



**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*

October 7, 2009

***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 211**

Attention Filing Center:

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

- **STIPULATION**
- **JOINT EXPLANATORY BRIEF**

This is being filed by electronic mail with the Filing Center.

An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return 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: UE 211 Service List

## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **STIPULATION and JOINT EXPLANATORY BRIEF** 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. UE 211.

Dated at Portland, Oregon, this 7<sup>th</sup> day of October, 2009.

  
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DOUGLAS C. TINGEY

SERVICE LIST  
OPUC DOCKET UE 211

G. Catriona McCracken CITIZEN'S UTILITY BOARD OF OREGON <a href="mailto:catriona@cub.org">catriona@cub.org</a> (*Waived Paper Service)	Gordon Feighner CITIZEN'S UTILITY BOARD OF OREGON 610 SW Broadway, Suite 308 Portland, OR 97205 <a href="mailto:gordon@cub.org">gordon@cub.org</a>
Robert Jenks CITIZEN'S UTILITY BOARD OF OREGON 610 SW Broadway, Suite 308 Portland, OR 97205 <a href="mailto:bob@cub.org">bob@cub.org</a>	Ed Durrenberger OREGON PUBLIC UTILITY COMMISSION PO Box 2148 Salem, OR 97308-2148 <a href="mailto:ed.durrenberger@state.or.us">ed.durrenberger@state.or.us</a>
S. Bradley Van Cleve DAVISON VAN CLEVE 333 SW Taylor – Ste 400 Portland, OR 97204 <a href="mailto:mail@dvelaw.com">mail@dvelaw.com</a>	Stephanie S. Andrus, Asst. Attorney General DEPARTMENT OF JUSTICE Regulated Utility & Business Section 1162 Court St NE Salem, OR 97301-4096 <a href="mailto:stephanie.andrus@state.or.us">stephanie.andrus@state.or.us</a>
Randall J. Falkenberg RFI CONSULTING, INC. PMB 362 8343 Roswell Rd Sandy Springs, GA 30350 <a href="mailto:consultrfi@aol.com">consultrfi@aol.com</a>	

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

**UE 211**

In the Matter of )  
)  
PORTLAND GENERAL ELECTRIC ) **STIPULATION**  
COMPANY )  
)  
Annual Power Cost Variance (2008) )  
)

This Stipulation (“Stipulation”) is among Portland General Electric Company (“PGE”), Staff of the Public Utility Commission of Oregon (“Staff”), the Citizens’ Utility Board of Oregon, and the Industrial Customers of Northwest Utilities (collectively, the “Parties”).

**I. INTRODUCTION**

In accordance with its tariff Schedule 126, PGE filed its annual power cost variance price update in this docket on July 1, 2009. Included with that filing were PGE’s testimony and work papers regarding the 2008 power cost variance and earnings test results. This information included the data required by the minimum filing requirements agreed to for Power Cost Variance (PCV) dockets. PGE’s filing showed that operation of the earnings test in Schedule 126 results in no power cost variance refund for 2008.

The Parties subsequently sent and responded to data requests, including requests and discussions regarding PGE’s 2008 Results of Operations Report. The Parties also held a workshop and a settlement conference in this docket. As a result of those discussions, the Parties have reached agreement settling this docket as set forth below. The Parties request that the Commission issue an order adopting this Stipulation.

## II. TERMS OF STIPULATION

1. This Stipulation settles all issues in this docket.
2. PGE's earnings for 2008 were such that the operation of the earnings test in Schedule 126 results in no refund of the 2008 power cost variance. Some parties may have proposed adjustments to the power cost calculation or earnings test in this docket but such adjustments, if accepted, would not have altered the outcome of the earnings test for the year. As such, the lack of issues being raised and decided in this docket is not to be construed as agreement to all aspects of the calculations done by PGE and is not precedent for future PCV dockets.
3. Aside from any residual adjustment for the 2007 PCV credit, Schedule 126 rates should be set to zero effective January 1, 2010.
4. The Parties agree that this Stipulation is in the public interest and will result in rates that are fair, just and reasonable.
5. Statements, and documents disclosed in the negotiation of this Stipulation shall not be admissible as evidence in this or any other proceeding. Except as provided in this Stipulation, the Parties agree that they will not cite this Stipulation as precedent in any other proceeding other than a proceeding to enforce the terms of this Stipulation. Nothing in this paragraph precludes a party from stating as a factual matter what the parties agreed to in this Stipulation or from citing to a Commission order adopting this stipulation
6. If this Stipulation is challenged by any other party to this proceeding, or any other party seeks a revenue requirement for PGE that is inconsistent with the terms of this Stipulation, the Parties reserve the right to cross-examine witnesses and put in such evidence as they deem appropriate to respond fully to the issues presented, including the right to raise issues that are

incorporated in the settlements embodied in this Stipulation. Notwithstanding this reservation of rights, the Parties agree that they will continue to support the Commission's adoption of the terms of this Stipulation.

