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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

DR 10/UE 88/UM 989

In the Matters of

The Application of Portland General Electric Company for an Investigation into Least Cost Plan Plant Retirement, (DR 10)

Revised Tariff Schedules for Electric Service in Oregon Filed by Portland General Electric Company, (UE 88)

Portland General Electric Company's Application for an Accounting Order and for Order Approving Tariff Sheets Implementing Rate Reduction. (UM 989)

STAFF OPENING BRIEF

12 In a February 22, 2008 Ruling, the hearings officers set forth seven issues to be addressed
13 in this phase of the remand proceedings. The following is staff's discussion of those issues.

14 **Issue No. 1: What was PGE's remaining undepreciated investment in Trojan as of**
15 **September 30, 2000?**

16 Evidence presented in Docket No. UM 989 reflects that the remaining undepreciated
17 investment in Trojan as of September 30, 2000, was \$180.5 million.¹ URP has not presented
18 evidence to contradict the conclusion that \$180.5 million was the remaining undepreciated
19 investment in Trojan as of September 30, 2000.

20 **Issue No. 2: Do the rates approved in Order No. 02-227 provide PGE with the**
21 **functional equivalent of a "return on" the remaining undepreciated**
22 **investment in Trojan?**

23 No. In joint testimony filed in Docket No. UM 989, staff and PGE explained why the
24 settlements reached by PGE and the Citizens' Utility Board and staff and PGE (hereinafter

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26 ¹ See PGE/7500, Tinker/Schue/Hager/3 *citing* UM 989/Staff-PGE Exhibit 201, UM 1989/Staff-PGE Exhibit 206 and UM 989/Staff-PGE Exhibit 200, and Staff/500, Johnson/2 *citing* UM 989/Staff-PGE Exhibit 201.

1 referred to as “the Settlement”) did not provide PGE with the functional equivalent of a “return
2 on” the remaining undepreciated investment in Trojan:

3 The Settlement removes the regulatory asset created by the Commission of
4 Trojan costs and the FAS 109 asset while at the same time accelerating a variety
5 of customer credits. Because the regulatory asset that reflects Trojan costs is
6 eliminated as a result of the Settlement, PGE is not directly receiving a “return
7 on” Trojan under the Settlement. In addition, PGE is not indirectly receiving a
8 return on Trojan because PGE is not required to provide interest on credits that
9 are refunded (amortized) at a moment in time.²

10 As further explained by staff and PGE in testimony submitted on May 16, 2008, whether
11 PGE could earn a return on the undepreciated investment in Trojan does not alter the analysis
12 underlying the Settlement. Staff’s testimony includes the following explanation:

13 **Q. Doesn’t the question of whether or not Trojan was an interest-bearing asset
14 make a difference in whether the settlement effectively provided PGE with a
15 return on Trojan?**

16 A. No. The relevant point is that both the Trojan liability and the customer credits
17 were available for amortization on September 30, 2000. As PGE pointed out in
18 PGE/7500/4, interest is applied when there is a delay in payment. In UM 989, the
19 commission in its discretion approved amortization of both the Trojan liability and the
20 regulatory credits on a single day. There was no further delay in payment to either PGE
21 or customers, so the question of whether these amounts could earn interest was no longer
22 germane.³

23 PGE’s testimony includes the following explanation:

24 **Q. Is PGE receiving a return on Trojan indirectly?**

25 A. No. As noted in Staff-PGE Exhibit 200, pg. 10, the Commission has the authority
26 to change the lives of regulatory assets and liabilities. Further, the offset of Trojan
27 against customer credits is equivalent to amortization of Trojan and those credits on a
28 single day and thus represents the exercise of the Commission’s discretion to change
29 amortization periods. Interest on regulatory liabilities represents a payment for the time
30 value of money when receipt is delayed. In other words, interest is the result of a delay in
31 payment. Customer credits are not the equivalent of certificates of deposits or other
32 investments with a guaranteed term. PGE received what was owed to it on 9/30/2000 for
33 the remaining investment in Trojan and customers received what was owed to them for
34 the balance of the customer credits. No further interest is warranted since the receipt of
35 funds was no longer delayed for customers or PGE.⁴

25 ² UM 989/Staff-PGE/200, Busch-Hager-Tinker/9 (emphasis in original).

