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October 4, 2007

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 188

Attention Filing Center:

Enclosed for filing in the above-captioned docket is an original and five (5) copies of the Reply Brief of Portland General Electric Company. This document is being filed electronically. Hard copies will be sent via postal mail.

An extra copy of this cover letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

DOUGLAS C. TINGEY

DCT:saa
Enclosures
cc: Service List-UE 188

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing **REPLY BRIEF OF PORTLAND GENERAL ELECTRIC COMPANY** to be served by electronic mail to those parties whose email addresses appear on the attached service list, and by First Class US Mail, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service.

Dated at Portland, Oregon, this 4th day of October 2007.

DOUGLAS C. TINGEY

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UE 188

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UE 188

In the Matter of the Revised Tariff Schedules for Electric Service in Oregon filed by PORTLAND GENERAL ELECTRIC COMPANY	)))))

REPLY BRIEF OF

PORTLAND GENERAL ELECTRIC COMPANY

October 4, 2007

Pursuant to the order of the Administrative Law Judge, Portland General Electric Company ("PGE") submits this reply brief.

I. INTRODUCTION

As set forth in PGE's opening brief, this is an unusual rate case. At the outset, the parties agreed to limit the case to the costs and benefits of Biglow Canyon 1. The parties were then able to work together and settle all but one issue in this docket. The settlement was reached before testimony was filed by Staff and intervenors. As a result, the testimony of Staff, CUB and ICNU address, at length, only the one remaining issue. The issue has been further addressed in the parties opening briefs. The ground is well-plowed and we will endeavor to not be repetitive here. Our brevity should, however, not be taken as a lack of interest in the issue.

II. THE REMAINING ISSUE

The only remaining issue is whether, in this case, the Commission should establish a process to update the costs of Biglow Canyon 1 in the future, outside of a general rate case. PGE has explained in its testimony and previous brief why this is not appropriate.

The Commission could, and PGE urges that it should, reach that conclusion without addressing the details of the proposals by CUB and ICNU. The question before the Commission is whether, in this rate case, an update process for only Biglow Canyon 1 costs should be adopted. Other parties paint the issue as much broader. Whether an update is or is not appropriate in other contexts is not before the Commission in this case. For example, the propriety of an update of costs in the context of a renewable generating resource ongoing automatic adjustment clause, being addressed in UM 1330, is not the issue here – though CUB discusses that context in its brief. This is a general rate case, albeit limited to only a subset of PGE's costs. The decision here, in this context, will not decide whether or not an update is appropriate in an automatic adjustment clause.

In fact, Staff has taken the position that the opposite may be true – the outcome of UM 1330 may inform the decision regarding an annual adjustment for Biglow Canyon 1. Accordingly, Staff recommends that the Commission defer its decision regarding an update to Biglow Canyon 1 costs, or in the alternative resolve whether Biglow Canyon 1 rates should be updated in connection with the implementation of Senate Bill 838. *Staff Opening Brief*, p. 2. While PGE does not agree that it would be appropriate to defer a decision in this docket, we do agree that the decision in this docket will not be dispositive of any issue raised in UM 1330.

In this docket, the Commission is to establish rates that are "fair, just and reasonable." ORS§ 757.210. In doing so we use test year projections of expenses, and the Commission sets rates to meet that legal standard. Those rates then remain in effect until changed by the Commission – which could be a short time in the future or many years. To some extent the remaining issue in this docket arises from differing views as to the scope of this docket, and how broad or narrow the Commission's view should be with respect to ongoing rates. PGE sees this as a general rate case, though the costs examined have been narrowed. CUB and ICNU see this as something else, a single issue proceeding. The positions on whether an update is appropriate follow the difference in opinion on the scope of this docket. The position advance by CUB in its testimony[1] would have the Commission update, outside of a general rate case, only some aspects of the costs (mainly depreciation) of one asset, Biglow Canyon 1. ICNU has a somewhat broader view – but even then ICNU would have the Commission look at only the costs of one asset to determine if rates are fair, just and reasonable. Ratemaking generally takes a much broader view and looks at rates in total. With that view, no update to the costs of this one specific asset is necessary or appropriate.

That approach is consistent with how this very docket has been handled. The rates set in

[1] As discussed below, CUB takes a different position in its brief.

UE 180 have not been reset in this docket. Yet, there were a number of costs that have changed since UE 180 rates were established. Some costs have gone up, and others down. Yet the parties were comfortable enough that, overall, those rates, with the addition of the costs of Biglow Canyon 1, are still fair, just and reasonable. There is no need to have an update mechanism to this small portion of costs to ensure that rates will be fair, just and reasonable.

