



Portland General Electric Company
Legal Department
121 SW Salmon Street • Portland, Oregon 97204
(503) 464-8926 • Facsimile (503) 464-2200

Douglas C. Tingey
Assistant General Counsel

December 18, 2006

Via Electronic Filing and U.S. Mail

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

Re: UE 180, UE 181 AND UE 184

Attention Filing Center:

Enclosed for filing in the captioned dockets are an original and one copy of :

- **RESPONSE OF PORTLAND GENERAL ELECTRIC TO STAFF'S MOTION FOR RECONSIDERATION OF DECEMBER 8, 2006 RULING.**

This document is being filed by electronic mail with the Filing Center.

An extra copy of this cover letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "D. C. Tingey", written in a cursive style.

DOUGLAS C. TINGEY

DCT:jbf
Enclosure

cc: Service List – UE 180, 181 and 184

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 180/ UE 181/ UE 184

In the Matter of)
)
PORTLAND GENERAL ELECTRIC)
COMPANY)
)
Request for a General Rate Revision (UE 180),)
_____)

In the Matter of)
)
PORTLAND GENERAL ELECTRIC)
COMPANY)
)
Annual Adjustments to Schedule 125 (2007)
RVM Filing) (UE 181),)
_____)

RESPONSE OF PORTLAND
GENERAL ELECTRIC TO
STAFF’S MOTION FOR
RECONSIDERATION OF
DECEMBER 8, 2006 RULING

In the Matter of)
)
PORTLAND GENERAL ELECTRIC)
COMPANY)
)
Request for a General Rate Revision relating to)
the Port Westward Plant (UE 184).)
_____)

Portland General Electric Company (“PGE”) submits this response to the “Motion for Reconsideration of December 8, 2006 Ruling Excluding Attachment from Record and Request for Certification” filed by Staff on December 14, 2006. In the December 8, 2006 Ruling the Administrative Law Judge excluded from the record two attachments to Staff’s brief, and Staff has not provided sufficient reason to change that decision. The motion should not be granted, for the reasons set forth below.

PROCEDURAL BACKGROUND

Staff included two evidentiary attachments, “A” and “B”, to its amended opening brief, dated November 20, 2006. Attachment A was described in footnote 40 as “a spreadsheet updating staff’s analysis. . .” Staff, however, did not file a motion to admit them as evidence or even request in its brief that the attachment be admitted into the record. In PGE’s reply brief, PGE pointed out that the attachment contains no indication of the source of the numbers in the attachment. PGE argued that the “attachment of unlabeled sheets of paper with a multitude of unexplained numbers is unfounded and inadequate.” *PGE Reply Brief at 6*. In its reply brief, Staff stated: “Staff does not believe that its re-calculation of its cost of debt estimate constitutes new evidence. However, in the event the administrative law judge concludes that staff’s characterization of its recalculated cost of debt estimate is incorrect, staff asks that the administrative law judge admit staff’s calculation into the record.” *Staff Reply Brief at 19-20*.

Attachment B to Staff’s brief was described in footnote 41 as “a spreadsheet showing the treasury rate on November 14, 2006.” Staff’s brief asked the Commission to take official notice of the November 14, 2006 treasury rate. As pointed out by PGE, Attachment B to Staff’s brief was, however, not a spreadsheet showing treasury rates.

On December 8, 2006, the Administrative Law Judge issued a Ruling that addressed several issues including these two attachments. With respect to Attachment B, the Ruling noted that Attachment B did not contain the treasury rates claimed by Staff, and should not be entered into the record. The Ruling added that the Commission would take judicial notice of the Treasury rates on November 14, 2006, as reported in the Wall Street Journal. The Ruling also found, after citing PGE’s objections, that Attachment A should not be admitted into the record.

On December 12, 2006, oral argument was held in this docket. This was the final procedural step scheduled in this docket.

On December 14, 2006, Staff moved for reconsideration of this Ruling. In the alternative, Staff requests certification of the question to the Commission. In addition, Staff has offered yet another version of the attachment, containing new information, along with its motion for reconsideration.

ARGUMENT

The Ruling correctly found that the evidentiary attachments to Staff's brief should not be admitted into the record. At a fundamental level, the record was closed and it is improper to attempt to add evidence through briefs. Yet Staff now, well after the record has closed and even after oral argument, seeks to have admitted a newly revised attachment. This cannot be allowed.

