

CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP

**ATTORNEYS AT LAW
SUITE 2000
1001 SW FIFTH AVENUE
PORTLAND, OREGON 97204-1136**

**TELEPHONE (503) 224-3092
FACSIMILE (503) 224-3176**

December 2, 2005

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
550 Capitol St NE #215
Salem OR 97308-2148

Re: *SP Newsprint Co. v. Portland General Electric Co.*
OPUC Docket No. to be determined

Dear Administrative Clerk:

Enclosed for filing today is SP Newsprint's Complaint and supporting exhibits in the above-referenced case. The original and five (5) copies will follow via First Class Mail.

Should you have any questions regarding this filing, please call.

Very truly yours,



Chad M. Stokes

CMS/tr

Enclosure(s)

cc: Ed Smith, SP Newsprint
Lisa Schwartz, OPUC
Maury Galbraith, OPUC
Douglas Tingey, PGE

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

SP NEWSPRINT CO.)	
)	
Complainant)	COMPLAINT OF
)	SP NEWSPRINT CO.
v.)	Docket No. _____
)	
PORTLAND GENERAL ELECTRIC CO.)	
)	
Defendant.)	
)	

I. INTRODUCTION

Pursuant to ORS 756.500 and OAR 860-013-0015, SP Newsprint Co. (“SP Newsprint”) files this Complaint against Portland General Electric Co. (“PGE”) requesting that the Oregon Public Utility Commission (“OPUC” or “Commission”) order PGE to allow SP Newsprint to modify its Baseline Demand under Schedule 75. In support of this Complaint, SP Newsprint states as follows:

II. PARTIES

1. SP Newsprint is a general partnership between Cox Enterprises, Knight Ridder and Media General. SP Newsprint is authorized to do and doing business in the state of Oregon. SP Newsprint operates a mill in Newberg, Oregon involved in the newsprint and recycling business.

2. PGE is an Oregon electric utility regulated by the Commission.

III. APPLICABLE STATUTES AND ADMINISTRATIVE RULES

3. The Commission has jurisdiction over this Complaint and PGE under to ORS 756.040.

4. The statutes expected to be involved in this case include ORS 756.040, .500 and ORS 757.205, .225, .310. The rules expected to be involved in this case include OAR 860-13-0015 and OAR 860-022-0010, .0032.

IV. STATEMENT OF FACTS

5. SP Newsprint takes service under Schedule 75, Partial Requirements Service. Schedule 75 is available to Large Nonresidential Consumers supplying all or some portion of their load by self generation. Partial requirements customers purchase Baseline Energy, up to the amount of their Baseline Demand, under Schedule 83 energy prices.

6. Special Condition 9 of Schedule 75 provides the ability to modify a customer's Baseline Demand under certain circumstances. Special Condition No. 9 states:

The Consumer's Baseline Demand may be modified as requested by the Consumer upon the addition of permanent energy efficiency measures, load shedding, or the removal of equipment. The Consumer's Baseline Demand may be modified by the Company if the Company determines that the level does not reflect load adjusted for the actual Consumer generation. (emphasis added).

7. SP Newsprint satisfied the requirements for modifying its Baseline Demand by shifting more newsprint production to the recycle process, removing refiner lines and installing new refiner plates. As a result, SP Newsprint has reduced the quantity of power demanded.

8. SP Newsprint's reduced base load electric energy consumption has rendered use of the second natural gas turbine less important for mill electric consumption and more dependent upon prevailing power sale economics.

9. On October 28, 2005, SP Newsprint submitted a request to modify its Baseline Demand from 2000 kW to 20,000 kW in accordance with Schedule 75 and Special Condition No. 9. SP Newsprint explained in its request how it satisfied Special Condition No. 9. *See* Exhibit 1.

10. On November 1, 2005, PGE denied SP Newsprint's request to modify the mill's Baseline Demand. *See* Exhibit 2. Instead, PGE filed Advice 05-17 to modify the tariff and change the circumstances under which a customer can request modification of the baseline demand.

FIRST CLAIM FOR RELIEF
(Violation of Filed Tariff)

11. SP Newsprint realleges the allegations set forth in paragraphs 1 through 10 above as if fully set forth herein.

12. PGE must abide by the terms and conditions of its currently filed tariffs.

13. Schedule 75, Special Condition No. 9 provides the ability to modify a customer's Baseline Demand under certain circumstances.

14. SP Newsprint met the criteria for changing its Baseline Demand under Schedule 75 and submitted a request to modify its Baseline Demand on October 28, 2005. PGE Denied the request by letter dated November 1, 2005.

PAGE 3 - COMPLAINT OF SP NEWSPRINT

15. By refusing to allow SP Newsprint to modify its Baseline Demand as allowed under Schedule 75, PGE is violating the terms and conditions of its currently filed tariff.

