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October 24, 2008

Via Electronic and U.S. Mail

Public Utility Commission
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem, OR 97308-2148

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY's Request for a General Rate Revision
Docket No. UE 197

Dear Filing Center:

Enclosed for filing please find the original and five (5) copies of the Opening Brief of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to contact our office.

Sincerely yours,

/s/ Ruth A. Miller
Ruth A. Miller

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Opening Brief of the Industrial Customers of Northwest Utilities upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, where paper service has not been waived.

Dated at Portland, Oregon, this 24th day of October, 2008.

/s/ Ruth A. Miller
Ruth A. Miller

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 197

In the Matter of	)	
	)	
	)	
PORTLAND GENERAL ELECTRIC	)	
COMPANY	)	**OPENING BRIEF OF THE**
	)	**INDUSTRIAL CUSTOMERS OF**
	)	**NORTHWEST UTILITIES**
Request for a general rate revision	)	
	)	

October 24, 2008

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I. INTRODUCTION

The parties to this general rate case have reached agreement on many issues that have been documented through a series of stipulations; however, there are two important issues that have not been resolved. First, Portland General Electric Company ("PGE" or the "Company") has failed to demonstrate that its proposed test year costs for wages, benefits and incentives are reasonable. Second, the Staff of the Public Utility Commission of Oregon ("OPUC" or the "Commission") has proposed changes to PGE's rate design that are both unnecessary and unsupported by the record. The Industrial Customers of Northwest Utilities ("ICNU") requests that the Commission adopt the adjustments proposed by ICNU-CUB witness Ellen Blumenthal to PGE's test year costs for wages, benefits and incentives. In addition, the Commission should adopt the rate design used by PGE in its original filing and reject Staff's proposed rate design changes. Finally, the Commission should initiate a proceeding in early 2009 to review PGE's cost allocation and rate design methodologies as agreed to by ICNU, the Citizens' Utility Board ("CUB"), PGE and Fred Meyer in the Stipulation Regarding Rate Spread and Rate Design Issues.

ICNU requests that the Commission reduce PGE's proposed test year revenue requirement by $16,663,638 to reflect PGE's reasonable costs for wages, by $4,195,457 for benefits, by $6,244,407 for incentives, and by $1,022,217 for payroll taxes. In addition, ICNU recommends that the $5,795,686 of employee support costs be excluded from the loading rate altogether as these costs do not vary directly with payroll and one included elsewhere in PGE's filing. ICNU's total recommended adjustment is $33,891,467, which is described in more detail in Exhibit 1. The specific reasons for ICNU's reductions are:

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1. **FTE Count –** PGE has overstated its test year proposed full time equivalent (FTE) employee levels, by using a speculative budget, which has been escalated, and by converting unpaid exempt overtime hours into FTEs. The appropriate FTE level should be 2652 non-officer FTEs, which represents a reasonable escalation of historic FTE counts.

2. **Wage Escalation –** PGE proposes to escalate exempt and hourly non-officer wages at 4.5%, and union wages at 4%. Given an impending recession, rising unemployment and declining inflation, PGE's compensation studies have been overtaken by events. A more reasonable level would be 3% for hourly employees and 2% for exempt and union employees.

3. **Officer Count/Officer Salaries –** PGE currently has 12 officers, and it has included 12 officers in the test year. However, one officer is "on loan" to an outside entity, and apparently is unneeded. PGE's test year officer count should be 11.

4. **Officer Wages, Benefits and Incentives –** PGE officers have received extraordinary increases in total compensation over the last two years. This has occurred in spite of the fact that PGE admits that it has little ability to manage or control its costs. PGE's proposal to escalate officer wages by 6% annually should be rejected, and no escalation should be allowed.

5. **Overtime Wages** – Exempt overtime wages should not be converted to FTE's for purposes of determining wages and benefits.

6. **Loading Factor –** PGE includes costs in its 48.5% loading factor, which do not vary with payroll and are included elsewhere in PGE's proposed revenue requirement. Incentives and employee support costs should not be included in the loading factor as these costs do not vary directly with payroll.