First, Staff challenges the Ruling because "[n]o motion to exclude the spread sheets was pending." *Motion at 3*. This argument turns proper procedures backwards. Staff submitted evidence after the record was closed, and made no motion to have it admitted. Staff's reply brief finally contained a request to admit the exhibits, but no motion. PGE explained in its briefs why admission of the attachments would be improper. But apparently Staff believes it was incumbent upon PGE or another party to make a motion to exclude the spreadsheet. Staff appears to claim that in the absence of such a motion, Judge Hayes should not have excluded the exhibits. The attachments were offered as part of a brief and after the record had closed; Staff had the burden of coming forth to seek leave to add to the record. It did not do so, and the Ruling that the attachments should not be part of the record was proper.

Staff's other arguments in support of its motion also fail. Staff takes issue with the characterization of the attachment as a "multitude of unexplained numbers," then confirms that the characterization was correct by attempting to explain the numbers in its motion. In further recognition that the attachment contained unexplained numbers, Staff now has offered a revised

attachment that contains some explanations. The time for submitted new exhibits in this proceeding, however, has long since passed.

Staff also makes the inconsistent argument that the record would be prejudiced without inclusion of the attachments, while at the same time Staff claims that the spreadsheet is not new evidence, just “illustrates the adjustments staff described in direct testimony” (*Motion at 3*), and the Commission could recreate Staff’s proposed adjustments “by referring to Staff’s testimony.” *Motion at 5*. According to Staff’s statements, there will be no prejudice.

CONCLUSION

The attachments to Staff’s brief were properly excluded and there is no basis for reconsideration of that ruling.

DATED this 18th day of December, 2006.

Respectfully submitted,

/s/ DOUGLAS C. TINGEY

Douglas C. Tingey, OSB No. 04436
Assistant General Counsel
Portland General Electric Company
121 SW Salmon Street, 1WTC1301
Portland, Oregon 97204
(503) 464-8926 phone
(503) 464-2200 fax
doug.tingey@pgn.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the **RESPONSE OF PORTLAND GENERAL ELECTRIC TO STAFF'S MOTION FOR RECONSIDERATION OF DECEMBER 8, 2006 RULING** 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.

Dated at Portland, Oregon, this 18th day of December 2006.

/S/ DOUGLAS C. TINGEY

DOUGLAS C. TINGEY

SERVICE LIST

UE 180, UE 181, UE 184

KURT J BOEHM, ATTORNEY
BOEHM KURTZ & LOWRY
36 E 7th ST - STE 1510
CINCINNATI OH 45202
kboehm@bkllawfirm.com

MICHAEL L KURTZ
BOEHM KURTZ & LOWRY
36 E 7TH ST STE 1510
CINCINNATI OH 45202-4454
mkurtz@bkllawfirm.com

GEOFFREY M KRONICK
BONNEVILLE POWER
ADMINISTRATION
PO BOX 3621 LC7
PORTLAND OR 97208-3621
gmkronick@bpa.gov

CRAIG SMITH
BONNEVILLE POWER
ADMINISTRATION
PO BOX 3621--L7
PORTLAND OR 97208-3621
csmith@bpa.gov

JAMES T SELECKY
BRUBAKER & ASSOCIATES, INC.
1215 FERN RIDGE PKWY, SUITE 208
ST. LOUIS MO 63141
jtselecky@consultbai.com

TAMARA FAUCETTE
CABLE HUSTON BENEDICT
HAAGENSEN & LLOYD LLP
1001 SW 5TH AVE STE 2000
PORTLAND OR 97204
tfaucette@chbh.com

CHAD M STOKES
CABLE HUSTON BENEDICT
HAAGENSEN & LLOYD, LLP
1001 SW 5TH - STE 2000
PORTLAND OR 97204
cstokes@chbh.com

EDWARD A. FINKLEA
CABLE HUSTON BENEDICT
HAAGENSEN & LLOYD, LLP
1001 SW 5TH - STE 2000
PORTLAND OR 97204
efinklea@chbh.com

LOWREY R BROWN
CITIZENS' UTILITY BOARD OF
OREGON
610 SW BROADWAY - STE 308
PORTLAND OR 97205
lowrey@oregoncub.org

JASON EISDORFER
CITIZENS' UTILITY BOARD OF
OREGON
610 SW BROADWAY STE 308
PORTLAND OR 97205
dockets@oregoncub.org

