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4 **BEFORE THE OREGON PUBLIC UTILITIES COMMISSION**
5 **DR 10/UE 88/UM 989**
6

7 **In the Matters of**

8
9 **The Application of Portland General Electric**
10 **Company for an Investigation into Least Cost**
11 **Plan Plant Retirement. (DR 10)**

12
13 **Revised Tariffs Schedules for Electric Service in**
14 **Oregon Filed by Portland General Electric**
15 **Company. (UE 88)**

16
17 **Portland General Electric Company's**
18 **Application for an Accounting Order and for**
19 **Order Approving Tariff Sheets Implementing**
20 **Rate Reduction. (UM 989)**

CLASS ACTION
PLAINTIFFS' MOTION
TO REINSTATE
SCHEDULE OF OPUC
ORDER NO. 07-157

21
22
23 **MOTION**

24 Class Action Plaintiffs (CAPs) move for reinstatement of the procedural schedule
25 announced in Order No. 07-157 and request that the Commission issue an order regarding
26 its remedy authority ("Phase II") prior to proceeding further, as was set out in that Order.

27
28 **DISCUSSION**
29

30 Pursuant to Order No. 07-157, the Commission undertook a considered review of its
31 remedial authority, fully aware of the pending appeal of Order No. 02-227¹ and deciding
32 that it "must first resolve issues regarding our authority to redress past rates." Order No.

33 1. The Commission stated: "We agree with PGE [] that it now seems that we need not wait * * *
34 until after the Court of Appeals finishes its review of Order No. 02-227."

1 07-157 at 9. It allowed new intervenors, required a rapid briefing schedule, heard oral
2 argument en banc, and repeated its intention (in a letter to the parties dated October 3,
3 2007) "to issue a final order in response to the judicial remands within the next few
4 weeks."

5 Order 07-157 was signed by the Commission and has not been altered through a
6 similar formal means. Instead, through Hearings Officer Grant, we were informed that the
7 Commission has now abandoned the schedule it announced without an additional order
8 setting out any reasons and without balancing the evidence of the harm caused by further
9 (and unexplained) delay in these dockets. This evidence of harm was filed by CAPs as
10 Exhibit 1 to the Declaration of Linda Williams in their Opening Comments in Phase II,
11 July 20, 2007.

12 After the decision in *Dreyer v. Portland General Elec. Co.*, 341 Or 262, 142 P3d
13 (2006), the Marion County Circuit Court abated the class actions (Marion County Case
14 Nos. 03 C10640 and 03 C1063) for one year pending a decision from the Commission on
15 remedies. Order 07-157 seemed to contemplate issuing a Phase II decision within the time
16 set out in the Circuit Court's abatement order. In fact, the Commission further advised the
17 Court in the October 3, 2007, letter that it would issue an opinion soon after the one-year
18 period ended. It did not inform the Court of the latest change of schedule.

19 The one-year abatement period ended October 6, 2007. Undersigned moved for
20 reinstatement of the cases to the active docket, and a hearing was held January 14, 2008,
21 before Judge Paul Lipscomb. Judge Lipscomb continued that hearing on the motion to

1 reinstate until the afternoon of February 25, 2008. He instructed Class Counsel to secure
2 the appearance of some or all of the Commissioners to testify as to when a decision on
3 remedies would issue. Such evidence will assist the Court in weighing the wisdom of
4 continued abatement against potential for further delay. *Boise Cascade Corp. v. Board of*
5 *Forestry*, 325 Or 185, 935 P2d 411 (1997).

6 Any and all delay in addressing the remedies issue presented in these dockets creates
7 a permanent harm to the class certified in *Dreyer v. Portland General Electric Co.*,
8 Marion County Case Nos. 03 C10640 and 03 C1063, represented by the Class Action
9 Plaintiffs, and also creates a permanent windfall for PGE.

10 Approximately 10% of PGE's electric utility customers terminate service each year
11 and do not relocate within PGE's service territory. Deposition testimony indicates that
12 PGE does not maintain sufficient records to locate these former customers who are class
13 members. Thus, over 6,000 additional class members per month are in danger of losing
14 their rights to any remedy, as PGE will retain the money owed to these "lost" ratepayers,
15 amounting to tens or hundreds of millions of dollars in aggregate.

