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March 16, 2005

Via Electronic Mail and US Mail

Public Utility Commission
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem, OR 97308-2148

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY
Application for a Hydro Generation Power Cost Adjustments Mechanism
Docket No. UE 165

Dear Filing Center:

Enclosed please find an original and two copies of ICNU 201 Exhibit that was inadvertently omitted from the Rebuttal Testimony of Randall J. Falkenberg on behalf of the Industrial Customers of Northwest Utilities in the above-captioned Docket that was filed yesterday.

Please return one file-stamped copy of the document in the self-addressed, stamped envelope provided. Thank you for your assistance.

Sincerely,

/s/ Allyson L. Smith
Allyson L. Smith

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing ICNU 201 Exhibit that was inadvertently omitted from the Rebuttal Testimony of Randall J. Falkenberg on behalf of the Industrial Customers of Northwest Utilities upon the parties on the official service in Docket No. UE 165, shown below, by causing the same to be electronically served, as well as mailed, postage-prepaid, through the U.S. Mail.

Dated at Portland, Oregon, this 16th day of March, 2005.

/s/Allyson L. Smith
Allyson L. Smith

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 165

In the Matter of	)
	)
PORTLAND GENERAL ELECTRIC COMPANY	)
	)
Application for Approval of a Hydro Generation Adjustment Tariff.	)
	)

REBUTTAL TESTIMONY OF

RANDALL J. FALKENBERG

ON BEHALF OF

THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES

March 15, 2005

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. Randall J. Falkenberg, PMB 362, 8351 Roswell Road, Atlanta, Georgia 30350. I am the same Randall J. Falkenberg who filed direct testimony in this case.

Q. WHAT IS THE PURPOSE OF THIS REBUTTAL TESTIMONY?

A. The purpose of this testimony is to respond to the recommendations made by Oregon Public Utility Commission ("OPUC" or the "Commission") Staff in its direct testimony regarding Portland General Electric Company's ("PGE" or the "Company") request for approval of the Hydro Generation Adjustment ("HGA") tariff. I agree with Staff's recommendation to reject PGE's HGA proposal; however, I disagree with Staff's proposal that the Commission establish an interim power cost adjustment ("PCA") mechanism for PGE in 2005 and 2006, and a comprehensive, permanent PCA after that time. Consequently, this testimony will delineate the areas of disagreement with the Staff and the reasons for them.

Q. IN THE INTEREST OF CLARITY, COULD YOU IDENTIFY YOUR AREAS OF AGREEMENT AND DISAGREEMENT WITH STAFF?

A. Yes. I agree with many of Staff's comments and recommendations regarding the HGA itself. However, I disagree with Staff's recommendation to implement an "interim" PCA retroactively to January 1, 2005, and I am troubled by Staff's proposal to broaden the scope of the PCA far beyond PGE's limited request for recovery of hydro costs. To be as specific as possible, below I present a grouping of Staff's recommendations to the Commission. After each set of recommendations, I will indicate whether I agree or disagree with it.

Staff Recommendation # 1

- *The Commission should consider reasonable risk reduction, neutral cost recovery, and equal treatment criteria when evaluating automatic adjustment clauses. These criteria are additions to PGE's rate stability, regulatory transparency, and incentive for good management criteria.*

- *The Commission should reject PGE's proposed HGA mechanism. The $2.5 million deadband removes nearly all of PGE's hydro-related earnings risk and fails the reasonable risk reduction criterion. Tracking asymmetric financial impacts with the symmetrically designed HGA mechanism would result in an expected economic windfall for PGE and therefore fails the neutral cost recovery criterion.*

- *The Commission should indicate a preference for Expected Value Power Cost modeling. Modeling the uncertainty associated with retail loads, natural gas and electricity market prices, hydroelectric generation, and thermal unit availability provides a more realistic simulation of PGE's system operations and produces a distribution of NVPC that can be used to design a fair PCA mechanism.*

Staff/100, Galbraith/2. I do not agree that a PCA has been justified on the basis of the record in this proceeding or that a PCA should now be established. This Docket began as an investigation into PGE's very narrow proposal to implement the HGA tariff to track the costs of variations in hydro generation. There is simply no basis to conclude in this Docket that a comprehensive PCA that tracks the costs of variations in all net variable power costs ("NVPC") should be established now.

