

Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com
Suite 400
333 SW Taylor
Portland, OR 97204

October 4, 2007

Via Electronic and U.S. Mail

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

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY
Request for a General Rate Revision
Docket No. UE 188

Dear Filing Center:

Enclosed for filing please find the original and five (5) copies of the Reply Brief of the Industrial Customers of Northwest Utilities in the above-captioned docket.

Thank you for your assistance.

Sincerely yours,

/s/ Ruth A. Miller
Ruth A. Miller

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Reply Brief of the Industrial Customers of Northwest Utilities upon the parties, on the official service list, by causing the same to be served via electronic mail to all parties and U.S. Mail, postage-prepaid, to those parties which have not waived paper service in this proceeding.

Dated at Portland, Oregon, this 4th day of October, 2007.

/s/ Ruth A. Miller
Ruth A. Miller

CITIZENS' UTILITY BOARD OF OREGON (W)
LOWREY BROWN
JASON EISDORFER
ROBERT JENKS
610 SW BROADWAY - STE 308
PORTLAND OR 97205
lowrey@oregoncub.org
jason@oregoncub.org
bob@oregoncub.org

DEPARTMENT OF JUSTICE
STEPHANIE S ANDRUS
ASSISTANT ATTORNEY GENERAL
REGULATED UTILITY & BUSINESS SECTION
1162 COURT ST NE
SALEM OR 97301-4096
stephanie.andrus@state.or.us

PORTLAND GENERAL ELECTRIC
PATRICK HAGER RATES & REGULATORY AFFAIRS
121 SW SALMON ST 1WTC0702
PORTLAND OR 97204
pge.opuc.filings@pgn.com

PORTLAND GENERAL ELECTRIC
DOUGLAS C TINGEY
121 SW SALMON 1WTC13
PORTLAND OR 97204
doug.tingey@pgn.com

PUBLIC UTILITY COMMISSION
JUDY JOHNSON
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

DANIEL W MEEK
10949 SW 4TH AVE
PORTLAND OR 97219
dan@meek.net

(W) = Waive Paper Service

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 188

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	REPLY BRIEF OF THE INDUSTRIAL
COMPANY)	CUSTOMERS OF NORTHWEST
)	UTILITIES
Request for General Rate Revision.)	
_____)	

I. INTRODUCTION

The Industrial Customers of Northwest Utilities (“ICNU”) submits this Reply Brief to the Oregon Public Utility Commission (“OPUC” or the “Commission”) in response to the Opening Briefs of Portland General Electric Company (“PGE” or the “Company”) and OPUC Staff (“Staff”). Both PGE and Staff oppose the adoption of an annual update to PGE’s Schedule 120, which is intended to recover the costs of the Biglow Canyon wind project. Staff advocates for the Commission to open a separate docket to investigate whether an annual update is appropriate. A separate docket is not necessary—as the evidence shows, PGE will overcollect in *this Docket* without an annual update. ICNU has proven its case: an annual update to Schedule 120 must be adopted in order to ensure that rates are fair, just, and reasonable.

II. ARGUMENT

A. An Annual Update to Schedule 120 Is Appropriate in this Docket

Staff argues that a separate docket is necessary in order to examine the merits of an annual update for renewable resources, reasoning that an annual update “has

policy implications that are broader than this docket.” Staff Opening Brief at 1. As explained in ICNU’s Opening Brief, however, PGE stands to substantially overcollect its costs from customers if Schedule 120 is adopted without an annual update. The adoption of an annual update needs to be addressed immediately in this Docket and should be based on the facts of this case, not on the outcome of another generic proceeding. It is the Commission’s duty to set fair, just, and reasonable rates, which cannot be accomplished without an annual update to Schedule 120.

B. PGE Does Not Dispute the Merits of ICNU’s Proposal

PGE spends its time complaining over the procedural aspects of this case. In doing so, PGE loses sight of the fact that ICNU has proven that PGE will overcollect the costs of Biglow Canyon without an annual adjustment. Not once does PGE actually attempt to refute the merits of ICNU’s proposal. PGE Opening Brief at 6-7.

1. This Docket Is Not a General Rate Case

Not only does PGE fail to address the merits of ICNU’s proposal, but PGE’s complaints about the procedural aspects of this Docket are misplaced. PGE argues that ICNU’s arguments are “based on the premise that this docket is not a general rate case,” and that “this is a general rate case.” Id. at 6. PGE even goes so far as to state that ICNU admits that “the issue it seeks to raise would likely not be addressed in a general rate case.” Id.

PGE acknowledges, however, that “[t]his docket has been somewhat unusual,” and that “PGE only sought a change in rates reflecting the costs and benefits of Biglow Canyon I.” Id. at 2. Because PGE only seeks to update costs for Biglow Canyon

through a tariff rider, the construct and assumptions of a general rate case are not present. See ICNU/100, Falkenberg/11-12. Base rates are designed to recover many costs, some which increase and some which decline. Id. PGE has avoided other reductions to ratebase by filing a separate tariff rider. Therefore, this is not a true general rate case because not all costs are at issue. PGE's assertion, therefore, that ICNU admits that the issue would not be addressed in a general rate case is taken out of context and misleading.

