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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

September 9, 2005

Public Utility Commission of Oregon
Attn: Filing Center
550 Capitol Street NE
PO Box 2148
Salem, Oregon 97301

Re: DR 10/UE 88/UM 989

To Whom It May Concern:

Enclosed for filing please find the original and three copies of Staff's Response to Motion to Strike.

Thank you for your attention.

Sincerely,

/s/Stephanie S. Andrus
Stephanie S. Andrus
Assistant Attorney General
Regulated Utility & Business Section

Enc.

Service list

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**
3 **DR 10/UE 88/UM 989**

4 In the Matters of:

5 The Application of Portland General Electric
6 Company for an Investigation into Least Cost
Plant Retirement (DR 10)

7 Revised Tariffs Schedules for Electric Service
8 in Oregon Filed by Portland General Electric
(UE 88)

9 Portland General Electric Company's
10 Application for an Accounting Order and an
Order Approving Tariff Sheets Implementing
11 Rate Reduction (UM 989).

RESPONSE TO MOTION TO STRIKE

12 The Utility Reform Project ("URP") and Morgan, Gearhart and Kafoury ("MGK")
13 (collectively "the Intervenors") have moved to strike two pages of an exhibit submitted by staff
14 of the Public Utility Commission of Oregon ("staff") in the above-captioned cases. Staff submits
15 this response to the motion pursuant to the administrative law judge's Post-Hearing
16 Memorandum and Ruling.

17 The exhibit at issue in the Intervenor's motion to strike (Staff Exhibit No. 202) is a
18 breakdown of staff's estimates of the financial impact of the alternate ratemaking scenarios
19 discussed in testimony by Portland General Electric Company ("PGE") and staff. Contrary to
20 the implicit assertion in the Intervenor's motion to strike, these estimates are not irrelevant to the
21 proceedings as defined in the Commission's scoping orders.

22 At issue in this phase is what rates would have been approved in UE 88 if ORS 757.355
23 has been interpreted to prohibit a return on Trojan? Staff's estimates of the impact of different
24 ratemaking scenarios, which are based on changes the Commission might have made based on
25 facts known to it at the time of the UE 88 rate order, is not the type of "future fact" that should
26 be excluded from the Commission's consideration in this docket. Contrarily, the staff's

1 estimates are merely illustrative of the different impacts of the different scenarios that are based
2 entirely on evidence properly considered by the Commission. Further, staff's estimates of the
3 impact of the ratemaking scenarios proffered by PGE and staff is pertinent to whether the
4 alternate scenarios proposed by these parties would have resulted in just and reasonable rates,
5 which is a key component of the question presented to the Commission.

6 For these reasons, the Intervenor's motion to strike Staff Exhibit No. 202 should be
7 denied.

8
9 DATED this 9th day of September 2005.

10 Respectfully submitted,

11 HARDY MYERS
12 Attorney General

13 /s/Stephanie S. Andrus
14 Stephanie S. Andrus, #92512
15 Assistant Attorney General
16 Of Attorneys for staff of the Public
17 Utility Commission of Oregon
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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of September 2005, I served the foregoing document upon the parties hereto by the methods indicated below:

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