7. If the Commission rejects all or any material part of this Stipulation, or adds any material condition to any final order which is not contemplated by this Stipulation, each Party reserves the right to withdraw from this Stipulation upon written notice to the Commission and the other Parties within ten (10) business days of service of the final order that rejects this Stipulation or adds such material condition. Nothing in this paragraph provides any Stipulating Party the right to withdraw from this Stipulation as a result of the Commission's resolution of issues that this Stipulation does not resolve.

8. This Stipulation will be offered into the record in this proceeding as evidence pursuant to OAR § 860-14-0085. The Parties agree to support this Stipulation throughout this proceeding and in any appeal, and recommend that the Commission issue an order adopting the settlements contained herein. The Parties also agree to cooperate in drafting and submitting the explanatory brief or written testimony required by OAR § 860-14-0085(4).

9. By entering into this Stipulation, no Party shall be deemed to have approved, admitted or consented to the facts, principles, methods or theories employed by any other Party in arriving at the terms of this Stipulation. Except as provided in this Stipulation, no Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding.

10. This Stipulation may be signed in any number of counterparts, each of which will be an original for all purposes, but all of which taken together will constitute one and the same agreement.

DATED this <sup>1<sup>st</sup></sup> day of ~~September~~ <sup>OCTOBER</sup>, 2009.

  
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PORTLAND GENERAL ELECTRIC  
COMPANY

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STAFF OF THE PUBLIC UTILITY  
COMMISSION OF OREGON

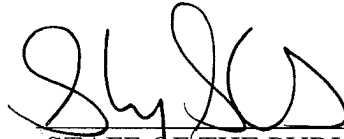
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CITIZENS' UTILITY BOARD  
OF OREGON

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INDUSTRIAL CUSTOMERS OF  
NORTHWEST UTILITIES

DATED this 1<sup>st</sup> day of ~~September~~ <sup>October</sup>, 2009.

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PORTLAND GENERAL ELECTRIC  
COMPANY



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STAFF OF THE PUBLIC UTILITY  
COMMISSION OF OREGON

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CITIZENS' UTILITY BOARD  
OF OREGON

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INDUSTRIAL CUSTOMERS OF  
NORTHWEST UTILITIES



DATED this <sup>30th</sup> day of September, 2009.

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PORTLAND GENERAL ELECTRIC  
COMPANY

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STAFF OF THE PUBLIC UTILITY  
COMMISSION OF OREGON



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CITIZENS' UTILITY BOARD  
OF OREGON

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INDUSTRIAL CUSTOMERS OF  
NORTHWEST UTILITIES

DATED this <sup>7<sup>th</sup></sup> day of ~~September~~<sup>October</sup>, 2009.

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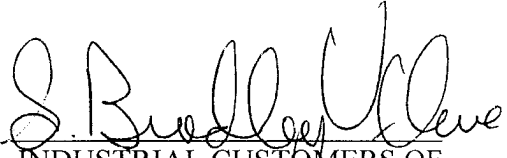
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INDUSTRIAL CUSTOMERS OF  
NORTHWEST UTILITIES

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UE 211**

In the Matter of	)	<b>JOINT EXPLANATORY BRIEF</b>
	)	
PORTLAND GENERAL ELECTRIC COMPANY	)	
	)	
Annual Power Cost Variance (2008)	)	
	)	

This brief explains the Stipulation (“Stipulation”) dated ~~September~~ <sup>October</sup> ~~7<sup>th</sup>~~, 2009, among Portland General Electric Company (“PGE”), Staff of the Public Utility Commission of Oregon (“Staff”), the Industrial Customers of Northwest Utilities (“ICNU”), and the Citizens’ Utility Board of Oregon (“CUB”) (collectively, the “Parties”). The Parties submit this brief pursuant to OAR § 860-014-0085(4).

