

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**  
3 **UE 180/UE 181/UE 184**

4 In the Matters of  
5 Portland General Electric Company  
6 Request for a General Rate Revision (UE 180)  
7 Annual Adjustments to Schedule 125  
8 (2007 RVM Filing) (UE 181)  
9 Request for a General Rate Revision relating  
to the Port Westward Plant (UE 184).

MOTION FOR RECONSIDERATION OF  
DECEMBER 8, 2006 RULING EXCLUDING  
ATTACHMENT FROM RECORD AND  
REQUEST FOR CERTIFICATION

10 Pursuant to OAR 860-013-0031, staff of the Public Utility Commission of Oregon  
11 (“staff”) asks the Administrative Law Judge (“ALJ”) to reconsider her December 8, 2006 Ruling  
12 excluding an attachment to the Staff Opening Brief from the record. The attachment at issue is  
13 an excel spread sheet illustrating the adjustments that staff made to Portland General Electric  
14 Company’s (“PGE”) cost of debt estimate after PGE revised its estimate of the amount of debt it  
15 would issue in 2007. PGE revised this estimate, and its overall cost of debt estimate, in its  
16 sursurrebuttal testimony, only five calendar days before the hearing in this matter.<sup>1</sup>

17 In the alternative, staff requests that the ALJ certify the question of the propriety of the  
18 exclusion to the Commission under OAR 860-012-0035(1)(i), on the ground that exclusion of the  
19 attachment may result in substantial detriment to the public interest and undue prejudice to staff.  
20 Staff relies on the following in support of these requests.

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22  
23 <sup>1</sup> The ALJ excluded two attachments from the Staff Opening Brief. The other attachment  
24 showed Treasury Rates on November 14, 2006, and was attached to staff’s brief in connection  
25 with staff’s request to the ALJ to take official notice of Treasury Rates on November 14, 2006.  
26 The ALJ has granted the request to take official notice of Treasury Rates, relying on another  
source. The attachment is not necessary and staff does not ask the ALJ to reconsider her  
decision excluding it.

1 **Procedural history.**

2 On August 4, 2006, PGE filed supplemental direct testimony updating its cost of debt  
3 estimate. PGE estimated a 6.83 percent cost of debt, based in part on its stated intention to issue  
4 \$100 million of debt around April 2007. Staff made several adjustments to PGE's proposed cost  
5 of debt in its own direct testimony. PGE disagreed with staff's adjustments in its rebuttal  
6 testimony. PGE's cost of debt estimate remained at 6.83 percent.

7 In sursurrebuttal testimony, PGE witnesses modified PGE's cost of debt estimate,  
8 testifying that PGE intended to issue \$300 million of debt in 2007, rather than the \$100 million  
9 anticipated during its direct, supplemental direct, and rebuttal testimony.<sup>2</sup> The PGE witnesses  
10 testified that these planned issuances resulted in a different cost of debt estimate, 6.73 percent,  
11 rather than 6.83 percent, and a different proposed capital structure. The new capital structure  
12 included 53 percent equity, rather than the approximately 56 percent equity proposed in previous  
13 testimony.<sup>3</sup>

14 PGE's new cost of debt estimate does not include the adjustments recommended by staff  
15 in its direct testimony. Accordingly, PGE's cost of debt estimate includes \$300 million of  
16 improperly priced 2007 debt, rather than \$100 million.

17 In its opening post-hearing brief, staff recalculated its cost of debt estimate applying the  
18 adjustments it described in its direct testimony for the previously planned \$100 million debt  
19 issuance to the newly proposed \$300 million of 2007 debt. Staff modified its cost of debt  
20 estimate from 6.3 percent to 6.21 percent. Staff attached a spread sheet to its opening brief  
21 illustrating the adjustments.<sup>4</sup> As staff made clear in its reply brief, it does not believe this  
22 recalculation is "evidence."<sup>5</sup>

23 <sup>2</sup> PGE/2700, Hager-Valach/4.