16 Thus, in these cases, "Justice delayed is justice denied," permanently.

17
18 **I. THE REPEATED CHANGES IN SCHEDULING DO NOT APPEAR TO HAVE**
19 **A CONSISTENT RATIONALE.**

20
21 The repeated scheduling changes in these dockets suggest the Commission lacks a
22 consistent approach to the needs for efficiency or the rights of parties. Instead, the
23 reversals appear *ad hoc*, and the latest change to the announced procedure of Order 07-157

1 was without explanation from the Commission. No one at any time has offered any
2 evidence of prejudice to any party arising from the Commission making a decision on
3 remedies now, as was contemplated under Order No. 07-157. A review of the schedules
4 adopted and discarded in the past decade by the Commission illustrates why continued
5 postponement of fundamental decisions creates an appearance of insensitivity to individual
6 rights.

7 The contested case process hearing in Phase I (for rates during April 1995 -
8 September 2000) occupied about 3 years, from near the start of 2004 to near the end of
9 2006 (including PGE motions to reopen the evidentiary record). The Commission never
10 issued a decision for Phase I, so it remains unresolved. The Commission is now likely
11 embarking upon an evidentiary hearing in Phase III, which pertains to Trojan profits in
12 rates from October 1, 2000, to the present, a period of over 7 years not at issue for the
13 CAPs.

14 In dealing with the time period for the certified class which CAPs represent (April
15 1995 - September 2000), the Commission has seemed to actively encourage delay of
16 resolution. For example, OPUC has had nearly 10 years since the Court of Appeals
17 decision in *Citizens' Utility Bd. of Oregon and Utility Reform Project v. Public Utility*
18 *Com'n of Oregon*, 154 Or App 702, 962 P2d 744 (1998), *pet rev dis'd*, 355 Or 591, 158
19 P3d 822 ("*CUB/URP v. OPUC*"). Instead of complying with that decision, the
20 Commission sought review of the merits in the Oregon Supreme Court, and even supported
21 legislation to render the appeal moot in 1999 (a law that was nullified by 88.4% of Oregon

1 voters by means of Measure 90 of 2000, a citizen referral of the law). Now, it postpones
2 yet again any decisions on the remedies and merits.

3 Nor has the Commission adopted a discernable policy for dealing with remanded
4 matters while appeals are pending. While the Commission declined to comply with the
5 **CUB/URP v. OPUC** decision during the pendency of that protracted appeal, it acted with
6 alacrity (or haste) in announcing a process for complying with the Marion County Circuit
7 Court's January 2004 remand in the UM 989 appeal, even though it simultaneously filed
8 an appellate challenge, finally resulting in the judgment in **Utility Reform Project v.**
9 **OPUC**, 215 Or App 360, 170 P3d 1074 (2007) [hereinafter "**URP v. OPUC (UM 989)**"] at
10 the close of 2007. Fully aware that appeal was pending, the Commission, in Order No.
11 07-157, decided to issue a remedies decision but now has postponed that action again.

12 Five years have elapsed since issuance of the final judgment in the DR 10/UE 88
13 orders at issue for the CAPs. In the course of these remand proceedings, OPUC has
14 announced variously that it:

- 15 1. Would reject the suggestions of URP and the Class Action Plaintiffs and
16 not address the question of its remedy authority until after the conclusion
17 of contested case hearings;
- 18 2. Would suspend contested case proceedings to allow interventions by new
19 parties to address its remedy authority and issue an order on this by
20 October 2007;
- 21 3. Would endeavor to address its remedy authority as soon as possible *after*
22 October 2007; and
- 23 4. Would no longer issue an order addressing its remedy authority until
24 conclusion of more proceedings to encompass the post-September 2000
25 period addressed in the UM 989 appeal.
26
27
28

1 The only rationale offered recently is that the *URP v. OPUC* case has been decided.
2 But the pendency of that appeal was expressly discussed in Order 07-157, so the fact the
3 case has been decided is hardly an unexpected event. Nothing in that court decision
4 requires further delay. Courts at every level have instructed the OPUC to decide its
5 remedy authority. It appeared ready to do so in October of 2007 and should do so now.