26 ³ Staff/500, Johnson/3.

27 ⁴ PGE/7500, Tinker/Schue/Hager/4.

1 **Issue No. 3: Should the creation of a new regulatory asset to pay the customers’**
2 **FAS 109 liability be disregarded because it is a phantom bookkeeping**
3 **asset?**

4 No. The FAS 109 is a collectible to PGE from customers that customers would have
5 owed with or without the UM 989 order. As explained by PGE, the Trojan FAS 109 asset
6 represents the value of accelerated tax benefits previously flowed through to customers that are
7 expected to reverse over time through higher tax expense in future years. The FAS 109 asset
8 related to the Trojan investment represents the amount customers owed PGE as a result of
9 previously flowed-through accelerated tax benefits related to the Trojan investment.⁵

10 URP asserts that the Commission’s treatment of the FAS 109 asset was improper because
11 there was no evidence that PGE experienced higher tax expense.⁶ As explained by PGE, URP’s
12 is not a valid complaint. URP does not dispute that customers previously received a rate benefit
13 from accelerated tax deductions in the early years of Trojan’s useful life. As those accelerated
14 tax deductions reverse in later years, the tax deductions associated with the investment are less
15 than they otherwise would have been absent the accelerated deductions. On a stand-alone basis,
16 PGE’s tax expense in these later years of Trojan’s useful life was higher than it otherwise would
17 have been.⁷

18 **Issue No. 4: Did the settlement improperly transfer the proceeds from PGE’s**
19 **NEIL policy from ratepayers to PGE?**

20 No. NEIL is an acronym for Nuclear Electric Insurance Limited. PGE paid premiums to
21 NEIL from 1976 through 1994 for insurance coverage relating to Trojan. NEIL invested the
22 premiums, as is typical for an insurance company. At the time of the 2000 settlement, NEIL had
23 not made its final distribution to PGE. The Commission allocated 45% of the final NEIL
24 distribution to PGE and 55% to customers.

25 ⁵ See PGE/7500, Tinker/Schue/Hager/6 and UM 989/Staff-PGE Exhibit 200, pg. 13.

26 ⁶ URP/500-C, Lazar 10.

⁷ PGE/7600, Tinker/Schue/Hager/10.

1 URP argues that the Commission “improperly transfer[ed]” 45% of the NEIL proceeds to
2 PGE. Essentially, URP’s arguments amount to a policy argument that the Commission should
3 have allocated 100% of the NEIL distribution to PGE’s customers. URP does not identify any
4 legal prohibition to the Commission’s allocation of the NEIL proceeds, or establish that the
5 Commission’s decision was unsupported by the record. URP’s argument that the Commission
6 should have exercised its discretion in a different manner in 2000 is not sufficient to warrant a
7 reversal of the Commission’s decision regarding the NEIL proceeds.

8 In any event, the record supports the Commission’s allocation of the NEIL proceeds. As
9 discussed in joint testimony filed by staff and PGE in the UM 989 proceeding, PGE’s
10 shareholders bore risk associated with the NEIL premiums, and in light of this, it was appropriate
11 for the Commission to divide benefits associated with the NEIL premiums between PGE’s
12 shareholders and customers.

13 **Q. Mr. Lazar indicates that the Settlement unfairly “expropriates” NEIL value**
14 **that belongs to customers (Exhibit 200, Lazar 7, line 8- Lazar/8, line 7). Do**
15 **you agree?**

16 **A.** No. Mr. Lazar’s testimony in this regard is incorrect for at least two reasons that
17 both relate to risk. First, because of regulatory lag and the fact that NEIL
18 premiums were not subject to balancing account treatment, customers may not
19 have paid all of the premiums. For example, if rates are set with the expectation
20 that insurance premiums will be \$100 and the premium increases to \$120 before
21 the next general rate case, the utility pays the extra amount, not the customers.
Likewise, if premiums decreased after a rate case, PGE would benefit through this
same effect. However, the risk of changing premiums was borne by PGE’s
shareholders, not customers. So it is not accurate for Mr. Lazar to claim that
“Ratepayers have paid the premiums.” (UM 898/URP/Exhibit 200, Lazar/7.)