24 <sup>3</sup> PGE/2700, Hager-Valach/4-5.

25 <sup>4</sup> Staff Opening Brief, Att B.

26 <sup>5</sup> Staff Reply Brief at 19 (staff stating that it does not believe that its re-calculation of its cost of  
debt estimate constitutes new evidence).

1 After the parties submitted their post-hearing briefs, the ALJ issued a Ruling excluding  
2 “from the record” the spread sheet illustrating staff’s adjustments to the recently disclosed debt  
3 issuances. The ALJ did not explain why she excluded the spread sheet from the record. No  
4 motion to exclude the spread sheet was pending.

5 **Argument**

6 To the extent the ALJ may have excluded the spread sheet on the basis that it is untimely  
7 evidence, the factual underpinning of the ruling, that the spread sheet is new evidence, is  
8 incorrect for the reasons discussed above.<sup>6</sup> The spread sheet illustrates adjustments that the  
9 Commission could do, and in fact, should do, in response to PGE’s recent revelations regarding  
10 debt it plans to issue in 2007. The spread sheet does not provide the Commission with a new  
11 theory for disallowance, or new information to which PGE is entitled to respond. Instead, the  
12 spread sheet illustrates the adjustments staff described in direct testimony, but that now apply to  
13 the \$300 million of debt that PGE now plans to issue in 2007.

14 To the extent the ALJ’s ruling is based on PGE’s argument that the spread sheet “is a  
15 multitude of unexplained numbers,” the ruling would also be unfounded. Row 8 of the spread  
16 sheet is the pertinent row for purposes of this motion. This row shows staff’s adjustments to  
17 PGE’s planned debt issuances in 2007. Staff applied the same adjustments to both issuances that  
18 it had applied to the previously-planned \$100 million issuance, and in fact, combined the  
19 issuances into one for purposes of analysis. The pertinent adjustments for this motion are staff’s  
20 1) recalculation of the internal rate of return (“IRR”) for each issuance included in PGE’s cost of  
21 debt, 2) replacing the “average” gross proceeds that PGE used in its estimate with the actual  
22 amount of planned issuances, and 3) re-pricing pro forma debt assuming a maturity of ten years  
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24 <sup>6</sup> Staff suggested to the ALJ that she admit the re-calculation into the record in the event she  
25 disagreed with staff’s conclusion the recalculation is not new evidence. Staff did not mean to  
26 suggest that it believed such admission is necessary. This proposal was merely an alternative to  
staff’s primary position that the recalculation of its cost of debt estimate is not new evidence.

1 and a corresponding and updated Treasury rate.<sup>7</sup> Another version of the spread sheet is attached  
2 to this pleading. It includes comments that help identify where on the spread sheet staff's  
3 adjustments can be seen.

4 Staff is prejudiced by the exclusion of the spread sheet, and the exclusion is detrimental  
5 to the public interest. Essentially, if the Commission ignores staff's re-calculation, PGE could be  
6 allowed to modify its case in sursurrebuttal testimony without worry that its modifications will  
7 be subject to scrutiny or adjustment by any other party. This is unfair to other parties. It also  
8 could be detrimental to the public interest because presumably, PGE could obtain a higher cost  
9 of debt than it is entitled to, simply because it modified its cost of debt estimate after the time for  
10 other parties to submit testimony had passed.

11 Here, staff recommends that the Commission accept PGE's testimony regarding its new  
12 intention to issue \$300 million in debt in 2007, rather than \$100 million. However, staff asks  
13 that the Commission incorporate this additional debt issuance into PGE's cost of debt using the  
14 same methodology that staff proposes for the 2007 debt that PGE included in the cost of debt  
15 estimate provided to the Commission in its direct, supplemental direct, and rebuttal testimony.

