

Issued: December 21, 2007

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

DR 10, UE 88, and UM 989
Phase III

In the Matters of)	
)	
The Application of Portland General Electric)	
Company for an Investigation into Least)	
Cost Plan Plant Retirement, (DR 10))	
)	
Revised Tariffs Schedules for Electric)	CONFERENCE
Service in Oregon Filed by Portland)	REPORT
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))	

**DISPOSITION: PHASE III ESTABLISHED; PHASE I REACTIVATED;
BRIEFING SCHEDULE ADOPTED**

On December 20, 2007, a status conference was held in the above-captioned dockets. As indicated in a December 7, 2007, notice to parties, the purpose of the conference was to determine what additional proceedings are necessary given the Court of Appeals' recent decision in *Utility Reform Proj. v. Pub. Util. Comm'n of Or.*, ___ Or App ___ (October 10, 2007), and to identify other matters that must be resolved before the Commission issues a final order in these consolidated remand proceedings.

The following parties appeared at the status conference: Stephanie S. Andrus on behalf of Commission Staff (Staff); Daniel W. Meek on behalf of the Utility Reform Project (URP); Linda K. Williams on behalf of the Class Action Plaintiffs (CAPs); Jeanne M. Chamberlain and J. Jeffrey Dudley on behalf of Portland General Electric (PGE); Natalie Hocken on behalf of PacifiCorp dba Pacific Power; and Lisa F. Rackner on behalf of Idaho Power Company.

During the conference, I made it clear that the Commission intends to issue a single comprehensive order addressing all Trojan-related issues, including those raised in Phases I and II of these proceedings. To clarify, as a result of various court decisions, the Commission has conducted these remand proceedings in phases. The first phase was

intended to respond to the remands of orders DR 10 and UE 88 by the Court of Appeals in *Citizens' Utility Board v. Pub. Util. Comm'n of Or.*, 154 Or App 702 (1998), and the remand of UM 989 by the circuit court. Phase II was established after the Supreme Court issued its decision in *Dreyer v. Portland Gen. Elect.*, 341 Or 262 (2006), to determine what, if any, authority the Commission has to order PGE to issue refunds or other reparations to remedy any harm to ratepayers resulting from the inclusion of a return on PGE's remaining undepreciated investment in Trojan in rates from 1995 through 2000. Phase I was suspended during Phase II, with the assumption that the Commission's decision in Phase II may eliminate the need to resolve the issues in Phase I. After the Court of Appeals' recent decision in *Utility Reform Project*, the Commission was presented with the opportunity to address all Trojan-related issues at one time without ongoing and potentially conflicting proceedings in other forums. The Commission therefore has decided to reactivate Phase I, institute a third phase to address the recent Court of Appeals' remand, and issue a single comprehensive order in all three phases at the completion of Phase III. Phase III was officially established at the status conference.

The Court of Appeals' decision in *Utility Reform Project* was the end result of URP's appeal of the Commission's decision in UM 989. The court vacated the circuit court's reversal of the UM 989 order, yet nonetheless remanded the order to the Commission because the court found that the Commission erroneously interpreted the filed rate doctrine. The court added that URP was free to raise the issues identified in its cross-appeal on remand before the Commission.

In response to my inquiry regarding what proceedings are necessary to respond to the Court of Appeals' remand of UM 989, URP requested "full contested case" proceedings, but was not prepared to identify exactly what it meant by "full contested case" proceedings at the time of the conference. URP did indicate that it believed that it should be able to present new evidence as part of the remand proceedings. Staff and PGE argued that no new evidence should be permitted and the remand could proceed based on the evidence presented during the original UM 989 proceedings.

To allow the Commission to make an informed decision, I established the following briefing schedule to give URP the opportunity to identify, with as much specificity as possible, the cross-appeal issues that URP would like the Commission to consider on remand and the nature of the new evidence that URP believes is necessary to present for the Commission to adequately consider the issues.

URP submits Opening Memorandum	January 14, 2008
Staff and PGE submit Response Memoranda	January 22, 2008
URP submits Reply Memorandum	January 29, 2008

In addition, URP, Staff, and PGE should discuss any other issues that the Commission must address before issuing a final order in these dockets. The parties should also indicate whether there are any outstanding motions from Phase I that the Commission has not yet resolved that they still wish to pursue. I also requested that the parties include a

list of the testimony and exhibits submitted in Phase I, including exhibit number and date filed.

Both URP and CAPs requested that the Commission enter an order in Phase II before beginning remand proceedings in UM 989. URP was instructed to formalize this request in its Opening Memorandum. CAPs was asked to formalize its request in a motion submitted on or before January 14, 2008.

Dated this 21st day of December, 2007.

Michael Grant
Chief Administrative Law Judge