**Discussion**

On July 1, 2009, PGE made its Annual Power Cost Variance Mechanism filing under tariff Schedule 126. That filing included testimony, work papers, and the information required by the minimum filing requirements previously agreed to regarding Schedule 126.

Schedule 126 is designed to recognize in rates in some years part of the difference between actual net variable power costs (as defined in the tariff) and the net variable power cost forecast pursuant to tariff Schedule 125. Schedule 126 defines how the Power Cost Variance is calculated, including deadbands that are applied to either a positive or negative power cost variance, and sharing of the variance outside the applicable deadband. The Power Cost Variance is also subject to an earnings test. Specifically, Schedule 126 states:

The recovery from or refund to Customers of any Adjustment Amount will be subject to an earnings review for the year that the power costs were incurred. The Company will recover the Adjustment Amount to the extent that such recovery will not cause the Company's Actual Return on Equity (ROE) for the year to exceed its Authorized ROE minus 100 basis points. The Company will refund the Adjustment Amount to the extent that such refunding will not cause the Company's Actual Return on Equity (ROE) for the year to fall below its Authorized ROE plus 100 basis points.

PGE Tariff Schedule page 126-1. This tariff provision incorporates the requirements contained on page 26-27 of Order 07-015 which established PGE's power cost adjustment mechanism.

PGE's filing in this docket explained how it calculated the Power Cost Variance for 2008. As calculated by PGE, that variance, after application of the deadband and sharing percentage under Schedule 126, was \$16.1 million. PGE's filing also contains its calculation of the Schedule 126 earnings review set forth above. According to that calculation PGE's 2008 ROE was below the minimum 11.1% level required for a refund before incorporating the variance. If the variance is incorporated earnings would be substantially lower. Thus, PGE concluded that there is no customer refund or collection associated with the 2008 Power Cost Variance.

Following PGE's filing in this docket PGE shared requested information with the Parties, and a workshop was held. A settlement conference was also subsequently held. Staff had also previously examined, made inquiries and submitted data requests regarding PGE's Results of Operations report for 2008 that was the basis for the earnings test.

The Parties have concluded that operation of the earnings test deadband in this docket results in there being no refund for the 2008 power cost variance. Some Parties may have raised issues regarding the calculation of the Power Cost Variance or earnings test, but did not because such adjustments, even if adopted, would not have changed the outcome of the earnings test. Stipulation ¶ 2. Accordingly, the Stipulation also provides that "the lack of issues being raised and decided in this docket is not to be construed as agreement to all aspects of the calculations

done by PGE and is not precedent for future PCV dockets.” *Id.*

Under its terms Schedule 126 rates are to be adjusted on January 1, 2010, to incorporate the outcome of this docket. Schedule 126 is currently a credit, refunding the 2007 Power Cost Variance. For that reason, the Stipulation provides that “[a]side from any residual adjustment for the 2007 PCV credit, Schedule 126 rates should be set to zero effective January 1, 2010.”

Stipulation ¶ 3.

The Stipulation settles all issues in this docket. Stipulation ¶ 1. The Parties agree that the Stipulation is in the public interest and will produce rates that are fair, just and reasonable.


Stipulation ¶ 4. The Stipulation also contains a number of provisions typically contained in stipulations filed with the Commission. Stipulation ¶¶ 5-10.

#### **Conclusion**

The Stipulation is among Staff, CUB, ICNU, and PGE. Each of the Parties, representing their respective interests, agree that the settlement contained in the Stipulation results in fair, just and reasonable rates in this 2008 Annual Power Cost Variance Mechanism proceeding. The result is consistent with and supported by the record in this docket. For the reasons set forth above the Parties request that the Commission approve the Stipulation.

DATED this <sup>7<sup>th</sup></sup> day of <sup>October</sup>~~September~~, 2008.

PORTLAND GENERAL ELECTRIC  
COMPANY



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STAFF OF THE PUBLIC UTILITY  
COMMISSION OF OREGON

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CITIZENS' UTILITY BOARD OF  
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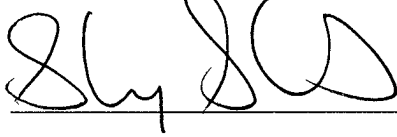
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*S. Bradley U. Cleve*