16 Staff acknowledges that the ALJ does not necessarily intend to include PGE's estimate of  
17 the 2007 debt in PGE's cost of debt without adjustment. Specifically, she noted in her December  
18 8 Ruling that the Commission may direct PGE to adjust its cost of debt to reflect staff's  
19 adjustments at the time PGE makes its compliance filing in this case. However, it may be  
20 difficult for PGE to make these adjustments without referring to staff's spread sheet. While the  
21 theory and methodology staff used to recalculate its cost of debt estimate, using \$300 million,  
22 rather than \$100 million, of 2007 debt are the same, the adjustments themselves are not identical.  
23 This is for the simple reason that the adjustments address completely different issuances.

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26 <sup>7</sup> Staff Opening Brief, Att B.

1 Similarly, in the event the Commission concludes, as it should, that staff's recalculation  
2 is not new evidence; the Commission may have difficulty re-creating the adjustments. The  
3 Commission could do so by referring to staff's testimony. However, the effort would likely take  
4 many hours.

5 In sum, the ALJ erred in excluding staff's spread sheet. The spread sheet is not new  
6 evidence. It illustrates staff's adjustments to PGE's cost of debt, which PGE modified after the  
7 time for submitting testimony had passed. The theory underlying staff's adjustments, and the  
8 methodology, is in staff's direct testimony. The Commission, or PGE, could re-create these  
9 adjustments, but such a process would be time-consuming and difficult without the blue print for  
10 staff's analysis provided in the spread sheet.

11

DATED this 14th day of December 2006.

12

13 Respectfully submitted,

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HARDY MYERS  
Attorney General

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16

/s/Stephanie S. Andrus  
Stephanie S. Andrus, #92512  
Assistant Attorney General  
Of Attorneys for Public Utility  
Commission of Oregon

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MOTION FOR RECONSIDERATION OF DECEMBER 8, 2006 RULING EXCLUDING  
ATTACHMENT FROM RECORD AND REQUEST FOR CERTIFICATION

