BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 180

In the Matters of PORTLAND GENERAL ELECTRIC Request for a General Rate Revision, (UE 180) Annual Adjustments to Schedule 125 (2007 RVM Filing), (UE 181) Request for a General Rate Revision relating to the Port Westward Plant, (UE 184).	MOTION TO REOPEN OF THE CITIZENS' UTILITY BOARD OF OREGON

I. Introduction

In the very short time we have had to review PGE financial data, the Citizens' Utility Board has identified two areas where actual costs and revenues have meaningfully deviated from those forecast in the UE 180 test year. First, subsequent to the filing of the UE 180 test year, the State of Oregon reduced the income tax rate that applies to PGE, saving the Company approximately $2.8 million, and customer rates should be adjusted to recover this. Second, our limited review shows that PGE's overall financial performance has been significantly better than was forecast. If the trend of the first third of the year continues, then PGE could fully recover the costs associated with Port

Westward without needing to raise rates, and still meet the Company's authorized return on equity from the UE 180 rate case Order No. 07-015.

In UE 180, CUB argued for the opportunity to review PGE's revenue requirement if Port Westward were delayed. Our concern, which has materialized, was that, in the gap of time between when rates went into effect and when Port Westward came online, the balance of the Company's costs would have shifted such that there would be a mismatch between the costs upon which overall rates were based and the new costs that the Company now proposes to bring into rates. This is contrary to the concept of establishing total utility costs as the basis for rates.

> If the project should be delayed, the Commission, Staff, and intervenors should have an opportunity to present evidence that other costs have changed, that the forecasted test period from this case no longer reflects the Company's costs, and that the revenue requirement increase necessary to allow the Company to recover and earn a return on Port Westward is different than what was determined in this case.

UE 180 CUB/200/Jenks-Brown/30.

In response to CUB's concern in the UE 180 rate case, the Commission said, in Order No. 07-015, that if Port Westward were to come online more than 60 days after March 1, 2007, which is the case, then parties would have 15 days from the online date to determine whether there is new information that requires a reexamination of PGE's costs in rates. Order No. 07-015 at 50. On June 14, 2007, the Commission signed Order No. 07-273 declaring June 11, 2007, as the online date, triggering the 15-day filing period. The Commission said, "[t]he motion need not include an evidentiary showing , but should identify specific costs that have changed from the test year expenses and include an estimate of the cost impact." Order No. 07-273 at 5. This is a difficult filing, because of the limited time allowed to review costs. CUB has been able to seek a limited review of PGE's financial data, but the timing has not allowed for us to conduct follow-up discovery. In addition, the difference between an evidentiary showing and a showing that specific costs have changed from the test year is not very big. Nevertheless, we believe that we have provided sufficient information to make a *prima facie* case that costs and revenues should be reexamined in light of the late inclusion of Port Westward costs into rates.

When the Commission issued its Order in UE 180, costs and revenues were forecast for a 2007 test year. Under that forecast, in order to recover Port Westward costs, PGE would have had to increase rates by $42.1 million.[1] Six months later, however, the Company's costs have changed, and there is a mismatch between the new costs of Port Westward that PGE proposes to bring into rates, and the old costs used to forecast the rest of the Company's revenue requirement in UE 180. The question we now face is whether, and how much, it is necessary to increase rates for PGE to recover the costs of Port Westward. Though the time for analysis has been limited, we have had a chance to review the cost assumptions in the Company's 2007 test year, and there is enough evidence to support a reopening of the Company's rate case and a reexamination of the cost forecasts included in that case.

II. State Tax Rate

Subsequent to PGE's filing of the UE 180 rate case, the State of Oregon, under its apportionment methodology, lowered PGE's Oregon tax rate from 6.617% to 5.120%.[2] This is not in dispute and is an objective reality. PGE calculates this as a $2.8 million

---

[1] UE 180 OPUC Order No. 07-015 at 1.
[2] UE 188 PGE/206/Tooman-Tinker-Schue/1.

decrease in costs in 2007. PGE argues, however, that it is inappropriate to take this into account when bringing Port Westward into rates because other costs may go up:

> Updating the 2007 test year revenue requirement to reflect only one known change (the state tax rate) is not appropriate without consideration of other items that have changed since the Commission issued Order 07-015 in UE 180/181/184 as well as other regulatory adjustments.

CUB Attachment A. PGE response to CUB data request 43.

The reduction in state taxes is a real, identifiable reduction in cost. If it had been known at the time of the UE 180 rate case, it would have been taken into account and rates would be $2.8 million less. PGE seems to believe that it is good policy to update the test year that was set in UE 180 to include $42.1 million in additional costs that are associated with Port Westward coming online, but not to update the test year to include a change in costs associated with the State of Oregon changing the Company's tax rate. PGE did not argue that Port Westward costs should not go into rates without consideration of other items that might have changed. Either it is appropriate to adjust the test year six months into the year or it is not, but to argue that it is appropriate to adjust rates for Port Westward, but not other known changes, is not a reasonable policy.