Staff Recommendation # 2

- *The Commission should indicate a preference for a PCA mechanism with a deadband set: (1) to exclude a reasonable range of normal variation from triggering the PCA mechanism, and (2) to be neutral on an expected recovery basis. For example, a deadband set at the 10th and 90th percentiles of the 'All-in' NVPC* *distribution, as distinguished from the 'Hydro-only' NVPC distribution, would satisfy these criteria.*

- *The Commission should indicate a preference for updating the PCA deadband annually to account for changing economic relationships. When underlying economic conditions change (for example a change in the hydroelectric generation and electricity market price relationship) prior NVPC modeling and any associated findings or conclusions become invalid.*

Id. at Galbraith/2-3. Again, I am not recommending that the Commission adopt either a PCA or the HGA. Should the Commission choose to implement some mechanism, an "extreme event" PCA such as the one proposed by Staff is a more acceptable concept than a PCA that would be in effect most of the time. However, an "extreme event" hydro-only adjustment clause would be preferable to a comprehensive PCA (with an "all encompassing" scope of cost recovery) as envisioned by the Staff. A full PCA has not been justified based on the record in this Docket, would be a much more complex undertaking, requires much more regulatory activity, and would not necessarily achieve Staff's goal of revenue neutrality. Further, an extreme event HGA would be far more consistent with PGE's original request.

Staff Recommendation # 3

- *The Commission should adopt an interim PCA for calendar years 2005 and 2006. The deadband should be set at an amount equal to the revenue requirement effect of plus and minus 250 basis points of ROE.*

Id. at Galbraith/3. Although I agree a broad deadband is preferable to PGE's proposed $2.5 million deadband, I continue to disagree with Staff's recommendation for an interim PCA in 2005 and 2006.

<u>Staff Recommendation # 4</u>

- *The Commission should ensure any proposal does not incent direct-access eligible customers on their choice to go direct access or remain with the company*.

<u>Id.</u> I agree with this recommendation.

Q. STARTING WITH YOUR FIRST AREA OF DISAGREEMENT, EXPLAIN WHY YOU DO NOT BELIEVE THAT A PCA HAS BEEN JUSTIFIED BY THE RECORD IN THIS PROCEEDING.

A. The discussion in Mr. Galbraith's testimony seems to be based on the premise that some form of a comprehensive PCA should be the ultimate outcome of this proceeding. However, neither PGE, nor CUB, nor ICNU has presented testimony recommending a comprehensive PCA in this case. Thus, Staff is out of step with the rest of the participants in this docket.

Further, there has been no opportunity to fully formulate and explore the pertinent issues related to a PCA. This is a serious problem because a comprehensive PCA is a much more substantial change to the current regulatory practice for PGE than even the Company's proposed HGA.

Q. PLEASE EXPLAIN THE DIFFERENCES BETWEEN A COMPREHENSIVE PCA AND THE PROPOSED HGA.

A. A PCA is generally intended to track <u>all</u> changes in power costs, including those resulting from changes in fuel prices, plant outages, purchased power expenses, and hydro variations. Staff's proposed PCA would also track changes in gas sales revenue. Staff/100, Galbraith/14. The HGA was intended to only allow tracking of changes in power costs due to changes in hydro generation. Thus, the HGA was a proposal with a much more limited scope, and this docket was established to investigate <u>that</u> proposal, not to deal with the issue of a full PCA.

Staff's proposal presents a serious problem of equity in that parties are now obligated to address a much broader range of issues than were present at the start of the case. This also is a serious problem because Staff has not provided a specific PCA tariff to examine, projections of ratepayer impact, or rules or procedures to govern the annual process of reviewing and determining the ratemaking treatment of any PCA balance.