22 Second, PGE’s shareholders were subject to the risk of NEIL’s claims
23 performance. For example, if NEIL experienced a greater number of claims than
24 anticipated, those additional claims would translate into higher premiums for all
25 utilities covered through NEIL, including PGE. It is unclear if PGE could have
26 passed all of the higher costs to customers. Once again, PGE could have
benefited through this same process if the claims experience of NEIL was better
than expected. However, the risk of NEIL’s claims experience was at least
partially borne by PGE’s shareholders. As a result, in establishing just and

1 reasonable rates, the Commission has the authority to balance these claims of
2 customers and PGE shareholders to NEIL distributions. * * * ⁸

3 URP dismisses the Commission's reasoning underlying its allocation of the NEIL
4 distributions, arguing that customers were also subject to a variety of risks associated with the
5 NEIL premiums.⁹ However, URP's argument supports the Commission's allocation of the
6 proceeds. Both customers and shareholders bore some risk associated with the NEIL premiums.
7 Accordingly, it was appropriate for the Commission to allocate the proceeds to both customers
8 and shareholders to compensate them for that risk.

9 URP now argues that the Commission's allocation of the NEIL proceeds creates an
10 incentive for utilities to intentionally acquire excessive insurance, because the premiums for such
11 insurance would be included in revenue requirement while any insurance refunds would not be,
12 and could flow through to shareholders.¹⁰ URP's argument is flawed in at least two respects.
13 First, the Commission scrutinizes costs associated with insurance premiums before allowing
14 utilities to recover such costs in rates. Accordingly, URP's hypothetical worst-case-scenario
15 based on an assumption that a utility would be allowed to include excessive insurance premiums
16 in rates is not persuasive.

17 Second, URP's argument misunderstands the nature of the NEIL refunds. Contrary to
18 URP's assertion, the refunds were not entirely due to premiums that were not needed to cover
19 claims, but were also due to successful investments by NEIL. Staff and PGE witnesses testified
20 as following in the underlying UM 989 proceeding:

21 **Q. What did NEIL do with the insurance premiums it received?**

22 A. NEIL invested those premiums into various financial assets, as is typical with
23 insurance companies. Some investments had losses, but overall NEIL's
24 investments did very well. Investment gains, combined with favorable claims

25 ⁸ UM 989/Staff-PGE/200, Busch-Hager-Tinker/16-17 (emphasis in original).

26 ⁹ URP/500-C, Lazar/11.

¹⁰ URP/500-C, Lazar/11.

1 experience, allowed NEIL to make payments back to utilities (including PGE)
2 over the last several years.¹¹

3 To the extent URP asserts that the Commission's allocation of the NEIL proceeds
4 undermines the Settlement approved in Docket No. UM 989, the assertion is without merit. To
5 be more specific, URP argues that customers were entitled to 100% of the final NEIL
6 distributions, and the fact they received only 55% of the proceeds lessens the benefit they
7 received under the settlement. What URP fails to recognize is that the Commission assumed that
8 customers were in fact entitled to 100% of the NEIL proceeds for purposes of determining
9 whether the settlements provided a net benefit to customers.¹² In other words, the Commission
10 concluded that the settlements provided a net benefit to customers, even assuming that customers
11 would receive 100% of the NEIL proceeds absent the Settlement.

