the inquiry to the costs and benefits of Biglow Canyon 1. The costs of the project are not in dispute. What the Commission must do is set fair, just and reasonable rates. This can be done by approving the supplemental tariff, Schedule 120, or incorporating the costs and benefits in base rates. Piecemeal, one-sided updates are not needed and are not appropriate.

III. CONCLUSION

The costs and benefits of Biglow Canyon 1 should be included in customer rates beginning January 1, 2008, as requested in this docket. An update mechanism is not necessary or appropriate and should not be adopted.

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Respectfully submitted,

/S/ DOUGLAS C. TINGEY

Douglas C. Tingey, OSB No. 04436
Assistant General Counsel
Portland General Electric Company
121 SW Salmon Street, 1WTC1301
Portland, Oregon 97204
(503) 464-8351 phone
(503) 464-2200 fax
doug.tingey@pgn.com