JIM ABRAHAMSON, COORDINATOR
COMMUNITY ACTION DIRECTORS
OF OREGON
PO BOX 7964
SALEM OR 97303-0208
jim@cado-oregon.org

S BRADLEY VAN CLEVE
DAVISON VAN CLEVE PC
333 SW TAYLOR - STE 400
PORTLAND OR 97204
mail@dvclaw.com

STEPHANIE S ANDRUS
ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
REGULATED UTILITY & BUSINESS
SECTION
1162 COURT ST NE
SALEM OR 97301-4096
stephanie.andrus@state.or.us

LAURA BEANE MANAGER
PACIFICORP
825 MULTNOMAH STE 2000
PORTLAND OR 97232-2153
laura.beane@pacificorp.com

ANN L. FISHER
AF LEGAL & CONSULTING SERVICES
PO Box 25302
PORTLAND, OR 97298-0302
energlaw@aol.com

LORNE WHITTLES
EPCOR MERCHANT CAPITAL
1161 W. RIVER STREET, SUITE 250
BOISE, IDAHO 83702
lwhittles@epcor.ca

ELISA M. LARSON
ASSOCIATE COUNSEL
NORTHWEST NATURAL
220 NW 2ND AVENUE
PORTLAND, OREGON 97209
elisa.larson@nwnatural.com

ALEX MILLER
NORTHWEST NATURAL
220 NW SECOND AVENUE
PORTLAND, OREGON 97209-3991
alex.miller@nwnatural.com

BENJAMIN WALTERS
(waived paper service)
bwalters@ci.portland.or.us

RICHARD GRAY
(waived paper service)
richard.gray@pdxtrans.org

DAVID TOOZE
(waived paper service)
dtooze@ci.portland.or.us

SCOTT H. DEBROFF
RIVER CHASE OFFICE CENTER
4431 NORTH FRONT STREET
HARRISBURG, PA 17110
sdebroy@sasllp.com

WILLIAM H. CHEN
CONSTELLATION NEWENERGY INC.
2175 N. CALIFORNIA BLVD.
SUITE 300
WALNUT CREEK, CA 94596
bill.chen@constellation.com

DANIEL W. MEEK
DANIEL W. MEEK ATTORNEY AT LAW
10949 SW 4th AVENUE
PORTLAND, OR 97219
dan@meek.net

THEODORE E ROBERTS
SEMPRA GLOBAL
101 ASH ST HQ 13D
SAN DIEGO CA 92101-3017
troberts@sempra.com

LINDA WRAZEN
SEMPRA GLOBAL
101 ASH ST, HQ8C
SAN DIEGO CA 92101-3017
lwrazen@sempraglobal.com

KATHERINE A MCDOWELL
MCDOWELL & ASSOCIATES
520 SW 6TH AVENUE
SUITE 830
PORTLAND, OREGON 97204
katherine@mcd-law.com

JIM DEASON
1 SW COLUMBIA STREET
SUITE 1600
PORTLAND, OREGON 97258-2014
jimdeason@comcast.net

ROBERT VALDEZ
PO BOX 2148
SALEM, OR 97308-2148
bob.valdez@state.or.us

LINDA K. WILLIAMS
KAFOURY AND MCDOUGAL
10266 SW LANCASTER ROAD
PORTLAND, OR 97219-6305
Linda@lindawilliams.net

ANDREA FOGUE
SENIOR STAFF ASSOCIATE
LEAGUE OF OREGON CITIES
PO BOX 928
1201 COURT STREET NE, SUITE 200
SALEM, OR 97308
afogue@orcities.org

LON L. PETERS
(waived paper service)
lpeters@pacifier.com

HARVARD P. SPIGAL
PRESTON GATES AND ELLIS
222 SW COLUMBIA STREET
SUITE 1400
PORTLAND, OREGON 97201-6632
hspigal@prestongates.com

DAVID R. RIS, SR. ASST CITY
ATTORNEY
CITY OF GRESHAM
1333 NW EASTMAN PARKWAY
GRESHAM, OR 97030
david.ris@ci.gresham.or.us

JOHN HARRIS
TRANSPORTATION OPERATIONS
CITY OF GRESHAM
1333 NW EASTMAN PARKWAY
GRESHAM, OR 97030
john.harris@ci.gresham.or.us