12 **Issue No. 5: Were the rates adopted in Order No. 02-227 unjust and unreasonable**
13 **because they were higher than the rates adopted in UE 88, which the**
14 **Court of Appeals "declared unlawful" in *Citizens' Utility Board*?**

15 URP has framed this issue as follows in its testimony: "Were the rates approved in Order
16 No. 02-227 just and reasonable?" URP does not seem to argue that the rates adopted in Order
17 No. 02-227 were unjust and unreasonable because they were higher than rates adopted in UE 88.
18 Accordingly, staff will not attempt to rebut such an argument in this brief, but reserves the right
19 to do so in its reply brief if in fact URP presents such an argument in its opening brief. In any
20 event, the answer to the issue as posed by URP is "yes." The rates approved in Order No. 02-
21 227 were just and reasonable.

22 URP argues that the "net benefit analysis" adopted by the Commission in OPUC Order
23 No. 02-227 was conceptually and mathematically flawed for three reasons: (1) it counted as a
24 benefit not charging customers for construction work in progress "CWIP" on Trojan; (2) it
25 inflated the asserted benefit by a faulty assumption about future rate changes; and (3) even with

26 ¹¹ UM 989/Staff-PGE/200, Busch-Hager-Tinker/16.

¹² PGE/7600, Tinker/Schue/Hager/11.

1 the erroneous inflation and faulty assumptions, the final calculation of the “net benefit” was only
2 \$1.5 million.¹³

3 **CWIP.** The CWIP issue that URP attempts to present is more easily understood from
4 OPUC Order No. 02-227. In Order No. 02-227, the Commission described the issue as follows:

5
6 URP notes that the Trojan investment balance, as stated in URP Exhibit 305,
7 reflects \$4.2 million in Nuclear Fuel – CWIP and \$6.1 million in Cancelled
8 CWIP. URP claims that ORS 757.355 renders this CWIP unrecoverable, which
9 means that the Trojan balance should be reduced by an additional \$10.3 million.¹⁴

10 As discussed in PGE’s testimony, the factual predicate for URP’s argument is
11 incorrect. As PGE notes, even if it is accepted that \$10.3 million was included in the
12 Trojan balance in UE 88, this would not mean that \$10.3 million remained in the Trojan
13 balance as of September 30, 2000. This is because a significant portion of the CWIP
14 would have been amortized by that time.¹⁵

15 Accordingly, even if URP is correct that the Commission should have reduced the
16 undepreciated Trojan balance by the CWIP, this reduction would not have altered the
17 outcome of the net benefit analysis, which demonstrated a net benefit to customers that
18 exceeded \$16 million. In fact, the same conclusion is true even if it is assumed that there
19 was \$10.3 million of CWIP on September 30, 2000.

20 **Assumption underlying revenue requirement net benefit analysis.** URP’s
21 testimony that the revenue requirement net benefit analysis was flawed because it
22 assumed that PGE would continue to earn a return on Trojan through 2001 even though
23 PGE had a rate change effective October 1, 2001, is not persuasive. First, the assumption
24 in the revenue requirement net benefit analysis that PGE’s rates would not change until

25 ¹³ URP/500-C, Lazar/16-18.

26 ¹⁴ Order No. 02-227 at 15.

¹⁵ PGE/7600, Tinker-Schue-Hager/15. *See also* PGE/7600, Tinker-Schue-Hager/15-16 (noting that there is no evidence that the Trojan balance resulting from the UE 88 final order included any CWIP.)

1 January 1, 2002, does not affect the asset balance net benefit test, which revealed the
2 Settlement benefited customers in excess of \$16 million. Second, as PGE notes in its
3 testimony, it was reasonable for the Commission to assume that the effective date of the
4 rates under review in Docket No. UE 115 would be January 1, 2002.¹⁶

5 Moreover, Supreme Court review of the Court of Appeals' opinion in *Citizens'*
6 *Utility Board, et al. v. Public Utility Commission of Oregon*, 154 Or App 702, 962 P2d
7 744 (1998), was pending at the time the Commission issued Order No. 02-227.
8 Accordingly, at the time the Commission approved the Settlement, it was possible that
9 the Court of Appeals' conclusion that ORS 757.355 prohibited PGE from earning a return
10 on Trojan could have been reversed outright. In light of this possibility, the
11 Commission's assumption, for purposes of the net benefit analysis, that any return on
12 Trojan investment would not be eliminated from PGE's rates until January 1, 2002, was
13 not an unreasonable assumption.