In addition, the parties involved in UE 188 recognized this issue and agreed to apply this new tax rate to the Biglow Canyon wind facility when Biglow costs are scheduled to come into rates in January.[3] Of course, this was also done outside of a general rate case, where other costs would have been examined. It shows, however, that this is the correct tax rate, and it would be poor policy, under these circumstances, to not, therefore, apply it. There is no rational reason why, come January 2008, customers

[3] UE 188 6-20-07 Stipulation at 2.

should pay PGE different tax rates on different assets, even though the State tax rate applied to those assets is the same.

Even if other costs are increasing, this cannot be used to offset lower taxes as some sort of balancing act. Under SB 408, taxes are different that other costs. Customers rates are supposed to reflect actual taxes paid or, when forecasting rates, actual taxes expected to be paid. Under SB 408, it would not be reasonable policy, when updating customer rates, to include in rates a tax rate that PGE is not currently operating under.

PGE might argue that, because SB 408 has an automatic adjustment clause, we should wait and allow the automatic adjustment clause to refund tax overpayments to customers. This is, after all, the approach the Company prefers for capturing any decreased power costs through its power cost adjustment mechanism (as described in the following section). However, the SB 408 automatic adjustment clause does not relieve the regulatory process from trying to accurately forecast costs, it only provides a mechanism by which over- and under-collections can be corrected when those forecasts are wrong. It is far better policy to charge customers rates that reflect current costs, than to over-charge them today and pay them back tomorrow, and never mind that it would be a different set of customers tomorrow. In addition, SB 408 has yet to be fully implemented. We are still waiting for the IRS private letter rulings. PGE has argued to this Commission in UM 1271 that SB 408 is unconstitutional and, if the Company so chooses, it may challenge SB 408 in federal court.

III. PGE’s Income Is Higher Than Forecast

PGE is having a good year, and a projection of this trend for the remainder of the year suggests that increasing rates in order for PGE to recover costs of Port Westward is not necessary.

BEGIN CONFIDENTIAL

END CONFIDENTIAL

The existence of a power cost adjustment mechanism (PCA), however, should not distract us from working to develop a reasonable forecast of overall rates. We are reexamining PGE's costs at this point, because the delay in Port Westward's schedule means that the UE 180 data used to forecast the 2007 test year is now stale. Our concern here is a reasonably accurate forecast of the Company's costs now that Port Westward has come online. In a rate case, we would not dismiss evidence of lower costs because a PCA will capture those lower costs later, and we should not do so here.

In addition, customers are not indifferent to paying accurate rates today or waiting for the PCA. The Company's PCA is subject to a sharing band for reduced power costs as well as an earnings band. In a general rate case, rates are set to allow the utility to earn its authorized rate of return. The PCA, on the other hand, would refund money to customers in a manner that would allow PGE to earn 100 basis points <u>above</u> its authorized rate of return. As this cost review is performed through a reopening of a general rate case, the concern is to set rates that allow the Company to earn its rate of return, which cannot be done by relying on the PCA that would allow PGE to keep excess earnings.

IV. Conclusion

PGE's lowered state tax rate should be updated with the updating of rates for Port Westward. This would result in a $2.8 million rate reduction. Also, PGE's significant over-earnings in the first four months of 2007 indicate that the costs behind those forecasts should be reexamined to bring PGE's overall cost forecast up to date. By identifying two areas where specific costs have changed from those forecast for the 2007 test year and by including an estimate of the cost impact, CUB believes that sufficient information has been included to warrant a reexamination of PGE's costs. The Commission can choose to reopen UE 180 to simply correct the objective tax change or the Commission can reopen UE 180 to explore the more-significant diversion of the actual costs so far this year from those forecast for the test year. We recommend the latter. In any case, it is clear that, in divorcing the inclusion of Port Westward costs in time from the general rate case, actual costs are different from assumed costs. It is not appropriate to include more costs as a result of Port Westward coming online and simultaneously ignore the other costs that have gone down.

Dated this 26th Day of June, 2007
Respectfully submitted,

Jason Eisdorfer #92292
Attorney for Citizens' Utility Board of Oregon

June 21, 2007

TO: Lowrey Brown
CUB

FROM: Randy Dahlgren
Director, Regulatory Policy & Affairs

PORTLAND GENERAL ELECTRIC
UE 180
PGE Response to CUB Data Request
Dated June 14, 2007
Question No. 043

Request:

What is the effect on the Company's 2007 test year revenue requirement of updating the state tax rate?