6
7 **II. IRREPARABLE HARM TO CURRENT RATEPAYERS WHO BECOME**
8 **FORMER CUSTOMERS OF PGE.**
9

10 Delay in these cases causes two kinds of unfairness and irreparable harm to absent
11 class members. First, delay deprives many former customers of any meaningful remedy
12 and causes irreparable harm as former ratepayers become harder to locate and thus do not
13 learn of their rights and all remedies.² Anyone who was a ratepayer in the 1995-2000
14 time period who moves becomes part of the ever-increasing former customer class.

15 Second, delay creates a windfall for PGE. If former ratepayers cannot be found in
16 order to make claims for potential refunds, PGE reaps this windfall. Nothing OPUC can
17 do by future rate relief or refund order can help someone who moves and cannot be
18 located.

19 Thousands of ratepayers a month terminate electric service with PGE. They move,

20 2. The Oregon Supreme Court has recently affirmed that Article I, section 10, of the Oregon
21 Constitution does require a remedy for every wrong. *Clarke ex rel. Clark v. Oregon Health*
22 *Sciences Univ.*, --- P3d ---, 2007 WL 4555266 (Dec. 27, 2007). It states:

23
24 No court shall be secret, but justice shall be administered, openly and without
25 purchase, completely and without delay, and every man shall have remedy by
26 due course of law for injury done him in his person, property, or reputation.

1 go out of business, or die. Experience with the PGE settlement class affording \$10 million
2 in refunds of Multnomah County Business Income Tax overcharges (*Kafoury v. Portland*
3 *General Electric Company, Multnomah County Circuit Court No. 0505-00627 and Lezak v.*
4 *Portland General Electric Company, Multnomah County Circuit Court No. 0512-127627*³),
5 which covered the time period of 1998-2005, suggests that on average, approximately 10%
6 of PGE's electric utility customers terminate service each year and do not relocate within
7 PGE's service territory. Declaration of Linda Williams at ¶ 3. Of course, industrial
8 customers, large commercial customers, and state and local government customers do not
9 relocate often, so this type of turnover is largely within the residential and smaller
10 commercial class. This suggests that up to 6,000 customers a month⁴ are in danger of
11 losing their rights to a remedy solely because they do not leave a forwarding address, and
12 PGE will be allowed to retain the money owed to these "lost" ratepayers, tens of millions
13 of dollars in aggregate, even after a verdict against it and in favor of the class.

14 Unlike the typical person included in a certified class, a ratepayer who terminates
15 electric service is almost certainly not at her "last known address," because it is the move
16 itself that causes the termination of service. Discovery in *Dreyer v. PGE* strongly suggests
17 that PGE does not possess customer records for the 1995-2000 time period which can

18 3. Class Counsel here were also class counsel in the Multnomah County Business Income Tax cases.
19 Williams had primary responsibility for contracting and supervising the third-party claims
20 administrator.

21 4. We acknowledge that some portion of this number terminating service were not ratepayers in the
22 1995-2000 class period.

1 supply names to be run through a commercially available "locator" database to assist in
2 finding class members who terminated service at any time.

3 In the course of discovery in *Dreyer v. PGE*, PGE produced David Schwartz, the
4 corporate person most knowledgeable about tracking customer accounts, for deposition on
5 July 27, 2004. He testified that there is no reliable way of determining who was a
6 ratepayer prior to approximately August 2002 (when the current database management
7 regime was implemented), even if that customer is still a customer of PGE.

8 What makes it difficult is it's laborious and perhaps nearly impossible to
9 determine if a given customer moved from one location to another in that
10 period of time that was referenced of April 1995 to September 30, 2000.

11
12 Deposition of David Schwartz, p. 15 (Declaration of Linda Williams, Ex. 1).

13
14 Because after a period of time, if you are a customer who paid your bill
15 regularly and no longer were with us, that record dropped off.

16
17 *Id.*, p. 18. Prior to 2002, PGE's record-keeping did not track customers by name, but by
18 meter number. Individual customers were not linked to account numbers. Records were
19 not maintained by address. Account numbers were changed and reassigned for various
20 reasons unrelated to the address or the name of the customer. Records exist only in a
21 format which requires manually reviewing microfiche film of hundreds of millions of
22 "snapshots" of bills taken at intervals which miss many billings.⁵

23 5. Deposition of David Schwartz, Declaration of Linda Williams, Exhibit 1:

24 pp. 3-4 (internal deposition p. 15 lines 17-25, p. 16 lines 4-25);

25
26 p. 5 (internal deposition p. 17 lines 1-4);

27
28
29 (continued...)