SSA/ssa/GENS2308

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)	(P)	(Q)	(R)	(S)
Ledger	Type	Description	Issue Date	Maturity Date	Term	Coupon	Gross Proceeds	DD&E	Unamort DD&E of Refunded Issue	Net Proceeds	Face Amount Outstanding	Net Outstanding	Face Amount Outstanding	Weight	PGE Rate	Staff Embedded Cost		
1	G11514	FMB	5.6675% Series	28-Oct-02	2	5.6675%	\$100,000,000	\$817,683		\$173,875,000	\$100,000,000	\$99,182,317	\$100,000,000	8.038%	0.596%	5,1868%		
2	G11515	FMB	5.279% Series	08-Apr-03	0	5.279%	\$50,000,000	\$408,642		\$99,250,000	\$50,000,000	\$49,591,158	\$50,000,000	4.019%	0.259%	5,1868%		
3	G11516	FMB	5.625% Series	04-Aug-03	0	5.625%	\$50,000,000	\$521,342		\$99,250,000	\$50,000,000	\$47,531,849	\$50,000,000	4.019%	0.259%	5,1868%		
4	G11517	FMB	6.750% Series	04-Aug-03	0	6.750%	\$50,000,000	\$521,342		\$99,250,000	\$50,000,000	\$47,531,849	\$50,000,000	4.019%	0.259%	5,1868%		
5	G11518	FMB	6.875% Series	04-Aug-03	0	6.875%	\$50,000,000	\$521,342		\$99,250,000	\$50,000,000	\$47,531,849	\$50,000,000	4.019%	0.259%	5,1868%		
6	G11501	Series MTN	9.31% Series	12-Aug-91	11-Aug-33	30	\$20,000,000	\$176,977		\$173,875,000	\$20,000,000	\$19,823,423	\$20,000,000	1.608%	0.855%	6,5563%		
7	FMB	6.28% Series	01-Apr-06	01-Apr-36	30	6.310%	\$175,000,000	\$1,125,000		\$297,096,950	\$175,000,000	\$173,875,000	\$175,000,000	8.038%	0.489%	6,5201%		
7.5	FMB	Pro forma series	15-Jun-07	15-Jun-17	10	5.555%	\$100,000,000	\$2,903,050		\$297,096,950	\$100,000,000	\$99,250,000	\$100,000,000	8.038%	0.489%	6,5201%		
8	G40027	Notes	7.875% Series	13-Mar-00	15-Mar-10	10	7.875%	\$149,250,000	\$1,472,800		\$297,096,950	\$149,250,000	\$146,511,200	\$149,250,000	11.997%	0.975%	8,1488%	
9	G21186	PCB	Bidm 98A Fixed	28-May-98	01-May-33	35	5.200%	\$23,600,000	\$65,890		\$22,247,120	\$23,600,000	\$22,247,120	\$23,600,000	1.897%	0.105%	5,5742%	
10	G21185	PCB	Clstrp 98A Fixed	28-May-98	30-Apr-33	35	5.200%	\$97,880,000	\$355,835		\$95,826,792	\$97,800,000	\$95,826,792	\$97,800,000	7.861%	0.419%	5,5278%	
11	G21184	PCB	Clstrp 98B Fixed	28-May-98	30-Apr-33	35	5.450%	\$21,000,000	\$76,420		\$20,485,437	\$21,000,000	\$20,485,437	\$21,000,000	1.688%	0.095%	5,6106%	
12	G21184	PCB	Trojan 85A Fixed	01-Jul-98	01-Apr-10	25	4.800%	\$20,200,000	Calculated as follows:	\$20,485,437	\$20,200,000	\$19,737,486	\$20,200,000	1.624%	0.082%	4,9609%		
13	G21191	PCB	Trojan 85A Fixed	01-Jul-98	01-Jun-10	25	4.800%	\$16,700,000	Treasury + Spread	\$16,535,008	\$16,700,000	\$16,535,008	\$16,700,000	1.342%	0.068%	4,8534%		
14	G21193	PCB	Trojan 90A Fixed	01-Jul-98	01-Aug-14	16	5.250%	\$9,600,000	Treasury = 4.565 (Official notice of Nov. 14, 2006 rate)	\$9,311,249	\$9,600,000	\$9,311,249	\$9,600,000	0.772%	0.043%	5,5388%		
15	G21195	PCB	Troj Ser 1990B-Fixed	15-Dec-90	15-Dec-14	24	7.125%	\$5,100,000	Spread = 100bps (highest estimate of the all-in cost provided by JP Morgan in PGE's response to Staff DR 622.	\$4,935,765	\$5,100,000	\$4,935,765	\$5,100,000	0.410%	0.030%	7,4123%		
16	G21196	PCB	Coyote 96 Float	01-Dec-96	01-Dec-31	35	3.500%	\$5,800,000		\$5,540,650	\$5,800,000	\$5,540,650	\$5,800,000	0.466%	0.017%	3,6395%		
17	G21123	PCB																

Loss on Reacquired Debt

Total Debt \$1,244,050,000 \$10,448,808 \$11,042,588 \$1,222,558,604 \$1,244,050,000 \$1,222,558,604 100.00% 6.1984%

Call Premium & Unamort DD&E of Refunded Issue

Net Proceeds [L-I-K]

Face Amount Outstanding [O]

Net Outstanding [N\*O]

Face Amount Outstanding [O/Total]

PGE Rate [R]

Staff Embedded Cost [S]

DD&E Issue Costs

Increased to \$300m based on PGE/2700, Heger-Valid/4, lines 8-10

Calculated using the average issuance fees (as a percentage) based on the fees found in cells \$K4-K16 based on PGE 2701, Heger-Valid/1

Recalculated IRR based on recalculations discussed in the motion

1 **CERTIFICATE OF SERVICE**

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3 I certify that on December 14, 2006, I served the foregoing Motion upon all parties of  
4 record in this proceeding by electronic mail and by mailing a copy by postage prepaid first class  
5 mail or by hand delivery/shuttle mail to the parties accepting paper service.