**SECOND CLAIM FOR RELIEF
(Unjust and Unreasonable Practice)**

16. SP Newsprint realleges the allegations set forth in paragraphs 1 through 15 above as if fully set forth herein.

17. Under ORS 756.040, the Commission must protect customers from unjust and unreasonable practices by utilities.

18. PGE alleges that Schedule 75 only provides for decreases in a customer's Baseline Demand in most cases. Schedule 75, however, provides for "modifications" to the Baseline Demand if the Customer meets the requirements under Special Condition No. 9.

19. PGE's arbitrary application of Schedule 75 is an unjust and unreasonable practice.

**THIRD CLAIM FOR RELIEF
(Unlawful Application of Proposed Tariff)**

20. SP Newsprint realleges the allegations set forth in paragraphs 1 through 19 above as if fully set forth herein.

21. Under ORS 757.205, PGE must have on file with the Commission all schedules which are in force at the time for any service performed by it in the state. Moreover, OAR 860-022-0032 provides that a utility must make tariff changes applicable with service rendered on and after the effective date of the change, unless otherwise ordered by the Commission.

22. The plain and unambiguous language of Schedule 75 allows a consumer to modify its Baseline Demand under certain circumstances.

23. SP Newsprint requested to modify its Baseline Demand on October 28, 2005, before PGE filed Advice 05-17 to change Schedule 75 and narrow the circumstances under which a customer can modify its Baseline Demand.

24. SP Newsprint's request to modify its Baseline Demand must be construed under the tariff in effect on October 28, 2005.

25. PGE's denial of SP Newsprint's request is based on PGE's proposed Schedule 75 in Advice 05-17, not the currently filed Schedule 75.

**FOURTH CLAIM FOR RELIEF
(Breach of Settlement Agreement)**

26. SP Newsprint realleges the allegations set forth in paragraphs 1 through 25 above as if fully set forth herein.

27. PGE, SP Newsprint, the Oregon Department of Energy, Commission Staff and the Industrial Customers of Northwest Utilities entered into a settlement agreement in Docket UE 158, where Schedule 75 and other related schedules were developed.

28. The ability to modify a customer's Baseline Demand as provided in Schedule 75 was a material term in the tariff and specifically negotiated and developed in UE 158.

29. PGE filed Advice No. 05-17 to unilaterally change the circumstances under which a customer may change its Baseline Demand under Schedule 75.

30. PGE's requested change to Schedule 75 is arbitrary and has not been justified.

PAGE 5 - COMPLAINT OF SP NEWSPRINT

31. PGE breached its obligation under the Settlement Agreement to confer and resolve disputes with the settling parties in UE 158 before filing an action with the Commission.

V. PRAYER FOR RELIEF

WHEREFORE, SP Newsprint respectfully requests that the Commission issue an order:

- a. Finding that PGE is unlawfully refusing to provide service under its currently filed tariffs;
- b. Requiring PGE to allow SP Newsprint to modify its Baseline Demand as requested in SP Newsprint's October 28, 2005 letter;
- c. Ordering PGE to dismiss its Advice Filing 05-17; and
- d. Adopting such other relief as the Commission may deem necessary.

DATED in Portland, Oregon, this 2nd day of December, 2005.

Respectfully submitted,



Tamara Faucette, OSB # 95441
Chad M. Stokes, OSB # 00400
Cable Huston Benedict Haagensen & Lloyd LLP
1001 SW 5th Avenue, Suite 2000
Portland, OR 97204
Telephone: (503) 224-3092
Facsimile: (503) 224-3176
E-Mail: tfaucette@chbh.com
cstokes@chbh.com

Of Attorneys for SP Newsprint

10/28/05

Craig Zuck
Senior Key Customer Manager
Portland General Electric
122 SW Salmon Street
1WTC0807
Portland Oregon, 97204

Subject: Request to Increase Baseline Demand from 2000 KW to 20,000 KW

Dear Craig:

Subject to PGE Rate Schedule 75 and Special Condition #9 of Rate Schedule 75, SP Newsprint requests that the Baseline Demand for its Newberg mill be increased from 2,000 kW to 20,000 kW effective January 1, 2006. Rate Schedule 75 defines the Baseline Demand as:

"the Demand normally supplied by the Company to the Large Nonresidential Consumer when the Consumer's generator is operating. The Consumer's typical peak Demand for the most recent 12 months prior to installing the generator, adjusted for generator operations, shall be used to calculate the Baseline Demand. The Company and Consumer may mutually agree to use an alternate method to determine the Baseline Demand when the Consumer's Demand is highly variable. Any modification to the Baseline Demand must be consistent with the Special Condition."

