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Douglas C. Tingey
Assistant General Counsel

February 17, 2009

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission
Attention: Filing Center
PO Box 2148
Salem OR 97308-2148

Re: UE 204 – Selective Water Withdrawal Project

Attention Filing Center:

Enclosed for filing in the above-captioned docket is and original and one copy of the following:

**PORTLAND GENERAL ELECTRIC COMPANY'S OPPOSITION TO
STAFF'S MOTION TO SUSPEND TARIFFS FOR AN ADDITIONAL
THREE MONTHS.**

Please stamp the extra copy of this letter and return it in the self-addressed envelope provided.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "DCT", is written over a faint, larger version of the signature.

DOUGLAS C. TINGEY


DCT: jbf
Enclosures

cc: UE 204 - Service List

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **PORTLAND GENERAL ELECTRIC COMPANY'S OPPOSITION TO STAFF'S MOTION TO SUSPEND TARIFFS FOR AN ADDITIONAL THREE MONTHS** 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 204.

Dated at Portland, Oregon, this 17th day of February, 2009.



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SERVICE LIST
OPUC DOCKET # UE 204

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 204

In the Matter of Revised Tariff Schedules
filed by Portland General Electric
Company Regarding the Selective Water
Withdrawal Project

**PORTLAND GENERAL ELECTRIC
COMPANY'S OPPOSITION TO
STAFF'S MOTION TO SUSPEND
TARIFFS FOR AN ADDITIONAL
THREE MONTHS**

Portland General Electric Company ("PGE") submits this opposition to Staff's Motion to Suspend Tariffs for an Additional Three Months. The requested delay would postpone the effective date for recovery of prudent plant in service in rates until August 24, 2009.

Staff and Intervenors have known many of the details about the Selective Water Withdrawal ("SWW") project for almost a year because PGE first included the SWW project in its February 2008 UE 197 filing. They have had almost four months from PGE's initial filing in this docket to prepare rebuttal testimony. Absent from Staff's request is any claim that new information warrants a three-month delay. The delay requested is not routine but reflects a fundamental departure from the schedules previously agreed-to according to which the costs of the SWW project would be included in rates at the same time the project was closed to plant in service. The request does not mention the impact on PGE. The requested three-month delay would cost PGE over \$3

million¹ when nothing in Staff's motion warrants such delay, much less a three-month delay.

Staff's request should not be granted. If the Commission elects to grant Staff's request, the Commission should authorize interim rates, subject to refund, reflecting PGE's initial request. Interim rates would protect PGE and its customers and would avoid penalizing PGE for a delay for which it bears no responsibility.

DISCUSSION

PGE filed for rate recovery of the SWW project in February 2008, as part of the UE 197 rate case. PGE agreed to withdraw the SWW project from its UE 197 request based on the agreement that PGE would file for rate recovery of the SWW project in a new docket and the parties would support a schedule that would permit the Commission to issue a final order such that rates could reflect the cost of the SWW project when the project was closed to plant in service for accounting purposes. UE 197, Order No. 09-020 (Appendix A at 15, stipulation dated October 7, 2008). At the time of the UE 197 stipulation memorializing this agreement, PGE expected the SWW project to close to plant in service by May 1, 2009, so the stipulation reflected the expectation that the new rates reflecting the cost of the SWW project would be effective the later of "May 1, 2009, or when the SWW project is closed to plant for accounting purposes." *Id.*

In this proceeding, PGE filed its request and opening testimony on October 24, 2008. On December 2, 2008, a procedural schedule was entered with Staff and Intervenor testimony due January 21, 2009, and a target date for the Commission order of

¹ The requested revenue requirement increase in this docket is \$12.875 million, or approximately \$1.072 million per month.

May 1, 2009. The procedural schedule has been amended twice: first delaying Staff and Intervenors' testimony until February 2 (January 14 ruling) and finally, the current schedule postponing Staff and Intervenor testimony until February 19 (February 3 ruling). PGE now expects that all testing will be completed and the SWW project closed to plant in service by June 1. Accordingly, the current schedule's final order target date of late May is consistent with the agreed-to goal of implementing new rates incorporating the cost of the SWW project at the same time the project is closed to plant in service.

Staff's request to delay the effective date until August 24 should be rejected. It would create a delay of three months between when the SWW project is completed and when the costs associated with the SWW project are reflected in rates. Such a delay would impose considerable financial harm on PGE and reflects a fundamental departure from the framework for this docket, which the parties agreed to in the UE 197 stipulation. Staff offers only the barest of reasons for its request, none of which have any merit.