The Staff proposal also broadens the scope of power cost recovery to encompass a wide range of causes that have nothing to do with hydro generation. A serious plant outage, such as PacifiCorp's November 2000 outage of Hunter Unit 1, could result in an automatic pass-through of costs based on the Staff proposal. Another Western energy crisis might result in the same.

Q. ARE YOU SAYING THAT THE COMMISSION WOULD NOT WANT TO AFFORD PGE RELIEF IN SUCH EXTREME CIRCUMSTANCES AS A MAJOR PLANT OUTAGE OR POWER CRISIS?

A. Not at all. As I pointed out in my direct testimony, the Commission has a history of providing appropriate and measured relief in such situations. However, it is troubling when such recovery becomes a certainty, without the underlying opportunity for a prudence review or even the determination of a true financial need. Under Staff's proposal, PGE might be afforded automatic recovery of an imprudent plant outage. Likewise, a spike in power costs might be afforded automatic recovery even if the Company was overearning.

In the end, the greatest flaw in Staff's proposal is that it is premature. There are a number of issues that should be addressed before a PCA is adopted. Staff's proposal really truncates a fair and reasonable process because it assumes that a PCA is the "right solution," without providing the justification for a comprehensive PCA. Furthermore, Staff ignores many practical implementation issues that would accompany a PCA. Staff has lost sight of the issues in this case, and not really addressed the many issues that would accompany a case concerning a comprehensive PCA.

Q. WHAT STEPS ARE NECESSARY BEFORE A COMPREHENSIVE PCA IS IMPLEMENTED?

A. There should be a multi-step process. First, PGE or Staff should demonstrate to the Commission that a PCA is necessary and justified, and that a PCA represents the best means for dealing with power cost variances.[1/] This would logically take place in the context of a full general rate case. Second, there should be a rulemaking to define the scope of eligible costs, minimum filing requirements, and time schedules for processing PCA cases. Finally, there should be an investigation of provisions for prudence reviews and an audit or reconciliation procedure to assure that non-power cost items are not being included in the PCA balance.

Q. WHY IS A GENERAL RATE CASE NECESSARY BEFORE DECIDING WHETHER TO IMPLEMENT A PCA?

A. I discussed this in my direct testimony. ICNU/100, Falkenberg/10-12. In this case, PGE contends it is not earning an adequate return on equity (“ROE”) and proposes the HGA to address that issue. A full rate case setting is the only reasonable forum to allow the Commission to determine the validity of PGE’s claim and determine whether a remedy is justified.

1/ While PGE brought this question up in UE 137 and UE 149, to this point, the parties have never agreed on a PCA concept. PGE itself withdrew its request for a PCA in UE 137.

Staff also seems to agree that a permanent PCA needs to be designed in the context of a full general rate case. However, it recommends that a two-year PCA be implemented now.[2/] Unfortunately, a temporary PCA presents the same problems and concerns to the Commission as would be present in the case of a permanent PCA. Consequently, Staff's position on this point seems inconsistent. Further, it makes little sense to proceed with a temporary PCA, if the intent is only to replace it with a final PCA later on.

Q. IS STAFF PROPOSING THE TEMPORARY PCA AS AN EMERGENCY MEASURE TO DEAL WITH THE CURRENT DROUGHT?

A. No. Staff provides very little justification for the temporary PCA in its testimony. The basic argument is one of developing a "fair allocation" of NVPC risk. Mr. Galbraith testifies as follows:

> *Staff recommends the interim PCA as part of a long-term commitment to the fair allocation of NVPC risk. Staff's interim PCA bridges the gap until a long-term PCA can be implemented. We believe it is important to maintain this long-term focus. Without further examination of the facts underlying Docket UM 1187, staff is unsure if the 2005 hydro variance warrants deferred accounting on a one-time stand-alone basis. However, we have already noted the similarity between our interim PCA and the Commission's use of 250 basis points of ROE to benchmark the financial impact of poor hydro in Order 04-108.*

Staff/100, Galbraith/27. Of course, it is not possible to make an objective determination of what is "fair." However, I question how "fair" the Staff proposal is to ratepayers since it allows the Company to establish a PCA and

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[2/] "*Staff recommends that PGE use Expected Value Power Cost modeling in its next general rate case. This modeling should be used to jointly determine the NVPC component of PGE's revenue requirement and the deadband parameters of an extreme event PCA mechanism.*" Staff/100, Galbraith/14.

collect costs for which the Company has never even previously requested a deferral. I will discuss this problem in more depth later.

