

Davison Van Cleve PC

Attorneys at Law

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

August 21, 2009

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: Advice No. 09-16 – Portland General Electric Company’s Request
for Approval of Schedule 201 – Avoided Cost Purchases from
Qualifying Facilities (10,000 kW or less)

Dear Filing Center:

Enclosed please find an original Complaint on behalf of the Industrial
Customers of Northwest Utilities in the above-referenced matter.

Thank you for your assistance.

Sincerely yours,

/s/ Allison M. Wils
Allison M. Wils

Enclosures

cc: UM 1129 Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the Complaint on behalf of the Industrial Customers of Northwest Utilities on Portland General Electric Company by causing the foregoing document to be deposited, postage-prepaid, in the U.S. Mail.

Dated at Portland, Oregon, this 21st day of August, 2009.

/s/ Allison M. Wils

Allison M. Wils

PORTLAND GENERAL ELECTRIC COMPANY

Rates & Regulatory Affairs – OPUC Filings

1WTC-0702

Douglas C Tingey (1WTC13)

121 SW Salmon

Portland, OR 97204

Pge.opuc.filings@pgn.com

Doug.tingey@pgn.com

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

Docket No. _____

INDUSTRIAL CUSTOMERS OF)	
NORTHWEST UTILITIES,)	
)	
Complainant,)	
)	
v.)	COMPLAINT OF INDUSTRIAL
)	CUSTOMERS OF NORTHWEST
PORTLAND GENERAL ELECTRIC)	UTILITIES
COMPANY,)	
)	
Defendant.)	
_____)	

INTRODUCTION

Pursuant to ORS § 757.210, Industrial Customers of Northwest Utilities (“ICNU” or “Complainant”) brings this Complaint before the Public Utility Commission of Oregon (“OPUC” or “Commission”) against Portland General Electric Company (“PGE”) regarding PGE’s Advice No. 09-16, filed on July 10, 2009 (“Advice No. 09-16”). Complainant requests that the Commission suspend the revised tariff sheets included in Advice No. 09-16 and conduct a hearing in which PGE will bear the burden of demonstrating that the rate revisions in Advice No. 09-16 are fair, just and reasonable.

In support of this Complaint, Complainant alleges as follows:

IDENTITY OF THE PARTIES

1. ICNU is an incorporated, non-profit association of large industrial electric customers in the Pacific Northwest. ICNU’s address is 333 SW Taylor, Suite 400, Portland,

Oregon 97204. A list of ICNU members is included as Attachment A. Many members of ICNU are customers of PGE, as indicated in Attachment A.

2. PGE is an Oregon corporation that is qualified to do business in the state of Oregon as an electric utility company regulated by the Commission. PGE's address is 121 SW Salmon St, Portland, Oregon 97204.

APPLICABLE STATUTES AND ADMINISTRATIVE RULES

3. The Commission has jurisdiction over this Complaint and PGE pursuant to ORS §§ 756.040 and 757.210. The Commission has previously initiated an investigation into PGE's avoided cost tariff sheets, and ordered a suspension on the effectiveness of proposed Schedule 201 revisions, pursuant to ORS §§ 757.210 and 215. Re Portland General Electric, OPUC Docket No. UM 1129, Order No. 06-629 (Nov. 13, 2006).

4. The statutes expected to be involved in this case include: ORS § 756.040; ORS §§ 757.205, 210, 215, 220, and 225; and ORS §§ 758.505 through 545. The rules expected to be involved in this case include those within divisions 11 through 14, 22, and 29 of OAR chapter 860.

FACTUAL BACKGROUND

Complainant alleges:

5. On July 10, 2009, PGE filed Advice No. 09-16. In Advice No. 09-16, PGE requests approval of revisions to Schedule 201. Specifically, PGE requests approval of the following revised tariff sheets: 1) Third Revision of Sheet No. 201-1; 2) Fourth Revision of Sheet No. 201-2; 3) Third Revision of Sheet No. 201-3; 4) Third Revision of Sheet No. 201-4; 5) Third Revision of Sheet No. 201-5; 6) Fourth Revision of Sheet No. 201-6; 7) Fourth Revision of

Sheet No. 201-7; 8) Third Revision of Sheet No. 201-9; 9) Fourth Revision of Sheet No. 201-10; 10) Third Revision of Sheet No. 201-11; and 11) Third Revision of Sheet No. 201-12. PGE has requested an effective date for its revised tariff sheets of August 26, 2009.