14 **Net benefit was only \$1.5 million.** URP's argument that the net benefit to
15 customers was only \$1.5 million is predicated on URP's assertion that the net benefit
16 analysis counts as a "net benefit" to ratepayers the return of 55% of the known NEIL
17 distribution.¹⁷ As pointed out by PGE in its testimony, URP's argument is incorrect. In
18 fact, both net benefit analyses adopted precisely the assumption advocated by URP:

19 Both [net benefit analyses] assumed that customers were entitled to 100%
20 of the NEIL final distribution. They credited customers with \$15.4 million in
21 foregone benefit for transferring 45% of the final NEIL distribution as part of the
22 settlement. The net benefit analyses showed that with this most conservative
23 assumption, customers received a substantial overall net benefit from the
24 settlement.¹⁸

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25 ¹⁶ PGE/7600, Tinker-Schue-Hager/17.

26 ¹⁷ URP/500-C, Lazar/18.

¹⁸ PGE/7600, Tinker-Schue-Hager/11.

1 **Issue 6: Was Order No. 02-227 supported by substantial evidence?**

2 Yes. In Order No. 02-227, the Commission approved the Settlement that (1) allowed
3 PGE to eliminate the Trojan balance and the associated FAS 109 balance from PGE’s balance
4 sheet, remove a number of regulatory liabilities (i.e. customer credits), create a new regulatory
5 asset to recover the FAS 109 amounts, write off an additional \$5.1 million (after tax) in residual
6 Trojan balances, establish a \$2.5 million customer credit, and implement a \$10.2 million rate
7 reduction effective October 1, 2000; and (2) allocated future NEIL distributions between PGE’s
8 customers and its shareholders. In the order approving the Settlement, the Commission drew the
9 following conclusions or made the following findings:

- 10 (1) Allowing PGE to recover the Trojan balance immediately and remove it from
11 its balance sheet is reasonable and in the public interest;
- 12 (2) The net benefit analysis presented by staff and PGE shows that customers
13 receive a financial benefit from the Settlement and its implementation;
- 14 (3) The Settlement allows the Commission and parties to resolve remaining
15 Trojan issues in a manner that is consistent with the Commission’s approach
16 since the closure of Trojan in 1993;
- 17 (4) By approving the settlements, the Commission did not directly or indirectly
18 allow “interest” or “profit” on the Trojan balance;
- 19 (5) The FAS 109 asset is not a phantom asset. PGE was required by GAAP
20 standards to eliminate the Trojan related FAS 109 asset when PGE removed
21 the Trojan investment from its balance sheet. In order to allow PGE to recover
22 the Trojan-related tax liability it was necessary for the Commission to allow
23 PGE to create a new regulatory asset in an amount equal to the eliminated
24 FAS 109 asset.
- 25 (6) The amounts in the FAS 109 asset would have been recoverable by PGE
26 absent the settlement.
- (7) Although payment of NEIL premiums was forecasted in the ratemaking
 process, PGE shareholders were subject to a variety of risks for these
 payments – that actual premiums would increase between rate cases, that
 NEIL may experience a greater number of claims than anticipated, that NEIL
 investment strategies might fail

1 (8) PGE customers may or may not have paid all the actual premiums (as opposed
2 to the forecasted premiums).

3 (9) Because (1) PGE bore risk associated with the NEIL premiums and customers
4 may not have paid all the actual NEIL it is appropriate to allocate the NEIL
5 distribution between PGE's shareholders and customers.

6 (10) The NEIL distribution sharing was part of a tradeoff that enabled
7 customers to remove Trojan from rates, write off \$5.1 million after tax of the
8 remaining Trojan investment, and receive an additional \$2.5 million in credits
9 – which resulted in a net benefit to customers.