7. **Incentive Compensation** – PGE's non-officer incentive programs benefit both shareholders and customers; therefore, the costs of these programs should be split equally between shareholders and customers.

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PGE currently has the highest rates in the Pacific Northwest. Staff/815, Owings/1. The rate increase proposed in this case will only exacerbate the problem. Even with all of the settlements entered into in this case, PGE still seeks to increase its revenue requirement by $160.7 million, or about 10.1%. PGE/2300, Tooman-Tinker/1 at 17. The Commission should give PGE a mandate to control its costs by limiting the increase in FTE's and the increase in costs for its employees and officers. Finally, the Commission should eliminate the anachronistic employee discount, because it is both discriminatory and poor public policy.

II. BACKGROUND

On February 27, 2008, PGE filed a general rate case, requesting an increase in revenue requirement of 145.9 million, or 8.9%, effective January 1, 2009. On March 24, 2008, the Net Variable Power Cost ("NVPC") portion of PGE's requested rate increase was segregated from the rest of the case and docketed as UE 198. Re Portland General Electric, UE 197 and 198, Joint Prehearing Conference Report (Mar. 24, 2008). The issues in UE-198 have been settled pursuant to a stipulation that was filed with the Commission on July 18, 2008. PGE filed two power cost updates during the case. On July 11, 2008, PGE filed an updated estimate of its 2009 NVPC, which increased PGE's 2009 revenue requirement by $92 million, for a total of $213 million. On September 26, 2008, PGE filed a second update to NVPC that reduced the revenue requirement by approximately $59 million, largely due to dramatic decreases in forward prices for gas and electricity.

The parties entered into two stipulations resolving a number of revenue requirement issues, including cost of capital. The parties were able to settle cost of capital, by agreeing that PGE's current return on equity of 10.1% will remain the same. The first

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stipulation, which will reduce revenue requirement by approximately $19 million, was filed with the Commission on August 5, 2008. The second stipulation, which will reduce revenue requirement by approximately $13.2 million, was filed on October 9, 2008.

On July 9, 2008, ICNU filed direct testimony, by Alan Rosenberg, challenging PGE's cost allocation and rate spread methodology. His testimony proposed that PGE's costs of service results be tempered by a coincident peak approach. ICNU and CUB also jointly sponsored the direct testimony of Ellen Blumenthal, which proposed adjustments related to compensation, benefits and employee levels that would reduce PGE's revenue requirement by $57 million. Ms. Blumenthal also recommended that the 25% discount for PGE employees be eliminated. Staff also filed direct testimony recommending similar adjustments to employee levels and compensation and benefits. In addition, Staff proposed that PGE's rate design be modified by adding a seasonal super peak rate to certain rate schedules in the summer. Staff/500, Compton/9.

PGE filed rebuttal testimony on August 15, 2008, which was critical of the Staff and ICNU adjustments. PGE/1500, Barnett-Bell/1-2. On the issue of rate spread, PGE continued to support its original filing; however, PGE did propose an alternative 12-CP cost allocation methodology in the event the Commission wanted to pursue ICNU's proposed coincident peak approach. PGE/2000, Kuns-Cody-Lynn/18-19, 21-25. The proposal would be implemented gradually over time. Id. at 23-24. PGE also opposed Staff's super-peak rate design proposal. PGE/2000, Kuns-Cody-Lynn/3 at 15-16.

ICNU and CUB filed surrebuttal testimony on September 15, 2008. In her Surrebuttal Testimony, Ms. Blumenthal reduced her total requested adjustment for wages,

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salaries and benefits to $36,542,606. ICNU-CUB/111, Blumenthal/10 at 10-11. ICNU also filed surrebuttal testimony continuing to advocate for a coincident peak adjustment to rate spread. ICNU/205, Rosenberg/15-16. Staff's sursurrebuttal testimony continued to advocate for a summer super-peak rate for Schedule 89. Staff/1200, Compton/1-3.