Special Condition #9 of Rate Schedule 75 further states that:

"The Consumer's Baseline Demand may be modified as requested by the Consumer upon the addition of permanent energy efficiency measures, load shedding, or the removal of equipment. The Consumer's Baseline Demand may be modified by the Company if the Company determines that the level does not reflect load adjusted for the actual Consumer generation."

During this last year, customer demands required that we develop and offer a lighter weight (27 lbs) newsprint grade in addition to the traditional standard weight (30lbs) to our customers. The demand for the lighter weight product has increased from about 25% of our production at the beginning of 2005 to about 75% today. The reduction in weight has created a corresponding reduction in the amount of pulp (fiber) necessary to supply the same amount of print surface. This has changed our pulp supply mix causing us to use more recycle pulp and less thermal mechanical pulp (TMP). The TMP is extremely energy intensive, all in the form of electricity. Additionally, the TMP pulp presents a quality issue with linting that de-inked pulp does not. Overall we now need less MW's to make a roll of paper.

This reduction in energy demand is being accomplished by:

- De- bottlenecking our recycle Deink Pulp mill.
- Installing more efficient refiner plates

- Operating without No 2 refiner line
- Reduced operations of No. 1 refiner line.

This reduced base load electric energy consumption will render the economic dispatch of our second gas turbine subject to prevailing power and natural gas prices¹. At projected natural gas and power prices for 2006 it is expected that the second gas turbine will be dispatched only during high system wide demand periods. Due to the permanent energy efficiency measures, and the shutting down of production lines, a Baseline Demand of 20,000 kW is considered more appropriate at this time.

SP requests that PGE increase the Baseline Demand at the Newberg Mill from 2,000 kW to 20,000 kW effective January 1, 2006 for a period of one year. No decision has been made at this time to permanently remove "refiner lines" or a gas turbine from the Newberg mill, but may be considered in the future.

SP Newsprint understands that Special Condition 10 of Rate Schedule 75 requires that Energy used above the initial Baseline Demand (2,000 kW) and below the revised Baseline Demand will be priced at the Daily Price Option contained in Schedule 83 unless the Consumer has given the required notice to change the applicable Schedule 83 Energy Charge Option.

Sincerely,

C. E. "Ed" Smith
Corporate Energy Manager

cc Lisa Schwartz
Maury Galbraith
Bruce Craig
Ken Li
Randy Blank
Mark Rawlings

¹ The efficiency of the gas turbines at the Newberg mill changes depending upon the prevailing operating conditions and the chosen output level. The effective heat rate (amount of natural gas used per unit of electric output) changes depending upon whether the machine is in start-up, shut-down, fully loaded, or partially loaded. Future operation of the second gas turbine will be more dependent upon the prevailing market heat rate.

11/1/2005

C.E. "Ed" Smith
Corporate Energy Manager
SP Newsprint Co.
245 Peachtree Center Ave, N.E. Suite 1800
Atlanta, Georgia 30303

RE: SP Newsprint request to increase Baseline Demand

Dear Ed,

PGE received your letter dated 10/28/05 which requested an increase to the schedule 75 Baseline Demand for the Newberg mill to 20,000KW effective January 1, 2006. After review, we must deny this request to increase the mill's Baseline Demand from the current 2000KW. We cannot accept the request because the basis for increasing the Baseline Demand does not meet the requirements of Schedule 75 for such a change.

We also want to confirm that we are ready to supply to SP Newsprint any additional power requirements you may have in 2006 under the approved Tariff Schedule 76R (Partial Requirements Economic Replacement Power Rider). Please let me know if you have any additional questions.

Sincerely,

Craig Zuck
Senior Key Customer Manager
Portland General Electric
503 464-7629

C: Allan Warman
Randy Dahlgren
Doug Kuns
Ron W Johnson

CERTIFICATE OF SERVICE

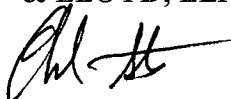
I hereby certify that I served the foregoing **COMPLAINT OF SP NEWSPRINT CO.**
on:

Douglas C. Tingey
Portland General Electric Co.
121 SW Salmon St., 1WTC13
Portland, OR 97204

- by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown above, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below;
- by causing a full, true and correct copy thereof to be **HAND-DELIVERED** to the party, at the address listed above on the date set forth below;
- by **FAXING** a full, true and correct copy thereof to the party, at the fax number shown above, which is the last-known fax number for the party's office, on the date set forth below.

DATED Friday, December 2nd, 2005.

CABLE HUSTON BENEDICT HAAGENSEN
& LLOYD, LLP



Tamara Faucette, OSB # 95441
Chad M. Stokes, OSB # 00400
Attorneys for SP Newsprint