1 Other factors tend to increase the windfall to PGE. The death rate in Oregon is
2 approximately 2% per year. Assuming that one third of those deaths are adult ratepayers
3 and that 40% of the electric ratepayers in Oregon are on the PGE system, about 8,000 PGE
4 ratepayers die per year. An unknown number of businesses in the class have closed during
5 and since the April 1995 - September 2000 period.

6
7 **III. CONCLUSION.**
8

9 The Commission has been fully briefed on Phase II. It was ready to issue an order
10 "soon after" October 3, 2007. Continued delay causes thousands of Class Members to lose
11 their opportunity for justice, while increasing PGE's windfall of "lost ratepayer bonuses"
12 for the utility. The Commission should reinstate the schedule for Phase I in its extant

13 5.(...continued)

14 pp. 6-8 (internal deposition p. 18 lines 1-24, p. 19 lines 9-25, p. 20 lines 1-4);

15 p. 9 (internal deposition p. 30 lines 17-24);

16 p. 11-12 (internal deposition p. 41, lines 6-25, p. 42).
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Order No. 07-157.

Dated: January 14, 2008

Respectfully Submitted,

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Attorney for CAPs

CERTIFICATE OF SERVICE

I hereby certify that I filed the original and 5 copies of the foregoing by email to the Filing Center and by mail, postmarked this date, and that I served a true copy of the foregoing CLASS ACTION PLAINTIFFS’ MOTION TO REINSTATE SCHEDULE OF OPUC ORDER NO. 07-157 by email to the physical and email addresses shown below, which comprise the service list on the Commission’s web site as of this day (email service only to those who have waived physical service).

STEPHANIE S ANDRUS DEPARTMENT OF JUSTICE 1162 COURT ST NE SALEM OR 97301-4096 stephanie.andrus@state.or.us	PAUL A GRAHAM DEPARTMENT OF JUSTICE 1162 COURT ST NE SALEM OR 97301-4096 paul.graham@state.or.us
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Dated: January 14, 2008

Linda Williams

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6 **DR 10/UE 88/UM 989**
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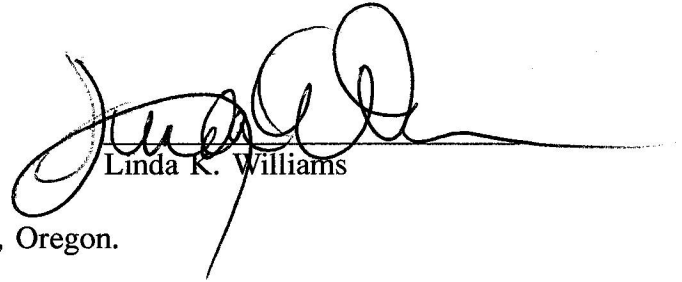
DECLARATION OF
LINDA WILLIAMS IN
SUPPORT OF CAPS'
MOTION TO
REINSTATE
SCHEDULE OF
ORDER NO. 07-157

24 I, Linda K. Williams, under penalty of perjury, declare from my own personal
25 knowledge and for filing in the above-captioned matter:
26

- 27 1. I am the same Linda Williams who is one of Class Counsel in *Dreyer v Portland*
28 *General Electric Co.*, Marion County Case Nos. 03 C10640 and 03 C1063, and who
29 represents intervenors, Class Action Plaintiffs, in this proceeding.
30
- 31 2. In 2006 I was appointed co-lead Class Counsel (along with Attorney Daniel Meek)
32 in *Kafoury v Portland General Electric Company*, Multnomah County Circuit Court
33 No. 0505-00627, consolidated with, *Lezak v Portland General Electric Company*,
34 Multnomah County Circuit Court No. 0512-12762. These cases involved overcharges
35 for Multnomah County Business Income Tax (MCBIT) charged by Portland General
36 Electric Company. The cases settled, and I was personally involved in negotiating
37 with the claims administrator, Poorman-Douglas Company (now Epiq Systems),
38 regarding cost estimates, which the Court approved. I have recently reviewed
39 documents provided to me by Poorman-Douglas.
40
- 41 3. From PGE's records provided to the Claims Administrator for processing, it appears
42 the approximately 10% of its customers terminated service each year from within
43 Multnomah County and did not resume service with PGE.