6 **JIM DEASON - CONFIDENTIAL**  
7 ATTORNEY AT LAW  
8 1 SW COLUMBIA ST - STE 1600  
9 PORTLAND OR 97258-2014  
10 jimdeason@comcast.net

**CABLE HUSTON BENEDICT ET AL**  
TAMARA FAUCETTE  
1001 SW 5TH AVE STE 2000  
PORTLAND OR 97204  
tfaucette@chbh.com

9 ROBERT VALDEZ  
10 PO BOX 2148  
11 SALEM OR 97308-2148  
12 bob.valdez@state.or.us

CHAD M STOKES  
1001 SW 5TH - STE 2000  
PORTLAND OR 97204  
cstokes@chbh.com

11 **AF LEGAL & CONSULTING SERVICES**  
12 ANN L FISHER - **CONFIDENTIAL**  
13 ATTORNEY AT LAW  
14 PO BOX 25302  
15 PORTLAND OR 97298-0302  
16 energlaw@aol.com

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

14 **BOEHM KURTZ & LOWRY**  
15 KURT J BOEHM - **CONFIDENTIAL**  
16 ATTORNEY  
17 36 E SEVENTH ST - STE 1510  
18 CINCINNATI OH 45202  
19 kboehm@bkllawfirm.com

JASON EISDORFER - **CONFIDENTIAL**  
ENERGY PROGRAM DIRECTOR  
610 SW BROADWAY STE 308  
PORTLAND OR 97205  
jason@oregoncub.org

17 MICHAEL L KURTZ - **CONFIDENTIAL**  
18 36 E 7TH ST STE 1510  
19 CINCINNATI OH 45202-4454  
20 mkurtz@bkllawfirm.com

**COMMUNITY ACTION DIRECTORS OF OR**  
JIM ABRAHAMSON - **CONFIDENTIAL**  
COORDINATOR  
PO BOX 7964  
SALEM OR 97301  
jim@cado-oregon.org

19 **BONNEVILLE POWER ADMINISTRATION**  
20 GEOFFREY M KRONICK LC7 - **CONFIDENTIAL**  
21 PO BOX 3621  
22 PORTLAND OR 97208-3621  
23 gmkronick@bpa.gov

**CONSTELLATION NEWENERGY INC**  
WILLIAM H CHEN  
REGULATORY CONTACT  
2175 N CALIFORNIA BLVD STE 300  
WALNUT CREEK CA 94596  
bill.chen@constellation.com

22 CRAIG SMITH  
23 PO BOX 3621--L7  
24 PORTLAND OR 97208-3621  
25 cmsmith@bpa.gov

**DANIEL W MEEK ATTORNEY AT LAW**  
DANIEL W MEEK - **CONFIDENTIAL**  
ATTORNEY AT LAW  
10949 SW 4TH AVE  
PORTLAND OR 97219  
dan@meek.net

24 **BRUBAKER & ASSOCIATES INC**  
25 JAMES T SELECKY - **CONFIDENTIAL**  
26 1215 FERN RIDGE PKWY - STE 208  
ST. LOUIS MO 63141  
jtselecky@consultbai.com

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

3 **EPCOR MERCHANT & CAPITAL (US) INC**  
LORNE WHITTLES  
4 MGR - PNW MARKETING  
1161 W RIVER ST STE 250  
5 BOISE ID 83702  
lwhittles@epcor.ca

6 **GRESHAM CITY ATTORNEY'S OFFICE**  
DAVID R RIS  
7 SR. ASST. CITY ATTORNEY  
CITY OF GRESHAM  
8 1333 NW EASTMAN PARKWAY  
GRESHAM OR 97030  
9 david.ris@ci.gresham.or.us

10 **GRESHAM CITY OF**  
JOHN HARRIS -**CONFIDENTIAL**  
TRANSPORTATION OPERATIONS  
11 SUPERINTENDENT  
1333 NW EASTMAN PKWY  
12 GRESHAM OR 97030  
john.harris@ci.gresham.or.us