Q. WHY WOULD A RULEMAKING BE NECESSARY BEFORE IMPLEMENTING A PCA?

A. There needs to be a reasonable definition of eligible power cost expense. While it may seem simple to define eligible expenses, it is not. Already in this case Staff proposes to include gas resale revenues as part of net power cost expense. In recent RVM cases, there have been a number of issues that have arisen surrounding the proper scope of costs for inclusion in the RVM. For example, PGE has requested recovery of costs related to foreign currency hedges. Likewise, recovery of costs related to "coal dust" and call options have been included in RVM filings, and opposed at various times by parties, including the Staff. In fact, there has been much discussion in the RVM cases as to which costs should be included and which should not.

The RVM is a fundamentally different exercise than a PCA, and the issues would most certainly differ. However, there is no reason to expect that there would be general agreement regarding the kinds of costs that should be eligible for recovery. While "coal dust" might not be an issue in a PCA case, an unexplained decline in coal inventories might give rise to a request for recovery.[3/]

Likewise, in the recent PacifiCorp power cost audit, out of period adjustments were a very contentious issue, even after Staff hired an outside auditor to review PacifiCorp's books. Thus, a rulemaking is needed to prevent a PCA from spawning either a series of unwieldy and open-ended dockets that

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[3/] Such a decline might occur whenever coal pile measurements are updated.

wrestle with a variety of issues over and over again or the alternative, which would amount to no review of eligible costs and essentially a "blank check" for PGE.

Further, without minimum filing requirements and reasonable time schedules, parties may be severely handicapped in their ability to audit PGE's requests. Staff provides no guidance on how PCA cases are to be processed once the PCA is implemented.

Q. WOULD THE SAME PROBLEMS BE PRESENT IN A FORMULISTIC APPROACH SUCH AS PGE'S PROPOSED HGA?

A. No. PGE's request deals only with application of a simple formula. While I believe PGE's approach is flawed, opening up this Docket and future dockets to include consideration of actual power costs (based on accounting data) and use of an ROE threshold substantially broadens the scope of the proposed PCA and greatly complicates future regulatory proceedings. That Staff proposes no specific mechanism for dealing with these issues is quite troubling, for one is left with the concern that audits of future PCA balances may not be a high priority.

While I am not enthusiastic about PGE's HGA either, it is actually a far less troubling proposal than Staff's, aside from the HGA's narrow deadband. While it appears clear that PGE's HGA will allow over-recovery of the costs of hydro deficits and under-refunds when a surplus occurs, Staff's proposal may be as bad, if not worse, in that it will allow recovery of costs that have nothing to do with hydro variations. In addition, Staff's proposal does not match cost recovery or refunds with any measure of the financial position of the Company. Finally, there is no evidence that Staff's proposed PCA complies with Staff's recommended "revenue neutrality" standard.

Q. DO YOU AGREE WITH STAFF'S PROPOSAL TO ALLOW ITS PROPOSED PCA TO RETROACTIVELY APPLY TO 2005?

A. No. Mr. Galbraith testifies that the deferral application the Company filed in UM 1187 is sufficient to allow the Commission to apply Staff's proposed PCA retroactively to 2005:

> *PGE filed an application for deferral of costs and benefits due to hydro generation variance on December 30, 2004 (Docket UM 1187). PGE indicated in its initial application that it intended to capture the any hydro generation variance in 2005 for rate treatment pursuant to the outcome of UE 165. As we indicated in our Staff Report in this docket, presented at the July 6, 2004 Commission Public Meeting, the Department of Justice has indicated that the Commission has the discretion to authorize deferred accounting retroactive to the deferral application date, but it is not required to do so. The UM 1187 application provides the Commission options with respect to the date at which benefits and costs associated with PGE's proposed HGA mechanism are eligible for deferral. Staff believes the Commission also has the discretion to modify the balancing account formula to track positive or negative NVPC variance during 2005.*

Staff/100, Galbraith/27. I believe that Mr. Galbraith is recommending that the Commission engage in retroactive ratemaking, which is ill-advised from a regulatory policy standpoint.