- 1 4. PGE's Oregon customer base is approximately 3 times larger than the customer base
2 in Multnomah County alone. The period of time at issue for UE 88 extends back to
3 1995. Accordingly, the number of former ratepayers who paid rates under the UE 88
4 rate order is in the range of 1 million.
5
6 5. Filed with this Declaration as Exhibit 1 are true copies of pages of a Deposition of
7 David Schwartz conducted by me on July 24, 2004, in *Dreyer v. PGE*.

8
9 January 13, 2008

10
11
12 
13 Linda K. Williams
14
15
16

Signed this date in Portland, (Multnomah County), Oregon.

EXHIBIT 1

1 BE IT REMEMBERED THAT, pursuant to
 2 Oregon Rules of Civil Procedure, the
 3 deposition of DAVE SCHWARTZ was taken before
 4 Denise C. Johnson, Certified Shorthand Reporter
 5 in and for the state of Oregon, on Tuesday,
 6 July 27, 2004, commencing at the hour of
 7 1:36 p.m., the proceedings being reported in
 8 the law offices of PGE Legal Department, 121
 9 S.W. Salmon, Suite 13, Portland, Oregon.

* * *

APPEARANCES

13 MS. LINDA K. WILLIAMS

14 Attorney at Law

15 Attorney for Plaintiffs

17 PGE COUNSEL'S OFFICE

18 By Mr. David A. Aamodt

19 Attorney for Defendant

20 * * *

1 everybody's meter on the same day. And so what
2 they've done, had done I should say, is to
3 organize the work on what a meter reader could
4 accomplish in a given day. That's known as a
5 meter reading route.

6 And so -- and that context, it was more
7 important for the business at that time to be
8 able to manage the work and the transactions
9 that were processed on a daily basis, as
10 opposed to who was the specific person living
11 in that residence at that time and where did
12 they move to after that.

13 Q. Okay. And so let me just see if I understand a
14 little bit. So, generally speaking, and I'm
15 not sure -- first I've got to make sure I
16 understand it, and then I've got to make sure I
17 understand if it's true throughout the whole
18 time frame, because I think you're talking
19 about maybe a 40-year time frame?

20 A. About '64 through 2002.

21 Q. So some of those considerations that you just
22 described affect the way the data was organized
23 for that period of time?

24 A. Correct.

25 Q. Whether it makes sense anymore, you know, in

1 2001, but that's the way it was.

2 When you say "a meter reading route," I
3 guess, was that something that was determined
4 by the -- kind of the actual physical route
5 that the meter reader had? You know, if he had
6 a route way out in the Salem area and had a big
7 drive-around routine, might be servicing fewer
8 accounts than the meter reader up in Northeast
9 Portland?

10 A. Correct. Yeah.

11 Q. So by meter reader routes, they really were
12 quite literally tied to particular people. And
13 if one guy got to eight people in a day, that's
14 what that --

15 A. Yeah. It was typically more like anywhere from
16 200 to 400 meters per day.

17 Q. Okay. And as a consequence of that, what does
18 that mean for the way the data was compiled?

19 A. What makes it difficult is it's laborious and
20 perhaps nearly impossible to determine if a
21 given customer moved from one location to
22 another in that period of time that was
23 referenced of April 1995 to September 30, 2000.

24 Q. Okay. Because the way that the Legacy was
25 organized had not yet been modified enough to

1 give you individual rate payer information, as
2 opposed to meter location information?

3 A. Correct.

4 Q. Okay. Let me see if I can understand, then.
5 Is there or was there a separate system about
6 customer payment history?

7 A. They were all contained within the same
8 database.

9 Q. Okay. But you're saying it would be difficult
10 to cross-reference them?

11 A. It would be difficult to say that, for example,
12 Linda Williams who lived in Southeast Portland
13 from April 1995 through December 1998, was the
14 same Linda Williams who moved to Southwest
15 Vermont Street in the year 1998 to present,
16 because it wasn't a customer-based system.