6. Every two years, PGE is required to apply for Commission approval of its avoided cost rates. Re OPUC, OPUC Docket No. UM 1129, Order No. 05-584 at 29 (May 13, 2005). Schedule 201 is PGE's tariff for Qualifying Facility 10 MW or Less Avoided Cost Power Purchase Information. Under Schedule 201, standard rates for power sales from Qualifying Facilities with output not exceeding 10 megawatts ("small QFs") are established. The Schedule 201 avoided costs are also used as the starting point to negotiate the avoided costs for larger QFs with output exceeding 10MW.

7. The proposed revisions to Schedule 201 in Advice No. 09-16 would drastically alter the pricing options available to small QFs. For instance, PGE is proposing an average decrease of \$43.22/MWh in the rate it will pay to small QFs for on-peak energy sales for the remainder 2009, along with an average decrease of \$37.02/MWh for off-peak sales. Schedule 201, Third Revisions of Sheet Nos. 201-4 and 5. Further, through 2012, small QFs would be paid a yearly average of \$23.39 MWh/month less for on-peak sales, and \$18.97 MWh/month less for off-peak sales. Id. These rate revisions, if approved, would be extremely significant since the same initial rates will apply; regardless of whether small QFs choose fixed or market based pricing options. Schedule 201, Fourth Revision of Sheet No. 201-7.

8. With Advice No. 09-16, PGE attached work papers containing various avoided cost calculations. PGE has not filed any testimony, however, or even offered a basic explanation that would justify the extent of these major rate revisions.

9. PGE has requested an effective date of August 26, 2009, for the revised Schedule 201 tariff sheets. This is too short a period to allow adequate review. Given the significant revision in rates being requested, more time is needed for the Commission and interested parties to review Advice No. 09-16.

LEGAL CLAIMS

Complainant's Claim for Relief

PGE has Not Demonstrated that the Rates in Schedule 201 are Fair, Just and Reasonable

10. Complainant realleges paragraphs 1 through 9.

11. ORS § 757.210(1)(a) provides that whenever a public utility such as PGE files any schedule of rates establishing a new rate, the Commission:

shall conduct [a] hearing upon written complaint filed by the utility, its customer or customers, or any other proper party within 60 days of the utility's filing At the hearing the utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable.

OAR § 860-029-0080(6) also specifically provides that upon Commission review of a utility's avoided cost data, the utility "has the burden of justifying and supporting its data." Therefore, in representing the interests of customers and proper parties to this avoided cost filing, ICNU is entitled to a hearing regarding whether the proposed tariff changes are fair, just and reasonable, and PGE will have the burden of proof at such a hearing.

12. PGE has failed to demonstrate that the proposed tariff revisions in Advice No. 09-16 will result in power purchases from small QFs at fair, just and reasonable rates. PGE has requested major reductions in power sale rates, and only offered unelaborated calculations in

support of these reductions. Advice 09-16 contains no explanation as to how PGE's figures justify the extreme extent of the proposed rate decreases, such that the revised rates can be considered fair, just and reasonable. Hence, under ORS §§ 757.210 and 757.215, the Commission should suspend Advice No. 09-16 for investigation and hearing.

RELIEF REQUESTED

WHEREFORE, ICNU respectfully requests that the Commission issue an Order:

1. Finding that PGE has not demonstrated that the proposed Schedule 201 rate revisions are fair, just and reasonable;
2. Suspending Advice No. 09-16 for investigation and hearing; and
3. Granting such other relief as the Commission may deem necessary.

Dated this 21st day of August, 2009.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Melinda J. Davison

Melinda J. Davison

Irion Sanger

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

(503) 241-7242 phone

(503) 241-8160 facsimile

ias@dvclaw.com

mail@dvclaw.com

Of Attorneys for Industrial Customers
of Northwest Utilities

ATTACHMENT A
INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES

Air Liquide
Air Products
Amcor PET Packaging USA, Inc.
*Blue Heron Paper Co.
*Boeing
Boise Cascade LLC
*Boise Paper
Certain Teed Gypsum & Ceiling Manufacturing, Inc.
(BPB)
ConAgra Foods
Dyno Nobel, Inc.
Eka Chemicals, Inc.
Emerald Performance Materials, LLC
Equa-Chlor, LLC
Evanite Fiber
*Evraz, Inc.
Freres Lumber Co.
Georgia-Pacific
Grays Harbor Paper, L.P.
Hewlett-Packard
Inland Empire Paper Co.
*Intel
International Paper
*J.R. Simplot
Kimberly-Clark Corporation
*Linde, Inc.
Longview Fibre
Microsoft Corporation
*Norpac Foods
*PCC Structurals, Inc.
Ponderay Newsprint Co.
REC Solar Grade Silicon LLC
Shell Oil Products US
Simpson Paper & Timber
*SP Newsprint
Tesoro Refining and Marketing Co.
Wah Chang
*West Linn Paper Co.
Weyerhaeuser

**Denotes PGE Customers*