



Portland General Electric Company
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Douglas C. Tingey
Assistant General Counsel

August 18, 2010

Via Electronic Filing and US Mail

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

Re: UM 1355

Attention Filing Center:

Enclosed for filing in UM 1355 are an original and one copy of :

- **PORTLAND GENERAL ELECTRIC COMPANY'S MOTION TO STRIKE PORTIONS OF STAFF EXHIBIT 400 [EXPEDITED CONSIDERATION REQUESTED]**

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,

A handwritten signature in dark ink, appearing to read "D. C. Tingey", written in a cursive style.

DOUGLAS C. TINGEY
Assistant General Counsel

DCT:cbm
Enclosures
cc: UM 1355 Service List

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1355

In the Matter of:)	
)	PORTLAND GENERAL ELECTRIC
PUBLIC UTILITY COMMISSION OF)	COMPANY'S MOTION TO STRIKE
OREGON,)	PORTIONS OF STAFF EXHIBIT 400
)	
Investigation Into Forecasting Forced Outage)	EXPEDITED CONSIDERATION
Rates For Electric Generating Units)	REQUESTED

Pursuant to OARs 860-013-0031, 860-014-0045, and 860-014-0060, Portland General Electric Company ("PGE") moves to strike portions of Staff Exhibit 400 recently filed in this docket.

PROCEDURAL HISTORY

This docket has a long and unusual procedural history. The first two rounds of testimony were filed in April and May 2009. A hearing was originally scheduled for May 28, 2009, but was cancelled by the Commission, and a workshop/issues presentation was held with the Commissioners. At that workshop the Commissioners asked questions of many of the witnesses, and also encouraged the parties to attempt settlement of issues in this docket. PGE and other IOUs held settlement conferences with the other parties and, in PGE's case, settled all issues in the docket.

PacifiCorp filed supplemental testimony on July 24, 2009. On August 13, 2009, Staff and ICNU filed responsive testimony. This last round of testimony by ICNU included a new proposal for estimating forced outage rates. ICNU presented new statistical analysis and a new proposal that included the use of a long-term average of the plant's forced outage rate in years when the 90/10 collar was triggered.

PGE did not file supplemental testimony because it had, by that time, entered into an agreement in principle with the other parties (Staff, CUB and ICNU), on all issues in this docket. The Stipulation between PGE, Staff, CUB, and ICNU was filed with the Commission on August 19, 2009.

On October 6, 2009, the Commission issued its Notice of Intent to Modify Stipulations and Establish Rate Calculations. The notice gave PGE and the other parties to the respective stipulations notice of their ability to exercise their rights under the stipulations and Commission rules. On October 19, 2009, PGE filed a response indicating that it continued to support the Stipulation as a reasonable resolution to the matters in this docket, but if the Commission would not adopt the Stipulation as submitted, then PGE exercised its rights under the Stipulation and Commission rules to withdraw from the Stipulation and request the opportunity to present additional evidence.

On December 7, 2009, the Commission issued a further Order in this docket, Order 09-479, which clarified portions of the Commission's earlier notice and established procedures for addressing issues in this docket. On January 22, 2010, the ALJ issued a Ruling allowing the parties to "file motions seeking the right to file additional testimony (but not the testimony itself) with respect to new issues of fact arising subsequent to the submission of reply and supplemental testimony." Ruling, January 22, 2010, p. 2. PGE, PacifiCorp and Idaho Power filed such motions. On April 26, 2010, the Commission issued Order 10-157, which granted in part PGE's and Idaho Power's motions. That order states with respect to PGE:

We further conclude, however, that PGE has not had the opportunity to address ICNU's proposed modification to Staff's FOR collar. As noted, ICNU presented its proposal in reply testimony following the Commission workshop. Given the timing and circumstances surrounding ICNU's proposal, PGE did not have the opportunity to respond to ICNU's proposal through either testimony or cross-examination. Moreover,

because PGE had reached settlement with Staff and CUB, ICNU's proposal was presented with regard solely to Pacific Power. In the interest of fairness, we conclude that PGE should be afforded that opportunity to address ICNU's proposal.

Accordingly, PGE's motion to file additional testimony is granted in part. PGE may file additional testimony to address ICNU's FOR collar proposal. We limit this opportunity, however, in one respect. In its motion, PGE states that it wishes to address the lack of historical data that is available for its plants. Such testimony is not necessary, as we have already clarified that, if a utility is unable to locate or recreate the data, it must use all of the historical data that is available.