13 **KAFOURY & MCDUGAL**  
LINDA K WILLIAMS - **CONFIDENTIAL**  
14 ATTORNEY AT LAW  
10266 SW LANCASTER RD  
15 PORTLAND OR 97219-6305  
linda@lindawilliams.net

16 **LEAGUE OF OREGON CITIES**  
ANDREA FOGUE - **CONFIDENTIAL**  
17 SENIOR STAFF ASSOCIATE  
PO BOX 928  
18 1201 COURT ST NE STE 200  
SALEM OR 97308  
19 afogue@orcities.org

20 **MCDOWELL & ASSOCIATES PC**  
KATHERINE A MCDOWELL  
ATTORNEY  
21 520 SW SIXTH AVE - SUITE 830  
PORTLAND OR 97204  
22 katherine@mcd-law.com

23 **W**  
**NORTHWEST ECONOMIC RESEARCH INC**  
LON L PETERS - **CONFIDENTIAL**  
24 607 SE MANCHESTER PLACE  
PORTLAND OR 97202  
25 lpeters@pacifier.com

26

**NORTHWEST NATURAL**  
ELISA M LARSON - **CONFIDENTIAL**  
ASSOCIATE COUNSEL  
220 NW 2ND AVE  
PORTLAND OR 97209  
elisa.larson@nwnatural.com

**NORTHWEST NATURAL**  
ALEX MILLER - **CONFIDENTIAL**  
DIRECTOR - REGULATORY AFFAIRS  
220 NW SECOND AVE  
PORTLAND OR 97209-3991  
alex.miller@nwnatural.com

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

**W**  
**PORTLAND CITY OF - OFFICE OF CITY ATT**  
BENJAMIN WALTERS – **CONFIDENTIAL**  
DEPUTY CITY ATTORNEY  
1221 SW 4TH AVE - RM 430  
PORTLAND OR 97204  
bwalters@ci.portland.or.us

**W**  
**PORTLAND CITY OF - OFFICE OF**  
**TRANSPORTATION**  
RICHARD GRAY  
STRATEGIC PROJECTS MGR/SMIF  
ADMINISTRATOR  
1120 SW 5TH AVE RM 800  
PORTLAND OR 97204  
richard.gray@pdxtrans.org

**W**  
**PORTLAND CITY OF ENERGY OFFICE**  
DAVID TOOZE  
SENIOR ENERGY SPECIALIST  
721 NW 9TH AVE -- SUITE 350  
PORTLAND OR 97209-3447  
dtooze@ci.portland.or.us

**PORTLAND GENERAL ELECTRIC**  
PGE – OPUC FILINGS  
RATES & REGULATORY AFFAIRS  
121 SW SALMON ST 1WTC0702  
PORTLAND OR 97204  
pge.opuc.filings@pgn.com

DOUGLAS C TINGEY – **CONFIDENTIAL**  
121 SW SALMON 1WTC13  
PORTLAND OR 97204  
doug.tingey@pgn.com

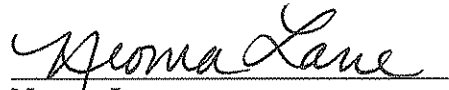


1 **PRESTON GATES ELLIS LLP**  
HARVARD P SPIGAL  
222 SW COLUMBIA ST STE 1400  
2 PORTLAND OR 97201-6632  
hspigal@prestongates.com

3 **SEMPRA GLOBAL**  
THEODORE E ROBERTS  
4 101 ASH ST HQ 13D  
SAN DIEGO CA 92101-3017  
5 troberts@sempra.com

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

**SMIGEL ANDERSON & SACKS**  
SCOTT H DEBROFF  
RIVER CHASE OFFICE CENTER  
4431 NORTH FRONT ST  
HARRISBURG PA 17110  
sdebroy@sasllp.com

6  
7  
8   
9 Neoma Lane  
10 Legal Secretary  
11 Department of Justice  
12 Regulated Utility & Business Section  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
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