10 (11) The Settlement and the associated tariff filing produce just and reasonable
11 rates;

12 These findings and conclusions were supported by evidence in the UM 989 record.

13 **Findings/conclusions 1-4.** In UM 989/Staff-PGE/200, PGE and staff witnesses discuss
14 the net benefits analysis supporting the Settlement and rebut URP's assertion that by approving
15 the Settlement and the associated tariff, the Commission allowed PGE to indirectly earn a "return
16 on" the undepreciated Trojan investment.¹⁹ This testimony also discusses other factors
17 supporting the Settlement:

18 The Settlement simplifies PGE's balance sheet by removing \$180 million in
19 regulatory assets and liabilities which the Commission had already authorized for
20 recovery and refund in prior dockets. In addition, the Settlement provides for
21 smoother rates and fewer rate changes because rates will not need to be changed
22 to reflect what were the various lives of Trojan and the credits used in the
23 Settlement. Finally, the Settlement avoids the uncertainties of the pending appeal
24 and allows the Commission and Parties to the Settlement to put the contentious
25 Trojan recovery issue behind them so that they can turn their attention to the
26 issues of restructuring in Oregon as required by SB 1149.²⁰

27 This testimony is sufficient to support the findings made and conclusions drawn by the
28 Commission related to the Trojan offset.

29 Furthermore, any infirmity in the Commission's conclusions regarding its ability to order
30 PGE to refund to customers amounts collected for a return on Trojan does not affect the
31 reasonableness of the Commission's conclusions regarding the reasonableness of the Settlement.

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33 ¹⁹ UM 989/Staff-PGE/200, Busch-Hager-Tinker/3-6, 8-12.

34 ²⁰ UM 989/Staff-PGE/200, Busch-Hager-Tinker/6.

1 If in fact the Commission is statutorily authorized to order reparations of some sort for PGE's
2 collection of "return on" Trojan from 1995 to September 30, 2000, that fact would not change
3 the net benefit analysis, or any other predicates of the Settlement.

4 URP has argued that the Commission's conclusions in Order No. 02-227 regarding its
5 authority to order refunds for previously-set rates undermines the net benefit analysis because the
6 Commission used an incorrect amount for the remaining undepreciated balance of the Trojan
7 investment. Specifically, URP has asserted that to conduct a proper net benefit analysis, the
8 Commission should have assumed that all of the Trojan-related costs that PGE had previously
9 recovered in rates were only for "return of" investment, which would significantly change the
10 remaining undepreciated balance of the Trojan investment on September 30, 2000. URP is
11 mistaken.

12 URP is not entitled to double recovery. URP cannot ask for reparations for the "return
13 on" the Trojan investment collected by PGE from ratepayers from 1995 to September 30, 2000,
14 and then assert that the Commission should subtract those same amounts for the purpose of
15 reviewing the reasonableness of the net benefit analysis underlying the UM 989 Settlements.²¹

16 **Finding/conclusions 5-6.** The testimony at UM 989/Staff-PGE/200, Busch-Hager-
17 Tinker supports the Commission's findings and conclusions regarding the FAS 109 asset.²² The
18 witnesses explained that the FAS 109 asset is (1) "required" to be recognized by the Financial
19 Accounting Standards Board, (2) was not "created" as a result of the Settlement, and (3) is a
20 standard component of cost-of-service ratemaking.²³ The witnesses further explained,

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22 _____
23 ²¹ See February 22, 2008 ALJ Ruling and Notice of Conference ("Whether ratepayers paid too
24 much from 1995 to 2000 is being addressed in Phase I of these proceedings. If the answer to that
25 question is yes, the Commission will order PGE to issue refunds to redress this overpayment as
part of the Phase I analysis. To carry forward that offset to also reduce the starting point for the
Phase III analysis would result in doubly compensating ratepayers for any overpayment during
the 1995 to 2000 period.")

26 ²² UM 989/Staff-PGE-200, Busch-Hager-Tinker/13-16.