2. ICNU Has Proven Its Case

ICNU has shown that PGE will substantially overcollect its costs through Schedule 120 without an annual update, and PGE admits as much. ICNU/102, Falkenberg/1 (PGE Response to ICNU Data Request No. 37). Moreover, the absurdity of PGE's proposal is underscored by the fact that another utility disagrees with PGE's position. In UM 1330, PacifiCorp filed testimony regarding the recovery of costs for renewable resources pursuant to SB 838. While PGE made the same type of proposal as it did in this case, PacifiCorp proposed to update all costs annually that have not been included in rate base through a general rate filing. Re Investigation of Automatic Adjustment Clause Pursuant to SB 838, Docket No. UM 1330, PPL/100, Kelly/6. PacifiCorp stated that annually updating costs "will ensure that customers' rates reflect the reduction in rate base due to depreciation as well as provide a current forecast of all costs within the upcoming calendar year." Id. PacifiCorp recognizes that without an annual update, rates will not accurately reflect cost of service.

Further, PGE's assertion that a tariff rider would be "administratively simple" is not a sufficient reason to depart from conventional ratemaking principles. PGE Opening Brief at 6. Simplicity at the expense of ratepayers cannot result in fair, just, and reasonable rates. PGE also states that "[p]iecemeal, one-sided updates are not needed and are not appropriate." *Id.* at 8. This is precisely, however, the regulatory environment that PGE advocates for when it is advantageous to the Company. As explained in ICNU's Opening Brief, PGE had no problem with "piecemeal" ratemaking when it proposed the Annual Update Tariff ("AUT") or Power Cost Adjustment Mechanism ("PCAM") approved in UE 180. ICNU Opening Brief at 5.

3. The Citizens' Utility Board's ("CUB") Testimony Regarding Regulatory Lag Further Undercuts PGE's Proposal

ICNU is supportive of CUB's testimony in this case, as it provides a detailed and accurate assessment of the current shift in regulatory balance. PGE criticizes CUB's testimony as mischaracterizing regulatory lag and then criticizes CUB's proposal as being inconsistent with principles of regulatory lag. PGE Opening Brief at 5-6. PGE's criticisms are simply incorrect.

CUB is correct that PGE currently experiences minimal regulatory lag. PGE has little need to file a general rate case with the adoption of the AUT and PCAM because the variations in power costs from year to year are constantly updated. CUB/100, Jenks/4. PGE, therefore, experiences little delay in recovering increasing power costs while ratepayers must wait until the next general rate case before seeing any benefit from decreasing costs.

By isolating Schedule 120 from general rates, PGE is maximizing the regulatory lag for customers with respect to Biglow Canyon costs. As explained in ICNU's Opening Brief, due to the effect of negative attrition, customers will have to wait until PGE files its next general rate case before seeing any benefit in the accelerated decline in costs for Biglow Canyon. ICNU Opening Brief at 4-5. By excluding such a source of declining costs from general rates, ratepayers are put at the ultimate disadvantage.

PGE also states that the Company is earning less than its authorized return on equity ("ROE") and that, therefore, there is no discrepancy in regulatory lag. PGE Opening Brief at 5-6. A utility is not guaranteed to earn its authorized ROE; rather, a utility is only given the opportunity to do so. In any event, whether PGE is earning its authorized ROE is not at issue in this Docket.

PGE's ultimate criticism of CUB's proposal is that CUB only addresses declining costs and not all other costs. Id. at 6. As PGE admits, however, ICNU's proposal is "broader." Id. ICNU's proposed annual update, therefore, alleviates PGE's concern of addressing all costs equally.

C. ICNU's Levelization Argument Simply Provides the Commission with an Alternative Method

ICNU wants to make clear to the Commission that the proposed levelization method is simply another option for the Commission to consider, but is not as preferable a method as adopting ICNU's proposed annual update. As to PGE's criticism of a levelized rate, PGE argues that the adoption of a levelized rate would be contrary to traditional ratemaking principles. Id. at 7. It is curious that PGE makes an

argument regarding traditional ratemaking principles, since this Docket represents an untraditional method of ratemaking, as PGE admits. Id. at 2. PGE loses all credibility when it argues for the use of traditional ratemaking principles when advantageous to the Company, and argues against them when the Company does not benefit.

An additional concern for PGE is the potential for under-recovery, since future Commissions may change the ratemaking method in the later years when cost recovery will be higher. Id. at 7. Although this may be a risk in the adoption of a levelized rate, the hypocrisy in PGE's positions are again evident. The Commission should give no weight to PGE's arguments.

III. CONCLUSION

For the foregoing reasons, the Commission should adopt an annual update to PGE's Schedule 120 to ensure that rates accurately reflect cost of service. An annual update is necessary to ensure that rates are fair, just, and reasonable.

Dated this 4th Day of October, 2007.

Respectfully submitted,

/s/ Allen C. Chan

Melinda J. Davison

Allen C. Chan

Davison Van Cleve, P.C.

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

(503) 241-7242 phone

(503) 241-8160 facsimile

mail@dvclaw.com

Of Attorneys for Industrial Customers

of Northwest Utilities