Order 10-157, pp. 5-6.

That order then specifically defined the scope of the testimony to be submitted in the remaining rounds of testimony as limited to addressing ICNU's proposal made in its last round of testimony.

A Prehearing Conference was held on June 25, 2010, to schedule the remaining work in this proceeding. During that conference the ALJ reiterated that the scope of the testimony to be filed by the utilities was limited, as was the response to the utilities' testimony. The Prehearing Conference Report issued June 29, 2010, set a deadline of July 16, 2010 for PGE and Idaho Power opening testimony, with work papers. That Prehearing Conference Report also states that on August 6, 2010: "All Parties Reply Testimony with Work Papers Due. Testimony to be limited to scope of Opening Testimony." The limited scope of the testimony was reiterated.

On July 16, 2010, PGE filed opening testimony that, as ordered, was limited to addressing the ICNU proposal made in its last round of testimony. The deadline for testimony by Staff and others in response to the July 16 testimony was extended to August 13, 2010, at Staff's request. On August 13, 2010, Staff filed testimony that was not limited to the scope of PGE's opening round of testimony. Staff also failed to include its work papers with its testimony as

required by the ALJ's Prehearing Conference Report. On August 17, 2010, PGE requested Staff's work papers, and Staff provided one Excel file.

STAFF'S EXHIBIT 400 EXCEEDS THE ORDERED SCOPE OF TESTIMONY

A new proposal for calculating forced outage rates has again been proposed in the last round of testimony. This time it is Staff's last round of testimony that contains the new proposal. Staff proposes use of "a ten-year rolling average, excluding outlier values". Staff 400, p. 2. This proposal uses a different time period than any proposal previously made in this docket by Staff or any other party. It also proposes the exclusion of "outlier values", with no discussion of what those outlier values are. Since "outlier values" is undefined, we don't know if this is different than other proposals. Staff's testimony is not limited to the scope of the opening testimony.

One of the reasons this docket has had the lengthy procedural history it has is because of a proposal made in the last round of testimony. The Commission specifically entered orders that, if followed, would have avoided this happening again in this docket. Surprisingly, it is Staff that has gone beyond the scope ordered by the Commission. Accordingly, PGE moves that the portions of Staff 400 that go beyond the scope of testimony ordered by the Commission be stricken. Specifically, PGE moves that the following portions of Staff 400 be stricken:

1. Page 2, the sentence beginning near the end of line 8 and continuing to line 12.
2. Page 8, lines 3 through 7.
3. Page 13, lines 9 through 15.
4. Page 14, the sentence starting near the end of line 15 and continuing through line 19.

In addition, Staff's testimony fails to provide any support for this new position, or any evidence that it would, or would not, provide a better forecast of forced outage rates going

forward. If this new proposal were allowed to remain and be considered by the Commission, the parties would need to be given the opportunity and time to analyze the work papers, conduct discovery, perform their own analysis of the proposal, and provide responsive testimony to the Commission. With a proposal made in the last round of testimony, that is not possible.

PGE complied with the Commissions directions regarding the scope of the testimony to be filed. Staff should be required to do the same. The identified portions should be stricken.

In the alternative, if the identified portions of Staff 400 are not stricken, the schedule in this docket should be altered to give the parties time to analyze this proposal, and provide responsive testimony to the Commission. This would require allowing another round of testimony and delaying the hearing scheduled for August 23. While PGE believes striking the testimony is more appropriate in this instance, allowing responsive testimony and delaying the hearing is an acceptable alternative.

CONCLUSION

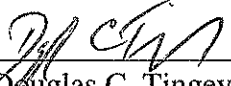
For the reasons set forth above, the identified portions of Staff 400 should be stricken. They go beyond the scope of the testimony as ordered by the Commission. In the alternative, responsive testimony by the other parties to Staff's new proposal should be allowed, and the hearing delayed to accommodate such additional testimony.

REQUEST FOR EXPEDITED CONSIDERATION

A hearing in this matter is set for Monday, August 23, 2010. PGE requests consideration

of this motion as expeditiously as possible so that PGE and other parties will know whether the hearing will take place, and if it does, the scope of the hearing.

DATED this 18th day of August, 2010.




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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **PORTLAND GENERAL ELECTRIC COMPANY'S MOTION TO STRIKE PORTIONS OF STAFF EXHIBIT 400** [EXPEDITED CONSIDERATION REQUESTED] 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 from OPUC Docket No. 1355.

Dated at Portland, Oregon, this 18th day of August, 2010.



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