²³ UM 989/Staff-PGE/200, Busch-Hager-Tinker/13.

1 The FAS 109 asset represents the value of accelerated tax deductions
2 which are “flowed through” to customers. The benefits of these tax deductions are
3 passed through to customers through lower current tax expense. As the
4 accelerated tax deductions reverse over time, the benefit is recaptured through
5 higher current tax expense in later years. The balance of the FAS 109 asset
6 represents the amount that customers owe PGE at a particular point in time for
7 these tax benefits that were previously flowed through to customers.²⁴

8 The staff-PGE witnesses also explained:

9 The reversal of the existing FAS 109 asset is tied to the reversal of the
10 underlying asset (i.e. Trojan). Absent the Settlement, the FAS 109 balance would
11 be recovered from customers as Trojan was amortized through 2011. When PGE
12 removed Trojan from its Balance Sheet as a result of offsetting it with various
13 credits, PGE lost the mechanism by which it could, and normally would, collect
14 the FAS 109 balance. Thus, in order to collect the FAS 109 balance owed to
15 customers by PGE, it was necessary for the Commission to authorize PGE to
16 record a new regulatory asset. Again, as shown in the journal entries, the
17 regulatory asset created is equal to the FAS 109 asset that PGE wrote off.²⁵

18 In addition, the witnesses rebutted URP’s arguments that the FAS 109 asset is an
19 asset that can be arbitrarily created and that it was created as a result of the Settlement.²⁶

20 **Findings/conclusions 7-10.** The testimony at UM 989/Staff-PGE/200, Busch-Hager-
21 Tinker supports the Commission’s findings and conclusions regarding allocation of the NEIL
22 proceeds. The PGE and staff witnesses explained that customers may not have paid all the NEIL
23 premiums and the risk that the premiums would be higher than that forecast in rates was borne
24 by PGE shareholders.²⁷ This testimony was sufficient to support the Commission’s findings and
25 its conclusion that it was appropriate to allocate to both PGE’s shareholders and its customers.

26 The testimony of PGE and staff witnesses was also sufficient to support the
27 Commission’s finding that the allocation of NEIL proceeds was part of a tradeoff that enabled
28 customers to remove Trojan from rates, write off \$5.1 million after tax of the remaining Trojan

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30 ²⁴ UM 989/Staff-PGE/200, Busch-Hager-Tinker/13.

31 ²⁵ UM 989/Staff-PGE/200, Busch-Hager-Tinker/15.

32 ²⁶ UM 989/Staff-PGE/200, Busch-Hager-Tinker/13-14.

33 ²⁷ UM 989/Staff-PGE/200, Busch-Hager-Tinker/17.

1 investment, and receive an additional \$2.5 million in credits – which resulted in a net benefit to
2 customers.²⁸

3 **Finding No. 11.** The testimony discussed above is sufficient to support the
4 Commission’s finding that the Settlement produced just and reasonable rates.

5 **Issue 7: Did the Commission deny URP due process in UM 989?**

6 Staff is unaware of any particular claim regarding denial of due process and is
7 accordingly, unable to address this issue. Staff reserves the right to respond in its reply brief to
8 any arguments regarding this issue that URP may make in its opening brief.

9 DATED this 21st day of July 2008.

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Respectfully submitted,

HARDY MYERS
Attorney General

s/Stephanie S. Andrus _____
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Assistant Attorney General
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26 ²⁸ UM 989/Staff-PGE/200, Busch-Hager-Tinker/2-12.

1 **CERTIFICATE OF SERVICE**

2 I certify that on July 21, 2008, I served the foregoing upon all parties of record in this
3 proceeding by delivering a copy by electronic mail and by mailing a copy by postage prepaid
4 first class mail or by hand delivery/shuttle mail to the parties accepting paper service.

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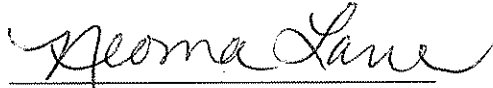
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