

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UE 178**

In the Matter of

OREGON PUBLIC UTILITY  
COMMISSION STAFF

Requesting the Commission Direct  
PORTLAND GENERAL ELECTRIC  
COMPANY

To file tariffs establishing automatic  
adjustment clauses under the terms of  
SB 408

**PORTLAND GENERAL ELECTRIC  
COMPANY'S MOTION TO STRIKE  
PORTIONS OF THE DIRECT  
TESTIMONY OF ELLEN  
BLUMENTHAL FOR ICNU**

**[EXPEDITED CONSIDERATION  
REQUESTED]**

Portland General Electric Company ("PGE") submits this Motion requesting that the Commission strike from the record in this docket certain portions of Ms. Ellen Blumenthal's direct testimony filed on behalf of the Industrial Customers of Northwest Utilities ("ICNU"). In support of this motion, PGE states as follows:

1. ICNU submitted nearly the same testimony in last year's parallel docket, UE 177, which concerned the tax report filed by PacifiCorp, dba Pacific Power & Light Company ("PacifiCorp") pursuant to Senate Bill 408.
2. In that docket, PacifiCorp moved to strike certain portions of ICNU's testimony on the grounds that the testimony (i) consisted of irrelevant arguments that attacked the validity of OAR 860-022-0041 and (ii) consisted of irrelevant arguments that challenged the Protective Order. The ALJ granted PacifiCorp's motion in its entirety. *In re Pacificorp, dba Pacific Power & Light Company*, ALJ Ruling, Docket UE 177 (March 3, 2008).
3. The Commission subsequently affirmed the ALJ's ruling in its entirety. *In re Pacificorp, dba Pacific Power & Light Company*, Order No. 08-176, Docket UE 177

(March 20, 2008).

4. PGE now seeks to exclude the same portions of ICNU's testimony concerning the alleged invalidity of the SB 408 rules that were struck from ICNU's testimony pursuant to the Commission's order in the UE 177 docket. Because PGE intends to rebut Ms. Blumenthal's testimony challenging the protective order, PGE does not seek to strike ICNU's testimony on that topic even though it was stricken in UE 177. Below is a table that shows the portions of ICNU's testimony that PGE seeks to have excluded from the record and the corresponding references to the virtually identical testimony that was struck in the UE 177 docket:

<b>Portions of Testimony that PGE Seeks to Strike</b>	<b>Corresponding Testimony that was Striken by the Commission in UE 177</b>
ICNU/100Blumenthal/4 Line 8 through Line 21.	ICNU/100, Blumenthal/5 Line 1 through Line 16.
ICNU/100Blumenthal/5 Line 23 through Line 25.	ICNU/100, Blumenthal/6 Lines 23 through Line 24; ICNU/100, Blumenthal/7 Line 1 through Line 2.
ICNU/100Blumenthal/7 Line 7 through Line 20.	ICNU/100Blumenthal/14 Line 19 through ICNU/100, Blumenthal/15 Line 9. <sup>1</sup>

<sup>1</sup> There appears to have been a typographical error in the ALJ's Ruling dated March 3, 2008 in UE 177. PacifiCorp had asked, and was granted, an order striking the following ICNU testimony (among other portions of the testimony): ICNU/100, Blumenthal/12 Line 5 through ICNU/100, Blumenthal/15 Line 12; and with respect to page 15 of Blumenthal's testimony, had stated that only lines 13 and 14 would remain if the motion was granted. The ALJ granted PacifiCorp's motion in its entirety but referenced the testimony as "ICNU/100, p.12, 1. 5—p.15, 1. 2 [instead of 12]." Because PacifiCorp's motion was granted in its entirety and because the ALJ did not state that it was only granting PacifiCorp's motion with respect to some but not all of the testimony requested to be stricken, the only conclusion can be that the ALJ's order contains a typographical error. Thus, the testimony that corresponds to the testimony at ICNU/100Blumenthal/7 Line 7 through Line 20 in the instant docket was in fact stricken by the Commission in UE 177.


5. If the Commission grants this motion, the following portions of ICNU's testimony will remain: ICNU/100, Blumenthal/1 Line 1 through ICNU/100, Blumenthal/4 Line 7; ICNU/100, Blumenthal/5 Line 1 through Line 22; ICNU/100, Blumenthal/6 Line 1 through ICNU/100, Blumenthal/7 Line 6; ICNU/100, Blumenthal/7 Line 21 through Line 23; and ICNU/100, Blumenthal/8 Line 1 through Line 2.

6. Because PGE's response testimony is due on February 17, 2009, PGE respectfully requests expedited treatment of this motion to strike so that a ruling is issued by February 13, 2009.

For the above-stated reasons, PGE requests entry of an order or ruling striking ICNU's direct testimony in this docket as suggested above.

DATED this 2nd day of February, 2009.

TONKON TORP LLP

By   
DAVID F. WHITE, OSB No. 01138  
Attorney for Portland General Electric Company

## CERTIFICATE OF SERVICE

I hereby certify that on this day I served the foregoing **PORTLAND GENERAL ELECTRIC COMPANY'S MOTION TO AMEND THE SCHEDULE** by e-mail and/or mailing a copy thereof, to each party that has not waived paper service, in a sealed, first-class postage prepaid envelope, addressed to each party listed below and depositing in the US mail at Portland, Oregon.

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DATED this 2nd day of February, 2009.

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