First, Staff claims it needs more time because "the SWW project is a unique project and the review of the project has been complex. The review of this project is further complicated by cost estimates that are currently 30 percent above PGE's original forecasts." Motion at 2. Neither the "complex" nature of this project nor changes in cost estimates provides any basis for increasing the duration of this docket by three months. The nature of this project was known to Staff and Intervenors in UE 197 and has not changed. The projection of PGE's share of the cost of the Selective Water Withdrawal project has actually decreased by approximately \$2.5 million from those projected in UE 197. UE 204/PGE 100/Keil-Schue-Hager/12. The changes in cost estimates to which Staff apparently refers were made early in the design phase of the project and were

known since UE 197. In other words, Staff and Intervenors knew about these issues when they (i) entered into the stipulation in UE 197 reflecting a May 1 effective date, (ii) agreed to the initial schedule in this docket, and (iii) supported the two amendments to the schedule in this docket.

Second, Staff suggests that the schedule for completing the SWW project has changed in some manner that would justify a three-month delay. Motion at 2. In fact, the SWW project is expected to be fully tested and closed to plant in service by June 1, 2009. This projected completion date has not changed since the most recent schedule was entered in this docket. The June 1 completion date plainly cannot justify the requested August 24 effective date which would cause a three-month delay in the inclusion of SWW project expenses in rates.

Staff also claims that the “SWW project will not be fully initially tested, nor will all the project costs be closed to book in a timeframe that will allow the parties sufficient time to review the initial performance of, and the actual costs of, the project.” PGE is unsure what initial testing Staff is referring to – testing of the construction will be successfully completed before the plant will be closed to book. Testing of other aspects of the functionality of the SWW may take many years. The question before the PUC, however, is whether the plant is used and useful by meeting PGE’s license requirements for the new 50 year license for the Pelton Round Butte project. As described in testimony, the SWW complies with those license requirements.²

² Staff’s idea that the costs of the project will need further review is also inapposite. If Staff is claiming that there must be some time after the project is in service for the books to be reviewed, then Staff is again not complying with its Stipulation that rates should be effective when the plant is closed to book. This position is also inconsistent with the past practice of this Commission, and general future test year ratemaking principles.

PGE has been forthcoming and provided the parties with a tremendous amount of information regarding the SWW project in both UE 197 and this docket. PGE has responded to voluminous discovery requests, made PGE personnel as well as outside design and construction personnel available for meetings, and organized two on-site visits to the SWW project. Our actions demonstrate that we do not want to inhibit a proper inquiry into this matter but Staff's motion offers no justification for delay.

If additional time is granted, the Commission should authorize interim rates at the level PGE requested effective June 1, 2009. ORS 757.215(5). Staff's motion makes clear that PGE is not responsible for the requested three-month delay. Yet, without interim rates, PGE will be forced to bear the cost of the delay. The delay will cost PGE about \$1.072 million for each month the SWW project is closed to plant in service and not included in rates. If a three-month delay is granted, it would cost PGE over \$3 million based upon a June 1 completion date.

Interim rates would hold our customers harmless. By statute, interim rates are subject to refund based on the final outcome in this docket and any amounts refunded to customers will accrue interest. ORS 757.215(5).³ Accordingly, any extension of the schedule should be accompanied with an order authorizing interim rates effective June 1 at the level PGE requested in this docket.

³ ORS 757.215(5) states that interim rates should increase revenues "without materially changing the revenue relationships among customer classes or between the revenues derived from demand charges and from energy charges." In this docket, the costs at issue are generation costs, and PGE's proposed tariffs spread the costs among customer classes accordingly. No party has expressed concern with that rate spread. It is expected then that the final outcome of this docket will utilize the same cost allocation. PGE believes that the proposed rate spread (and resulting cents/kWh rate for the applicable schedules) should be applied to set interim Schedule 121 rates. In addition, the rate change sought in this docket is a revenue requirement increase of only about 0.8%. In this situation, use of PGE's proposed rate spread for the interim rates would comply with this statute and not materially change the revenue relationships among customer classes. Therefore, PGE proposes that Schedule 121, as filed, be approved as the interim rates.

DATED this 17th day of February, 2009

Respectfully submitted,

/s/ Douglas C. Tingey

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