SPECIFIC PARTY POSITIONS:

CUB. It appears that CUB has changed its position in its Opening Brief. In its testimony CUB proposed an annual update to Schedule 120 that would update only for changes in accumulated depreciation and customers, and nothing else. CUB/100/Jenks/7-8, 12. The testimony was very specific that the update should only include depreciation and increasing load. In its opening brief, however, CUB proposes an update to that "would include the items that are in Schedule 120." *CUB Opening Brief*, p. 10.

CUB's interpretation of the requirements of ORS§ 757.355 and the *Dreyer*[2] decision is incorrect. CUB argues that it may be a violation of law for rates to be set that do not annually track decreases in ratebase caused by depreciation. If that were the case, ratemaking as we know it cannot continue. In all rate cases, rates are set on projected costs, including ratebase. A rate level is set to recover those projected costs. And it is safe to say that even during the test-year, costs, including ratebase, will differ from those assumed in setting rates.[3] In subsequent years beyond the test-year, variances for specific cost elements may grow – some upward and some downward. Yet, those rates remain lawful until new rates are set by the Commission. The Dreyer

[2] 341 Or. 262, 142 P.3d 1010 (2006).

[3] As for ratebase itself, the projections will not match what happens. System expansion may be greater than anticipated, plant may fail and need replacement, or other forces may cause ratebase to be greater or less than projected. If CUB's theory were correct, rates would need to be adjusted every time there was a change in ratebase, for whatever reason. That is not what the law requires, nor could it.

decision did not change that.

CUB's arguments look only at ratebase. There is no justification for looking at only one aspect of costs. Rates are set to cover all costs and ratebase is only one component of costs. As just discussed, those costs will change. Whether you are looking at costs in general, or those for a specific plant, the same holds true – it is rates in general, that must be just and reasonable.

In addition, the Dreyer decision does not support CUB's claim. The Dreyer decision dealt with two issues: the primary jurisdiction of the Public Utility Commission, and a plant retired from service with an un-depreciated balance. There is no application of that case to a new generating facility being added for service to customers.

ICNU. ICNU proposes an update to all costs included in Schedule 120. In the alternative, ICNU proposes levelization. ICNU's arguments center on the idea that this is not a general rate case, but a single issue case. As PGE stated when it filed this case, it was filed complying with the requirements of a general rate case. While we had the desire to limit the issues to Biglow Canyon 1, we could determine no method for having a single issue case. So, a general rate case was filed. ICNU, and CUB as well, now seek to turn this into a single issue case and argue from that premise that future updates to Schedule 120 are necessary. They misconstrue this case, and argue form over substance. A rate level will be set in this docket. That rate level will be the rate level set in UE 180 with the addition of projected test-year costs of Biglow Canyon 1. The parties have not disputed those costs, or claimed that the resulting rates will not be fair, just and reasonable. There has been no claim that the UE 180 rates, or any part of them, needs to be updated in order to have fair rates. There is likewise no need for future updates of Biglow Canyon 1 costs, to have fair rates.

ICNU's alternative levelization argument is not supported. As discussed in PGE's

testimony and prior brief, levelization has never, to PGE's knowledge, been used by the Commission. It also raises a number of potential regulatory problems, including denial of recovery of prudently incurred costs in the early years, inconsistent use of test-year ratemaking, the introduction of a new level of regulatory uncertainty, and the potential for gamesmanship in determining the appropriate time period. Levelization also has negative financial ramifications, including cash-flow impacts, that could raise costs overall.

Levelization should not be adopted for Biglow Canyon 1.

Recommendation. For the reasons set forth in its testimony and briefs, PGE recommends that the Commission neither update the fixed revenue requirement of Biglow Canyon 1, nor use the levelization alternative proposed by ICNU. Adoption of either would be a departure from Oregon regulatory policy. The problem CUB and ICNU claim needs to be addressed only exists if one takes a narrow, and incorrect, view of this docket, and ratemaking in general.

There is no dispute as to the costs of the Biglow Canyon 1 project. All parties agree that the costs should be incorporated in rates. For the reasons set forth in PGE's testimony and briefs, updates to those costs, outside of another general rate case, are not necessary.

III. CONCLUSION

The costs and benefits of Biglow Canyon 1 should be included in customer rates beginning January 1, 2008, as requested in this docket. An update mechanism is not necessary or appropriate and should not be adopted.

DATED: October 4th, 2007.

Respectfully submitted,

/s/ Douglas C. Tingey

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