It is my understanding that the Commission and parties will address PGE's deferred accounting application in UM 1187; however, if Staff's proposal is approved, it would certainly create a troubling precedent for regulators, ratepayers, and perhaps even utilities. In effect, Mr. Galbraith argues that an application for deferral of one type of cost is sufficient to allow deferral of a whole range of loosely-defined "related" costs. In UM 1187, the Company requested deferral of replacement power costs resulting from a shortfall in hydro generation. The Staff proposal would now retroactively allow the Company to defer any component of net power cost variations as well as gas resale revenues based on a deferred accounting application related only to hydro generation variances. If the Commission adopts the Staff proposal, it will "let the genie of retroactive ratemaking out of the bottle of deferred accounting" and greatly complicate the regulatory treatment of deferred costs in future cases.

Q. EXPLAIN THE REGULATORY SIGNIFICANCE OF DEFERRED COSTS.

A. As a general principle, there is a strict prohibition against retroactive ratemaking. See Or. Att'y Gen. Op. No. 6076 (Mar. 18, 1987). The reason is that regulators do not want to have to deal with the problem of constant rate adjustments that would naturally occur because a utility will never exactly earn its allowed rate of return. Once a rate case is decided, regulators, customers, and utilities need finality. If a utility had an unexpected cost (or obtained some sort of windfall), one party or the other might seek an after the fact adjustment to eliminate the effects on earnings. This would quickly result in a chaotic situation, making rate setting much more difficult and complicated. Thus, regulators will generally not allow utilities to charge for costs that were incurred between rate cases and outside of any particular test year. To circumvent problems that might accompany unusual circumstances, regulators will sometimes grant an application to defer certain specific costs occurring outside of a test year so that a utility may request later recovery without fear of foreclosure on the grounds of retroactive ratemaking.

The problem with the Staff proposal is that it would allow a retroactive modification to the scope of costs being deferred. This could create countless problems in future deferral cases, for both utilities and customers.

Q. PLEASE PROVIDE SOME EXAMPLES OF THESE POTENTIAL PROBLEMS.

A. There are many possible scenarios that might arise.

One example might be a request for deferral of a specific new tax. For example, a utility might request deferral of a new environmental tax. If the Commission accepts the Staff proposal, it seems logical that a party might propose to expand the original deferral request to allow recovery (or refund) of any type of tax. There is no reason a "net taxation" deferral would be any different from Staff's proposed net power cost deferral. A utility facing a new tax, but suffering from an earnings drop, might be faced with a negative deferral balance because income taxes dropped far more than the amount of the new taxes. Alternatively, a utility might file for a single tax item change, but later try to include other new taxes, after the fact. Indeed, deferral cases would lose all meaning as any type of similar cost might be argued as fair game for deferral.

Another example occurred in the Settlement in UE 149, in which PGE requested deferral of unknown coal contract costs. Under the Staff proposal in this case, it would appear that the Company might be allowed retroactively to defer any kind of fuel cost change, not just coal, and indeed, might defer any type of power cost change. While this may seem farfetched, it follows from the same principle as the Staff proposal, where a deferral for increased costs due to changes in hydro generation becomes a deferral of all net power cost variations and gas resale revenues to boot.[4/]

Another item utilities commonly defer is costs related to storm damage to the distribution system. Under Staff's recommendation, it would now be entirely possible that a deferral for storm damage costs might expand to include any kind of distribution cost. Ultimately, the problem with the Staff proposal is that it would make a deferral request into a blank check, limited only by the creativity of the utilities' accountants and the various rate case witnesses. This would eventually undermine the entire concept of deferred accounting and could well lead to its elimination due to abuse.