On October 1, 2008, PGE filed Sursurrebuttal testimony which reduced its requested increase in revenue requirement to $160.7 million, subject to revision as a result of PGE's final NVPC calculation in November 2008. PGE also continued to oppose Staff's proposed rate design changes. PGE/2800, Kuns-Cody-Lynn/4.

ICNU, CUB, PGE and Fred Meyer entered into a Stipulation Regarding Rate Spread and Rate Design Issues, which was filed on October 8, 2008. The parties to the Stipulation request that the Commission adopt PGE's proposed rate spread and rate design and initiate a proceeding in early 2009 to review PGE's cost allocation and rate design methodology.

III. STANDARD OF REVIEW

PGE has the burden of proof to demonstrate that its proposed rates are just and reasonable. ORS § 757.210(1); <u>Pacific Northwest Bell Tel. Co. v. Sabin</u>, 21 Or. App. 200, 213-14 (1975). The Commission also has the independent responsibility to ensure that PGE's customers are charged just and reasonable rates. ORS § 756.040(1); <u>Pacific Northwest Bell Tel. Co.</u>, 21 Or. App. at 213. The burden of proof is borne by the Company "throughout the proceeding and does not shift to any other party." <u>Re PacifiCorp</u>, OPUC Docket No. UE 116, Order No. 01-787 at 6 (Sept. 7, 2001). When other parties dispute the proposed rates, PGE retains the burden to show that all its suggested charges are just and reasonable. <u>Id.</u>

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The Commission generally sets utility rates based on the cost of service. Id. at 5. Cost of service is "the utility's reasonable operating expenses to provide utility service[.]" Id. PGE must demonstrate that its costs are reasonable and prudent before the Commission will include them in rates. Re US West Communications, Inc., OPUC Docket Nos. UT 125 and UT 80, Order No. 00-191 at 15 (Apr. 14, 2000) (Order No. 00-191 readopted order No. 96-183). The Commission examines prudence based on existing circumstances and what the Company knew or should have known when it made its decision. Re Northwest Natural Gas Co., OPUC Docket No. UG 132, Order No. 99-697 at 53 (Nov. 12, 1999). In addition to removing imprudent costs, the Commission makes adjustments to the test period for events that are not expected to reoccur and for known future changes. Re PGE, OPUC Docket No. UF 3518, Order No. 80-021 at 24 (Jan. 14, 1980).

Utility rates are established prospectively based upon a period of time that will reflect the restated and normalized results of operations that will occur during this future time period. The time period is called a "test year." Charles F. Phillips, Jr., The Regulation of Public Utilities 182 (1984) (indicating that a test year should be used to establish a rate base and provide a basis for estimating future revenue requirements). Test year periods are based on either the results of operations for a historic 12-month period ("historic test year"), or on the forecasted operating results for a future time period ("future test year"). Re Pacific Northwest Bell Telephone Co., OPUC Docket No. UT 43, Order No. 87-406 at 11 (March 31, 1987).

The purpose of either an historic or future test year period is to ensure that the utility's rates are just and reasonable. All test year periods, however, are estimates of the utility's future conditions, and if this estimate fails to provide a reasonably accurate

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representation of the cost of operations for the period in which rates will be in effect, then the utility's rates will not reflect its actual costs of service. Re US West Communications, UT 125, Order No. 97-171. This would cause the utility to over-earn or under-earn during the test year period, and the rates would not be fair and reasonable as required by ORS § 756.040(1). Id.; Re Pacific Northwest Bell Telephone Co., UT 43, Order No. 87-406 at 11.

The historic test year model is typically applied when the results of operations for an historic 12-month period can accurately represent the future period in which rates will be in place. Re US West Communications, UT 125, Order No. 97-171. Under this model, results of operations are used as a starting point for determination of the utility's revenue requirement. Expenses and revenues that will not be incurred or realized in the future are then excluded from the new rates. Re Pacific Northwest Bell Telephone Co., UT 43, Order No. 87-406 at 11. This model works best for a structurally stable utility that is not undergoing significant changes, particularly resulting from industry deregulation. The Commission has indicated that when there are major changes impacting the utility, these adjustments to historic test year data are inadequate to establish rates that will reflect future operating costs. Re PGE, OPUC Docket No. UF 3001, Order No. 73-688 at 7-8 (Oct. 29, 1973).

