



Oregon

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May 16, 2008

OREGON PUBLIC UTILITY COMMISSION
ATTENTION: FILING CENTER
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RE: Docket No. DR 10, UE 88 and UM 989 – In the Matter of The Application of Portland General Electric Company for an Investigation into Least Cost Plan Retirement, (DR 10), Revised Tariffs Schedules for Electric Service in Oregon Filed by Portland General Electric Company, (UE 88), and Portland General Electric Company's Application for an Accounting Order and for Order Approving Tariff Sheets Implementing Rate Reduction. (UM 989)

Enclosed for electronic filing in the above-captioned dockets is the Public Utility Commission Staff's Phase III Response Testimony.

/s/ Kay Barnes

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

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c: DR10, UE88 and UM 989 Service Lists (parties)

**PUBLIC UTILITY COMMISSION
OF OREGON**

**DR 10/UE 88/ UM 989
PHASE III**

**STAFF RESPONSE TESTIMONY OF
Judy Johnson**

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

**Revised Tariffs 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)**

May 16, 2008

CASE: DR10/UE88/UM989
WITNESS: Judy Johnson

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 500

Phase III Response Testimony

May 16, 2008

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**
2 **ADDRESS.**

3 A. My name is Judy Johnson. I am Program Manager of the Rates and Tariffs
4 Section in the Electric and Natural Gas Division at the Public Utility
5 Commission of Oregon. My business address is 550 Capitol Street NE Suite
6 215, Salem, Oregon 97301-2551.

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**
8 **EXPERIENCE.**

9 A. My Witness Qualification Statement is found in Exhibit Staff/101.

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A. The purpose of my testimony is to respond to the Phase III issues in this DR
12 10/UE 88/UM 989 remand proceeding set forth in the ALJ's conference report
13 dated February 22, 2008. Portland General Electric provided testimony on
14 these issues in Exhibit PGE/7500.

15 **Q. WHAT DID THE ALJ IDENTIFY AS THE SCOPE OF PHASE III OF THIS**
16 **PROCEEDING?**

17 A. The ALJ identified the following seven issues to be addressed in this phase:

18 1) What was PGE's remaining undepreciated investment in Trojan as of
19 October 1, 2000?
20

21
22 2) Do the rates approved in Order No. 02-227 provide PGE with the functional
23 equivalent of a "return on" the remaining undepreciated investment in Trojan?
24

25
26 3) Should the creation of a new regulatory asset to pay the customers' FAS
27

28 109 liability be disregarded because it is a "phantom" tax bookkeeping asset?

1
2 4) Did the Settlement improperly transfer the proceeds from PGE's NEIL policy
3
4 from ratepayers to PGE?

5
6 5) Were the rates adopted in Order No. 02-227 unjust and unreasonable
7
8 because they were higher than the rates adopted in UE 88, which the Court of
9
10 Appeals "declared unlawful" in Citizens' Utility Board?

11
12 6) Was Order No. 02-227 supported by substantial evidence?

13
14 7) Did the commission deny URP due process in Docket UM 989?

15
16 **Q. WHICH ISSUES DO YOU ADDRESS IN THIS TESTIMONY?**

17 A. I address the first four of the seven issues identified in the scope of this
18 proceeding. PGE asserts that issues #5, #6, and #7 are legal issues; staff
19 agrees and will be address those issues in staff's legal briefs.

20 **Q. WHAT WAS THE REMAINING UNDEPRECIATED INVESTMENT IN**
21 **TROJAN?**

22 A. Staff-PGE Exhibit 201 (From docket UM 989) shows the actual undepreciated
23 balance of \$180.5 million as of 9/30/2000.

24 **Q. DID UM 989 PROVIDE PGE WITH THE FUNCTIONAL EQUIVALENT OF A**
25 **RETURN ON THE UNDEPRECIATED INVESTMENT IN TROJAN?**

26 A. No. As stated in Staff-PGE Exhibit 200, page 9, "Because the regulatory asset
27 that reflects Trojan costs is eliminated as a result of the Settlement, PGE is not
28 directly receiving a 'return on' Trojan under the Settlement. In addition, PGE is
29 not indirectly receiving a return on Trojan because PGE is not required to
30 provide interest on credits that are refunded (amortized) at a moment in time."

1 **Q. DOESN'T THE QUESTION OF WHETHER OR NOT TROJAN WAS AN**
2 **INTEREST-BEARING ASSET MAKE A DIFFERENCE IN WHETHER THE**
3 **SETTLEMENT EFFECTIVELY PROVIDED PGE WITH A RETURN ON**
4 **TROJAN?**

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

12 **Q. SHOULD THE FAS 109 LIABILITY BE DISREGARDED BECAUSE IT IS A**
13 **"PHANTOM" BOOKKEEPING ASSET?**

14 A. No. PGE/7500/6 correctly describes the FAS 109 asset related to Trojan as an
15 asset required to be recognized under Generally Accepted Accounting
16 Principles (GAAP). It is not new, and was not created as a result of the
17 Settlement. Customers would have owed this amount with or without the
18 Settlement. In Staff-PGE Exhibit 200, page 13, it states: "The FAS 109 asset
19 represents the value of accelerated tax deduction which are flowed through to
20 customers. The benefits of these tax deductions are passed through to
21 customers through lower current tax expenses. As the accelerated tax
22 deductions reverse over time, that benefit is recaptured through higher current
23 tax expense in later years. The balance of the FAS 109 asset represents the

1 amount that customers owe PGE at a particular point in time for these tax
2 benefits that were previously flowed through to customers.”

3 **Q. DID THE SETTLEMENT IMPROPERLY TRANSFER PROCEEDS FROM**
4 **PGE’S NEIL POLICY FROM RATEPAYERS TO PGE?**

5 A. No. The Commission had discretion in UM 989 regarding how to allocate NEIL
6 benefits between customers and shareholders. Importantly, even after
7 allocating 45 percent of the NEIL distribution to shareholders, the UM 989
8 settlement resulted in a net benefit to customers. As stated in Staff-PGE
9 Exhibit 200, page 17, “The net benefit analysis takes the most conservative
10 (from customers’ viewpoint) position. Specifically, the net benefit analysis
11 assumes that customers are due 100% of NEIL distributions. As a result, the
12 net benefit analysis treats the 45% share of NEIL that accrues to PGE
13 shareholders as a loss from customers’ perspective. Even having made this
14 assumption, the net benefit analysis still shows net customer benefits from the
15 Settlement.”

16 **Q. HOW MIGHT NEIL BENEFITS HAVE BEEN CREDITED ABSENT A**
17 **SETTLEMENT?**

18 A. It depends on how the benefits would have come in relative to the test period
19 for a rate case. If the benefit came in between rate cases, customers may not
20 have benefited at all. In addition, even if the benefits were recognizable during
21 a test period, the crediting of a NEIL benefit might have been considered a
22 one-time occurrence for purposes of a rate case and removed from the test
23 period as a non-recurring item.

1 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

2 A. Yes.

3

CERTIFICATE OF SERVICE
DR10, UE88 and UM 989

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 16th day of May, 2008.

Kay Barnes

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**UM 989
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