17 Q. Okay. And because it was not a customer-based
18 system your records might include in that
19 particular example, it might say service to the
20 Vermont Street address, and then service again
21 to the Vermont Street address, but it would be
22 kind of indifferent as to who service was
23 provided?

24 A. Yeah, it wouldn't know, for example, if he had
25 moved. The agent at the time who was looking

1 at the information would know that you had
2 lived on that street and that residence for a
3 period of time.

4 Q. Okay. Now, how would the agent looking at the
5 record know that?

6 A. Because there are fields in and on that record
7 that tell the agent when that particular
8 customer moved in and when they moved out if
9 the account was closed.

10 Q. Okay. And is it your testimony, then, or is it
11 your testimony about how the field was
12 operated, that the field would be contained --
13 let's just keep using that example.

14 You now have an account open on Vermont
15 Street somewhere. The agent looking at that
16 account would know that this account was opened
17 by someone with my name?

18 A. Correct.

19 Q. Or a name. Because just the way it showed up,
20 new account.

21 Would the agent looking at that know that I
22 was at the time or had just been a PGE
23 customer? Is there anything that would
24 indicate that to the agent looking at the --

25 A. Can you repeat the question?

1 Q. Well, I thought I heard you say that the agent
 2 looking at the account could tell that I had
 3 been a customer previously by looking at the
 4 account.
 5 A. That is true at the time. But I guess the
 6 other thing to remember is that these are
 7 Dynamic Systems. And that a given situation at
 8 one point in time would not be the same at a
 9 later date in time.
 10 Q. Well, let me see if I can ask it in a way that
 11 I understand. This Dynamic aspect to the
 12 system, is that because fields were not -- are
 13 not preserved for some reason, or -- you know,
 14 if I go back now today and I call up a record
 15 from 1999 and I look at it, is there anything
 16 about that record that I could use to discern
 17 from that field about who the customer is and
 18 whether or not that customer had been a
 19 customer at that address or some period of
 20 time, or had been a customer at a different
 21 address for some period of time, using the
 22 Legacy's CIS system?
 23 A. The current means by which the data has been
 24 stored, that would be impossible in many cases.
 25 Q. Okay. So when you say "current," we're talking

1 record June 30th.
 2 Because after a period of time, if you are
 3 a customer who paid your bill regularly and no
 4 longer were with us, that record dropped off.
 5 Q. Okay. And your example there was just a short
 6 interval of bill paying, and then no further
 7 bill paying?
 8 A. Yes.
 9 Q. And that at some point, and I'm not sure if
 10 you're saying it really was a period of two or
 11 three months or some other period, that would
 12 drop off, and so there would just be no record,
 13 then, of the account being serviced, or no
 14 record of the person who received the service,
 15 or what record would --
 16 A. Not in that snapshot. There are other means to
 17 look at an individual record. There is a
 18 microfilm record at every month that would show
 19 what your consumption and other information
 20 were.
 21 Q. Okay. Well, let's see if I can begin to
 22 understand the different kinds of data that
 23 you're keeping. One is the Legacy CIS, which
 24 we've described a little bit about both what it
 25 was meant to do, and what it, by its nature

1 about the way the Legacy CIS currently is
 2 stored?
 3 A. What is and will ever been stored.
 4 Q. Okay. So whatever is --
 5 A. Let me explain, if I might --
 6 Q. Yeah.
 7 A. -- the storage and tension.
 8 Q. Got it.
 9 A. And with Dynamic Systems it's impossible and
 10 it's cost prohibitive to take a snapshot of
 11 every day's activities and archive it off so
 12 that you could look at any day in time and see
 13 what the situation was.
 14 Nor would there be any way to take an X
 15 number of days of activity and combine them in
 16 a means that would make sense and could be
 17 physically accomplished.
 18 So let me just see if I can give you an
 19 example. Let's say that we have a snapshot of
 20 six months from January 1, 1998 to June 30,
 21 1998. And you look into the database, and it
 22 would be very likely that if Linda Williams, or
 23 any customer for that matter, had moved in
 24 February 1st, had two or three billings, paid
 25 their billings, they would not appear on that