The future test year approach is applied when forecasted results of operations for a future period will reasonably represent the future period in which rates will be in place. The starting point when using a future test year is to draw data from the utility's financial models and budgetary figures. All known future changes are included and past abnormal events are excluded. Re PGE, UF 3518, Order No. 80-021 at 24.

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The Commission encourages the use of actual data to modify a proposed test year for nonrecurring costs, to establish net ratepayer benefits or to determine prudency. Re US West Communications, UT 125 and UT 80, Order No. 00-191 at 96 (as a "general rule" actual data is preferable to forecasted data). The standard to adjust the test year through use of actual data is the same for any proposed test period modification; provided that, the actual data must be: 1) available for verification; and 2) reasonably certain of being representative of future conditions. Id. For example, in its 1975 rate case, NW Natural filed its test year based on historic test year data for January through November and estimated its results for December. Re NW Natural, OPUC Docket No. UF 3222, Order No. 76-594 at 2 (Aug. 30, 1976). However, actual figures became available after the date the utility filed its direct case and, because they were representative of future conditions, the Commission ultimately used actual results to adjust NW Natural's test year. Id.

In another case, the Commission stated, "[i]t makes little sense to us to disregard actual results, particularly when those results do not match with PacifiCorp's forecasts. In light of this, we will make adjustments as we see fit based upon known changes and data in 2001." In re PacifiCorp, Order No. 01-787 at 38. The Commission ordered adjustments to the categories of wages and salaries, manpower, 1987/88 pension amortization, sales and marketing, SERP, and environmental settlement per Staff's recommendations. Id. at 39-45. Based on this precedent, the Commission should base its decision in this case on actual data, rather than PGE's inflated budgets.

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IV. ARGUMENT

PGE has not established that its proposed test year costs for wage and salaries and related benefits and incentives are reasonable. PGE's proposed test year wage and salary costs ignore actual results, and instead rely on internally developed budget. ICNU proposes adjustments in the following areas: FTEs, wage per non-officer employee, officer count, officer wages, overtime wages, benefit loading rate and incentive compensation. A summary of the adjustments proposed by Ms. Blumenthal in her testimony is included in ICNU-CUB/113, Blumenthal/1-2. In brief, the adjustments proposed by Ms. Blumenthal would reduce PGE's total payroll expense by $15,459,961, and benefits and incentives by $21,082,645, for a total reduction in revenue requirement of $36,542,606. Based on the information provided by PGE's witnesses at hearing, ICNU is now proposing recalculated adjustments, which are attached as Exhibit 1. ICNU's revised adjustments reduce PGE's total payroll expense by $16,633,638, and benefits and incentives by $17,257,829, for a total reduction to PGE's revenue requirement of $33,891,467.

A. Rates Should be Set Based on Escalated Historic Results of Operations Rather than PGE's Bloated Projections

The basic disagreement in this case centers on whether PGE's reasonable and necessary wages and salaries and other employee related costs should be set based on PGE's proposed 2009 budget or on information based on historical trends. Rates should not be set based on PGE's budget because it unreliable and overstates PGE's costs. Rates should be set to recover the actual costs of providing electric service plus a reasonable return on a utility's invested capital. ICNU-CUB/111, Blumenthal/3 at 5-6. There is no evidence that PGE's 2009

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future test year wage and salary costs represent the reasonable and necessary actual costs of operations for that future period.