Response:

Updating the 2007 test year revenue requirement to reflect only one known change (the state tax rate) is not appropriate without consideration of other items that have changed since the Commission issued Order 07-015 in UE 180/181/184 as well as other regulatory adjustments. It is overall earnings expectations that should determine whether rates are reasonable, not individual cost elements that may be lower, or higher, than those expected in UE 180/181/184. An updated forecast of 2007 operating income was provided in PGE's response to CUB Data Request No. 035 reflecting actuals through April 2007 and a forecast of the remainder of the year. Forecast 2007 O&M costs in total are higher than the approved level in UE 180/181/184. For example, support-related O&M is expected to be approximately $8.0 million higher in 2007 than the forecast used to set rates in UE 180/1818/184. The impact of higher expected O&M is offset by improved net variable power costs (NVPC). However, changes in NVPC are subject to a PCA that shares variances with customers, subject to an earnings test. The forecast provided in PGE's response to CUB Data Request No. 035 reflects the improved results due to the change in Oregon state tax methodology, yet the results still suggest that PGE's expected level of 2007 earnings are reasonable relative to the expected results from UE 180/181/184.

The impact of only updating the state tax rate is a reduction in the 2007 test year revenue requirement of $2.8 million ($2.4 million on results before Port Westward, $0.4 million on Port Westward) as provided in Attachment 043-A. As we indicated above, we believe the appropriate approach to reviewing the reasonableness of rates is through an overall look at earnings, not back

and forth volleying of individual cost changes. However, PGE does expect higher O&M costs for 2007 which will more than offset the impact of any tax changes, and we can identify individual cost contributors, if necessary.

Further, if it is determined that the proper scope of this review is Port Westward related costs only, we note that PGE previously provided a general update of expected Port Westward revenue requirement which resulted in an approximately $2.0 million higher revenue requirement when other factors (Port Westward property taxes and capital cost updates) were taken into account. This update was provided in PGE's response to OPUC Staff Data Request No. 685, a copy of which is provided as Attachment 043-B.

REDACTED

PGE 2007 Net Income ($Millions)

	Actual	Currently In Rates	PGE New Forecast	Actual minus In Rates	PGE Forecast minus In Rates
Jan					
Feb					
Mar					
Apr					
May					
Jun					
Jul					
Aug					
Sep					
Oct					
Nov					
Dec					
Total					
Total Adjusted					

Adjustments

Data from PGE response to CUB data request 35, attachments A and B.

REDACTED

2007	Actual Jan-Apr[1]	Forecast[2]
Coal		
Natural Gas		
Purchased Power		
Power Sales		
Purchases Minus Sales		
Net Cost Reduction[3]		

1. Data from PGE response to CUB data request 35.
2. Data from PGE November 9, 2006 RVM update.
3. Net Cost Reduction = Forecast minus Actual Jan-Apr.

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2007, I served the foregoing Motion to Reopen of the Citizens' Utility Board of Oregon in docket UE 180 upon each party listed below, by sending a non-confidential version via email and, where paper service is not waived, by U.S. mail, postage prepaid, and by sending a confidential version to the appropriate parties as identified on the service list by U.S. mail, postage prepaid, and upon the Commission by emailing a non-confidential version and by sending 6 confidential copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

Respectfully submitted,

Jason Eisdorfer Attorney #92292
The Citizens' Utility Board of Oregon

W=Waive Paper service, C=Confidential, HC=Highly Confidential

JIM DEASON **(C)** ATTORNEY AT LAW	1 SW COLUMBIA ST, SUITE 1600 PORTLAND OR 97258-2014 jimdeason@comcast.net
ROBERT VALDEZ	PO BOX 2148 SALEM OR 97308-2148 bob.valdez@state.or.us
AF LEGAL & CONSULTING SERVICES	
ANN L FISHER **(C)** ATTORNEY AT LAW	PO BOX 25302 PORTLAND OR 97298-0302 energlaw@aol.com
BOEHM KURTZ & LOWRY	
KURT J BOEHM **(C)** ATTORNEY	36 E SEVENTH ST - STE 1510 CINCINNATI OH 45202 kboehm@bkllawfirm.com
MICHAEL L KURTZ **(C)**	36 E 7TH ST STE 1510 CINCINNATI OH 45202-4454 mkurtz@bkllawfirm.com
BONNEVILLE POWER ADMINISTRATION	
GEOFFREY M KRONICK LC7 **(C)**	PO BOX 3621 PORTLAND OR 97208-3621 gmkronick@bpa.gov

CRAIG SMITH — PO BOX 3621--L7
PORTLAND OR 97208-3621
cmsmith@bpa.gov

BRUBAKER & ASSOCIATES INC

JAMES T SELECKY **(C)** — 1215 FERN RIDGE PKWY - STE 208
ST. LOUIS MO 63141
jtselecky@consultbai.com

CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP

TAMARA FAUCETTE — 1001 SW 5TH AVE STE 2000
PORTLAND OR 97204
tfaucette@chbh.com

EDWARD A FINKLEA — 1001 SW 5TH - STE 2000
PORTLAND OR 97204
efinklea@chbh.com

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

COMMUNITY ACTION DIRECTORS OF OREGON

JIM ABRAHAMSON **(C)**
COORDINATOR — PO BOX 7964
SALEM OR 97301
jim@cado-oregon.org

CONSTELLATION NEWENERGY INC

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

DANIEL W MEEK ATTORNEY AT LAW

DANIEL W MEEK **(C)**
ATTORNEY AT LAW — 10949 SW 4TH AVE
PORTLAND OR 97219
dan@meek.net

DAVISON VAN CLEVE PC

S BRADLEY VAN CLEVE **(C)** — 333 SW TAYLOR - STE 400
PORTLAND OR 97204
mail@dvclaw.com

DEPARTMENT OF JUSTICE

STEPHANIE S ANDRUS **(C)**
ASSISTANT ATTORNEY GENERAL — REGULATED UTILITY & BUSINESS SECTION
1162 COURT ST NE
SALEM OR 97301-4096
stephanie.andrus@state.or.us

EPCOR MERCHANT & CAPITAL (US) INC

LORNE WHITTLES
MGR - PNW MARKETING — 1161 W RIVER ST STE 250
BOISE ID 83702
lwhittles@epcor.ca

GRESHAM CITY ATTORNEY'S OFFICE

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

GRESHAM CITY OF

JOHN HARRIS **(C)** TRANSPORTATION OPERATIONS SUPERINTENDENT	1333 NW EASTMAN PKWY GRESHAM OR 97030 john.harris@ci.gresham.or.us

KAFOURY & MCDOUGAL

LINDA K WILLIAMS **(C)** ATTORNEY AT LAW	10266 SW LANCASTER RD PORTLAND OR 97219-6305 linda@lindawilliams.net

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP

HARVARD P SPIGAL ATTORNEY AT LAW	222 SW COLUMBIA ST STE 1400 PORTLAND OR 97201-6632 hspigal@prestongates.com

LEAGUE OF OREGON CITIES

ANDREA FOGUE **(C)** SENIOR STAFF ASSOCIATE	PO BOX 928 1201 COURT ST NE STE 200 SALEM OR 97308 afogue@orcities.org

MCDOWELL & RACKNER PC

KATHERINE A MCDOWELL ATTORNEY	520 SW SIXTH AVE - SUITE 830 PORTLAND OR 97204 katherine@mcd-law.com

W NORTHWEST ECONOMIC RESEARCH INC

LON L PETERS **(C)**	607 SE MANCHESTER PLACE PORTLAND OR 97202 lpeters@pacifier.com

NORTHWEST NATURAL

ELISA M LARSON **(C)** ASSOCIATE COUNSEL	220 NW 2ND AVE PORTLAND OR 97209 eml@nwnatural.com

NORTHWEST NATURAL GAS COMPANY

ALEX MILLER **(C)** DIRECTOR - REGULATORY AFFAIRS	220 NW SECOND AVE PORTLAND OR 97209-3991 alex.miller@nwnatural.com

PACIFICORP

OREGON DOCKETS	825 NE MULTNOMAH ST STE 2000 PORTLAND OR 97232 oregondockets@pacificorp.com

W PORTLAND CITY OF - OFFICE OF CITY ATTORNEY

BENJAMIN WALTERS **(C)**	1221 SW 4TH AVE - RM 430 PORTLAND OR 97204 bwalters@ci.portland.or.us

W PORTLAND CITY OF - OFFICE OF TRANSPORTATION

RICHARD GRAY **(C)**	1120 SW 5TH AVE RM 800 PORTLAND OR 97204 richard.gray@pdxtrans.org

W PORTLAND CITY OF ENERGY OFFICE

DAVID TOOZE	721 NW 9TH AVE -- SUITE 350 PORTLAND OR 97209-3447 dtooze@ci.portland.or.us

PORTLAND GENERAL ELECTRIC

RATES & REGULATORY AFFAIRS	RATES & REGULATORY AFFAIRS 121 SW SALMON ST 1WTC0702 PORTLAND OR 97204 pge.opuc.filings@pgn.com
DOUGLAS C TINGEY **(C)**	121 SW SALMON 1WTC13 PORTLAND OR 97204 doug.tingey@pgn.com

PUBLIC UTILITY COMMISSION

JUDY JOHNSON	PO BOX 2148 SALEM OR 97308-2148 judy.johnson@state.or.us

SEMPRA GLOBAL

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