1 preserved, if at all, you know, because of what
 2 it was meant to do.
 3 Now you're saying there is also some sort
 4 of microfiche. So I guess there was a hard
 5 paper printout of some stuff sometime?
 6 A. Microfilm is microfilm. And their status, as
 7 well as more current technology document
 8 management systems that have other data that
 9 can be looked at for an individual.
 10 Q. Okay. Well, let me just try to understand in
 11 my own terms. Microfilm is microfilm of
 12 something. So what was the original source
 13 document that got microfilmed, do you know?
 14 A. It was specific fields from the Legacy CIS.
 15 Q. Okay. So specific fields from Legacy CIS got
 16 printed out at some interval in a paper form?
 17 A. No paper.
 18 Q. No paper. Okay. Printed out to directly to
 19 microfilm?
 20 A. Yes, it was sent directly to microfilmed
 21 record.
 22 Q. Okay. And this period in which some fields
 23 from Legacy CIS were -- is that a routine
 24 practice, routinely printed to microfilm?
 25 A. Yes.

1 A. Yes.

2 Q. Okay. And is there a way about how the account
3 numbers were distributed or reassigned, or
4 something, within the meter routes so that with
5 reasonable precision I could tell that this new
6 account number that showed up for the first
7 time on this chunk of readout that has to do
8 with meter route up in Southwest Portland,
9 there is probably the same account number -- is
10 probably the same as that person that had an
11 account number in the previous snapshot?

12 A. Components of the account number would remain
13 the same.

14 Q. In a consistent manner? I mean, like, would it
15 be like four digits somewhere in the middle, or
16 something?

17 A. With exceptions. For example, as your service
18 territory grows you have to reroute. So that
19 if you have a large apartment complex that gets
20 built on Southeast Belmont Street, then you
21 have to move the sequence of the routes that
22 are read to accommodate that 400-unit apartment
23 complex. So the account number would change.
24 That's a common practice.
25 So I guess the short answer is, there are

1 being paid, right?

2 A. Yes.

3 Q. Not necessarily in the Legacy CIS system, but
4 somewhere somebody is sending bills all the
5 time, and somebody is either paying them or
6 not.

7 A. And the charged amounts and the payment amounts
8 were housed in the Legacy CIS.

9 Q. Okay. And how did they get there, the charged
10 amounts and the paid amounts? It sounds like
11 it would be a separate data entry task by
12 somebody else, based on -- well, why don't you
13 take me through.
14 Somebody or something keeps track of usage,
15 correct?

16 A. Yes.

17 Q. And what would that be?

18 A. The record of consumption was contained in the
19 database, the CIS database.

20 Q. And it got in there from information supplied
21 by the meter reader?

22 A. Correct.

23 Q. And was that kind of a hand-held device?

24 A. In the old days it was punch cards. And I
25 think it was probably about 1994, that we

1 probably not any consistent ways on which we
2 could look at these and have any kind of
3 certainty that we're talking about the same
4 customer.

5 Q. Okay. Looking at it a different way, and,
6 again, looking at that period of time only
7 before you changed to the CIS system, if I
8 opened up a new account and told you I'd
9 previously been a customer at X, Y, Z, and I
10 don't want to pay a deposit or something. Or
11 for some reason you think I'm somebody that
12 needs to pay a deposit because of some problem,
13 how does that get hooked up?
14 How does that information get linked up
15 that I am a customer currently or somebody with
16 a bad record?

17 A. There was another appended application, called
18 it accrued reserve file. And if you were a
19 poor-paying customer and had left owing money,
20 then that record would appear on that file.
21 And there was a link between the CIS to the
22 accrued reserve file.

23 Q. Perhaps we started to go down this road before
24 and then I got diverted, or whatever.
25 Somewhere there would be a record of bills

1 converted to hand-helds.
2 So the information came from the field into
3 the CIS via an interface --

4 Q. Okay.

5 A. -- to another system.

6 Q. Got it. So that's data that's accumulated from
7 that kind of an input source?

8 A. It's separate application that has an interface
9 feed into the CIS.

10 Q. And that application was not -- was the data
11 from that application stored in other format
12 for any other reason before going to the CIS?

13 A. It all went into CIS. There were, of course,
14 periodic backups made of the meter reading
15 information. But they typically weren't kept
16 very long, because once you had them in the CIS
17 there was no need to store them elsewhere.

18 Q. Okay. And then when you've got regular monthly
19 input about the consumption data, how did the
20 consumption data information somehow get merged
21 into the application which creates a customer
22 bill?