Q. DO YOU HAVE ANY CONCERNS REGARDING STAFF'S 250 BASIS POINT DEADBAND PROPOSAL?

A. Yes. I have three concerns. First, the Staff estimates this to be $40 million per year, but does not provide any specific figures to support this assumption. Indeed, reliance on a 250 basis point deadband is complicated because it requires financial data to calculate. This could either entail use of un-audited financial results, projected financial results, or data from the most recent rate case. Staff has not explained specifically how it would determine the deadband.

Second, and more significantly, Staff has indicated that a symmetrical deadband for the HGA could lead to a windfall for PGE, but it still proposes one for the interim 2005 and 2006 PCA. Staff/100, Galbraith/2-3. I believe that all

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4/ Heretofore, gas resale revenues have been considered part of other revenues, not net power costs, according to Mr. Galbraith. Staff/100, Galbraith/17. Under the Staff proposal, this item would be eligible for retroactive deferral.

parties to the case now agree or acknowledge that there is an asymmetrical hydro cost risk. Nevertheless, Staff proposes a symmetrical deadband.

Finally, there is the practical issue of timing accompanying the Staff deadband. It would be necessary to decide whether the deadband applies monthly, quarterly, or annually. This has not been addressed by Staff. A monthly deadband might allow the Company to make a positive deferral, because certain months had cost variations in excess of 250 basis points (annualized), even though the annual variations did not exceed that deadband. Again, issues of this sort need to be addressed in a rulemaking.

Q. WOULD THE STAFF PCA COMPLICATE AND INTENSIFY REGULATION?

A. Yes, particularly if a more narrowly defined deadband were adopted. The presence of a PCA could (or at least should) greatly complicate and intensify regulatory efforts. Given the current status of the RVM cases, there are many instances in which such issues will arise.

For example, in UE 139, the Commission disallowed $14.5 million in costs related to four above-market contracts from the 2003 RVM power cost estimate. In the settlements in UE 149 and UE 161, similar reductions in NVPC were made related to these contracts. Staff's PCA testimony includes no discussion regarding deductions for costs disallowed by the Commission in the RVM. As a result, unless these contract costs were also eliminated from the PCA actual cost filing, customers could still end up pay for costs already disallowed by the Commission. Staff has failed to fully explain how it would address the RVM process in the development of the "actual costs" used in the PCA filing.

Q. WOULD PARTIES HAVE THE OPPORTUNITY TO IDENTIFY SUCH PROBLEMS IN THE PGE PCA FILING?

A. Perhaps, but Staff has not explained any of the details of this process. Unless parties have several months for review and discovery, it would be difficult to do anything more than a cursory review of the filing, with limited opportunity to challenge the necessity, reasonableness, and eligibility of costs.

Q. WHAT IS THE EXPERIENCE IN OTHER STATES WHEN PCA PROCEDURES ARE IN PLACE?

A. There are many issues that arise concerning the proper accounting of costs for ratemaking purposes when a PCA is used. In some instances, fraud or criminal activity is discovered in addition to many more mundane accounting issues. I have participated in cases where both kinds of issues have arisen. Exhibit ICNU/201 summarizes some of the issues that have arisen in proceedings in which I have participated or of which I am aware. Some of these issues may be applicable to PGE and others may not. However, this list demonstrates the broad scope of issues that can result from implementing a PCA.

Q. AREN'T THE ISSUES THAT THE COMMISSION REVIEWS IN APPROVING COSTS IN A PCA THE SAME KIND AS MIGHT ARISE IN ORDINARY RATE CASES?

A. Yes. Certainly, it is safe to assume that the OPUC carefully reviews all pertinent information in a rate increase request. I would be quite surprised if the Commission simply adopted an attitude of automatic acceptance of the utility's requested costs. This same attitude and approach must also be applied in relation to costs recovered via a PCA whenever the actual power costs fall outside of the deadband.

