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Douglas C. Tingey
Assistant General Counsel

October 26, 2011

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission
Attention: Filing Center
550 Capitol Street NE, #215
PO Box 2148
Salem OR 97308-2148

Re: UE 228

Attention Filing Center:

Enclosed for filing in the captioned docket are an original and two copies of:

- **RESPONSE TO ICNU'S CONFIDENTIAL RENEWED MOTION CHALLENGING CONFIDENTIAL DESIGNATION**

This is being filed by electronic mail with the Filing Center. An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "DCT", is written over the typed name.

DOUGLAS C. TINGEY
Assistant General Counsel

DCT:cbm
Enclosures
cc: UE 228 Service List

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 228

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY

2012 Annual Power Cost Update Tariff
(Schedule 125)

**PORTLAND GENERAL ELECTRIC
COMPANY'S RESPONSE TO ICNU'S
CONFIDENTIAL RENEWED MOTION
CHALLENGING CONFIDENTIAL
DESIGNATION**

Portland General Electric Company ("PGE") hereby responds to ICNU's Confidential Renewed Motion Challenging Confidential Designation, filed on October 19, 2011.

INTRODUCTION

On August 29, 2011, the day before the hearing held in this matter, the Industrial Customers of Northwest Utilities ("ICNU") filed a motion challenging the designation of the overall disallowance proposed by ICNU witness Donald Schoenbeck. ICNU claimed that disclosure of the amount was necessary for the Commission to conduct the hearing and draft an order, and for ICNU to communicate to its members. At the hearing, ICNU also stated that it would, through cross-examination, demonstrate that the "number is not in and of itself confidential." Hearing Transcript, p. 15. ICNU requested that the Administrative Law Judge wait until that time to rule on the motion. *Id.*

On October 12, 2011, the Administrative Law Judge issued a Ruling denying ICNU's motion. That Ruling noted that ICNU "did not raise the issue of the disallowance's confidentiality later in the hearing, or in subsequent briefing." Ruling, p. 2. The Ruling further noted that ICNU's reply brief appeared to propose modifying its requested disallowance or offering an alternative. ICNU was given the opportunity to refile its motion clarifying the precise figure it wishes to reveal. Ruling, p. 3.

On October 19, 2011, ICNU filed its Confidential Renewed Motion Challenging Confidential Designation. ICNU stated that it had not changed its proposed disallowance, but had offered an alternative approach to its proposed disallowance in its reply brief. ICNU offered no argument in support of its motion other than stating its assertion that the proposed adjustment is not confidential.

ARGUMENT

This renewed motion should also be denied.

ICNU asserted that it would show factually, through cross-examination, that the number is not confidential. ICNU failed to do so. ICNU also did not raise this issue in subsequent briefing. The reasons ICNU gave in support of its original motion are not applicable. The hearing is concluded, and it was not necessary to disclose the proposed disallowance during that hearing. ICNU does not need to discuss this disallowance number with its members. All testimony and briefing in this docket is concluded. All that is left is the issuance of a final Order by the Commission. ICNU has not provided any valid reason why this number should be disclosed, or any prejudice ICNU will suffer if it is not disclosed.

As PGE explained at the hearing, ICNU declared the methodology behind its proposed disallowance confidential. Hearing Transcript, pp. 13-15. The details of the trades in question are also confidential. Since all components of the total proposed disallowance number are confidential, PGE would be prejudiced by its disclosure. The total number could be misinterpreted and PGE would be precluded from explaining it. The disallowance amount also could reveal confidential information regarding PGE's hedging strategy, a strategy it continues to employ today.

As PGE argued at the hearing, ICNU's motion is also untimely. *Id.* The original motion

was not made until the day before the hearing in this matter, after four rounds of testimony had been filed with the Commission. This renewed motion is filed after all briefing has been completed. The final Order in this docket is expected to be issued very soon. This motion is effectively moot.

It would also be inappropriate to disclose ICNU's alternative proposal. That proposal was not made until the final round of briefing. At this point the other parties have no way to examine such a proposal or respond to it. Disclosure of such a proposal would only lead to confusion.

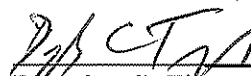
The imminent Order in this docket will set forth the amount of a disallowance, if any, found appropriate by the Commission. The Order will also explain the reasoning behind its findings. At that point, there should not be any confusion about the appropriate disallowance number, if any, and all parties, and the public in general, will have the information needed to understand the Commission's Order. There is no point served in disclosing a confusing proposed disallowance number at this time, when such a disclosure would prejudice PGE.

CONCLUSION

PGE respectfully requests that the Commission deny the motion.

DATED this 26th day of October, 2011.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **RESPONSE TO ICNU'S CONFIDENTIAL RENEWED MOTION CHALLENGING CONFIDENTIAL DESIGNATION** to be served by electronic mail to those parties whose email addresses appear on the attached service list for OPUC Docket No. UE 228.

Dated at Portland, Oregon, this 26th day of October, 2011.



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**SERVICE LIST
DOCKET UE 228**

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