23 A. The application CIS had the routine to
24 calculate the charges. And those charges were
25 then -- I'm trying to think of the right term.

1 there are 21 working days per month.
 2 Q. So the bills go out on a rolling basis of some
 3 sort?
 4 A. That's correct.
 5 Q. And for each of the 21 working days, or average
 6 of 21 working days, there is a microfilm record
 7 of the bills that went out that day, at least
 8 contemporaneously was microfilm work?
 9 A. Yes.
 10 Q. Okay. The microfilm records, how long are they
 11 maintained?
 12 A. I believe that they are probably 20 years or
 13 more. I'd have to clarify that.
 14 Q. Subject to whatever limitations there are on
 15 microfilm?
 16 A. (Witness nods.)
 17 Q. Okay. Do you know where they're maintained,
 18 just out of curiosity?
 19 A. No, I don't. I know that currently we have a
 20 document management system which does a similar
 21 function as the old microfilm records. But I
 22 don't know -- I should say I don't recall when
 23 those -- when that system became the archival
 24 tool.
 25 Q. Okay. So let me just see if I just understand

1 then a record of -- no, let me stop that.
 2 I don't know how that was maintained. That
 3 might have been a monthly, but I don't know how
 4 that was maintained.
 5 Q. Okay. Maybe I didn't use quite the right
 6 phrase.
 7 Do you know if that was also, in essence,
 8 part of the database system, or is there a big
 9 Rolodex somewhere with the customer name
 10 register?
 11 A. Again, the snapshot provides record of who the
 12 customer was at the time that snapshot was
 13 taken. That's the CIS, the Legacy CIS
 14 database.
 15 Q. Uh-huh.
 16 A. That name, I'm not sure I understand what
 17 you're asking about --
 18 Q. You're saying you can go to the name register
 19 which would somehow tell you the account
 20 number, I guess.
 21 I call up, I say, I'm Linda Williams and
 22 I'm living on Southwest Vermont. My bill's
 23 missing or it's wrong or something. And you
 24 say, Okay -- it's 1997. And you say, All
 25 right. We'll check for you and send you a new

1 about microfilm record. It may not look like
 2 the customer bill looked, correct?
 3 A. Correct.
 4 Q. But it contains all of the basic information
 5 from which the company could re-create a bill
 6 if there was some dispute with the customer
 7 about what the bill was?
 8 A. Correct.
 9 Q. How would the company -- and the reason the
 10 company -- what field could the agent of the
 11 company use to hook up the guy that's
 12 complaining on the phone with the record?
 13 Would he be using the guy's name? Would he
 14 be using an account number? Would he be using
 15 a street address? How would he say, You know,
 16 sir, I'm going to have somebody check this for
 17 you?
 18 A. There were typically two ways to do that: One
 19 was a name register. So you could look at the
 20 customer name and find an account number; and
 21 then you'd go to the billing register, which
 22 had the account number, sorted in account
 23 number order.
 24 Q. Okay. How was the name register maintained?
 25 A. Again, when an account would go through billing

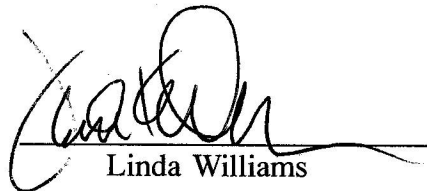
1 bill or something. And I said, Well, how would
 2 the company go about figuring out what
 3 information to retrieve to re-create the bill
 4 for this person, given that information? So
 5 one of them was the name register.
 6 A. And, typically, you would look through the name
 7 register and try to isolate your unique name.
 8 Q. Okay.
 9 A. If there was one. There are literally hundreds
 10 of John Smiths.
 11 Q. Sure. And I'm just asking in the very common
 12 sense when you say look through the name
 13 register -- this is all new to me -- am I
 14 looking through a computer screen? Am I
 15 scrolling down to try to find a Williams?
 16 A. In the old days it was actually physically
 17 taking a piece of microfilm and placing it in a
 18 microfilm reader and scrolling through it to
 19 try to find the name.
 20 Q. So you're saying a name register was also a
 21 microfilm?
 22 A. Yes.
 23 Q. Is the billing register a microfilm?
 24 A. It was.
 25 Q. And the billing register, instead of being a

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