In a number of the cases listed in Exhibit ICNU/201, the issues that were contested were created by the presence of a PCA approach. In one case (SPS), the utility company created a corporate fuel-purchasing and handling subsidiary (and later sold it). This allowed many base rate items to become part of eligible fuel cost expense. In other cases, there was substantial debate about whether the costs in question were eligible for pass-through accounting, even though they may have been legitimate ratemaking expenses. This is important, because a PCA should not be viewed as a means of obtaining "on the spot" rate treatment for any base rate item that can be disguised as fuel or power cost-related. Indeed, this is already a problem with the RVM process. The Commission should not intensify this problem by granting PGE a PCA.

In addition, regulatory lag between rate cases creates pressure on management to minimize costs. This provides incentives to minimize outages and use the least cost energy supply strategy. With a PCA, there is need to audit all types of plant outages, plant efficiencies, power sales and purchases, and a variety of other issues depending on the specifics of the mechanism. A PCA will greatly complicate and intensify regulatory efforts, unless the Commission is prepared to automatically allow recovery of the very kinds of costs it would examine carefully in a rate case.

Rate cases are intended to provide sufficient time to examine costs. Prudence, reasonableness, and accounting issues can be fully explored. Unless there is a PCA review process that allows for sufficient time to analyze actual costs, there is great danger that ratepayers will pay for costs that are not legitimate ratemaking expenses.

Q. IF STAFF'S PROPOSED DEADBAND IS ADOPTED, DOES THIS MINIMIZE THE LIKELIHOOD THAT ADDITIONAL AUDITS WOULD BE NEEDED?

A. Certainly a broad deadband would imply that there would be fewer times when the Company might obtain rate treatment for additional power costs. However, I believe that some form of audit needs to be undertaken every year to establish whether the actual power costs fall within the deadband or not. If the Commission makes a decision regarding whether NVPC fell within the deadband, it is implicitly accepting the components of NVPC as filed by the Company. Utilities are quite adept at claiming precedents in cases where costs have been "approved" in rates cases, or at least not disallowed, when no challenge was raised. It is not hard to imagine a set of circumstances where the lack of a challenge to costs, revenues, or an accounting method included in PGE's calculation of NVPC for a given year (when the deadband was not exceeded) gives rise to a claim that a precedent had therefore been established. Thus, a comprehensive audit may be needed on an ongoing basis.

Further, if PGE is in a situation where NVPC is below the level included in rates, it would naturally have an incentive to overstate its costs, to avoid a refund. In such cases, an audit would be needed to verify the Company's claimed NVPC. All things considered, the Staff PCA will substantially complicate and intensify regulatory activity in Oregon, and I recommend that the Commission reject this proposal.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

EXHIBIT ICNU/201
ISSUES ARISING IN FUEL AND PURCHASE POWER REVIEW CASES

Southwestern Public Service ("SPS"), Public Utility Commission of Texas ("PUCT") Docket No. 19512. Employee lawsuit settlements charged to eligible fuel expense, allegations of fraud and billing errors in subcontractor invoices. Resulted in refund of various charges.

Big Rivers Electric Cooperative, Kentucky Public Service Commission Docket No. 92-490, 92-490A and 90-360. Bid rigging fraud and allegations of criminal behavior. Resulted in arrest and trial of the general manager.

Utah Power Company, Utah Public Service Commission Case No. 84-035-12. Allegations stemming from a "whistle-blower" resulted in a refund to ratepayers.

Houston Lighting and Power Company ("HL&P"), PUCT Docket Nos. 18753 and 26195. Eligibility of mine closing costs. Removal of costs related to provision of spinning reserves to another utility, Central Power and Light Company ("CP&L"), as part of a nuclear plant construction lawsuit settlement.

Central Power and Light Company, PUCT Docket No. 27035. Allocation of trading profits and costs between affiliated companies.

Entergy Gulf States, Inc. ("EGSI"), PUCT Docket Nos. 21111 and 23550. Prudence and cost of extended thermal plant outages, eligibility of affiliate purchases.

Georgia Power Company, Georgia Public Service Commission Docket No. 3741-U. Acquisition planning for a low-sulfur coal plant.[1/] Rate treatment of payment of "front-end costs" for development of failed coal mine.

[1/] This issue was also litigated in the Big Rivers cases mentioned above.