According to PGE, "[t]he 2008 budget was created through a company-wide, bottom-up budget process". ICNU-CUB/103Blumenthal/1. PGE is asking the Commission to approve its 2009 budget by adopting its wages and salary request even though none of the parties have had the opportunity to thoroughly review that budget to understand the underlying assumptions and calculations. Staff and ICNU both agree that adopting the Company's budget is totally inappropriate since there is no evidence that the budgeted wages and salaries are reasonable and necessary or known and measurable. For labor, PGE used the 2008 budget which is based "on actual labor costs from Q2-2007 . . . ." Id. Actual data was then escalated to 2008, and then escalated again to 2009 at escalation rates that vary from 4-6%. Id. The overall compounded escalation for officer salaries is in excess of 12% from 2007 to the 2009 test year. ICNU-CUB/109, Blumenthal/3 at 1-3. PGE's test year wages and salaries also include costs for additional FTEs. Of the total $27.7 million increase over the 2007 *forecast* wages and salaries requested by PGE, approximately $13.9 million is due to increased wage levels, and $13.8 million is the result of additional FTEs. PGE/800, Barnett-Bell/2 at 1-3.

As Ms. Blumenthal stated, "[e]ven if the Commission permits a utility to use a future test year, the costs of providing utility service must be based on reasonable and necessary costs incurred to provide service. The utility must show that its proposed costs are reasonable and necessary and changes from historical costs must be shown to be known and measurable. PGE has not demonstrated that its proposed salaries and wages meet these criteria." ICNU-CUB/100, Blumenthal/5 at 11-16. Instead, PGE's approach was to create a bottom up budget

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that was not based on actual results. It is simply a "wish list" of what the utility would like to spend. A better approach is to apply reasonable escalation factors to historic results of operations, unless there is a compelling reason, like industry restructuring, to abandon this approach. PGE is now a stand-alone utility, with a compact service area, in a state that does not have any new deregulation plans. Under these circumstances, escalation of historic costs makes the most sense; and it will result in a future test year wage and salary cost that is based on actual historical data.

B. PGE's Test-Year FTE Count Should be Rejected

1. PGE's FTE Count is an Unreliable Moving Target

In its original filing, PGE projected a need for 2,733 full-time equivalents for the 2009 future test year, including 12 officers. PGE has now reduced that number to 2,706 FTEs, a reduction of 27 FTEs. PGE/1400, Tooman-Tinker/10 at 2-5.

PGE's FTE count changes every time PGE addresses the issue. The following table shows PGEs inconsistent representations regarding the appropriate FTE levels that it has made at various points in this proceeding:

Table 1

Date of Response	Data Request	Response - Actual FTE				
		2003	2004	2005	2006	2007
7/17/2008	OPUC 203-F	2538			2554	2612
5/4/2006	OPUC 175**		2531	2529		
2/27/2008	800, WP1 (ICNU/175)			2602	2666	
8/15/2008	PGE 1400/Table 3		2531	2518	2554	2612
5/20/2008	ICNU 242	2616	2622	2602	2666	2713
5/19/2008	ICNU 237	2616	2623	2602	2666	2713

** Docket U-180

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2. Exempt Overtime Hours Should Not Be Converted to FTE's

Like management, professional, and other exempt employees in other businesses, PGE's exempt employees often work "overtime hours." Exempt employees refers to employees who are exempt from payment of overtime under the Fair Labor Standards Act. 29 U.S.C. § 207 and 213. When an exempt employee who is paid a salary works overtime hours, the employer does not pay any additional amount for the overtime work. In its 2009 test year, PGE converts exempt overtime hours into additional FTE's, which qualify for wages, benefits and incentives. PGE/1400, Tooman-Tinker/14 at 15-20. PGE claims that the exempt overtime FTEs are replaced by additional hires in 2009. These fictitious employees inflate PGE's actual costs.

The original 130 additional FTEs that PGE requested included the 16 FTEs previously approved by the Commission in other dockets. The 87 FTEs that PGE now claims is the incremental increase it is requesting does not include these 16 FTEs for Biglow Canyon and Port Westward.

3. PGE Has Consistently Over-Budgeted FTEs

The evidence in this proceeding shows that PGE consistently budgets more positions than it actually fills. As a result, PGE's budget projections are an unreliable basis for setting rates. The following table illustrates the consistency of PGE's over budgeting:

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Table 2

	2002	2003	2004	2005	2006	2007
Budgeted:						
Straight time	2,643	2,570	2,549	2,562	2,603	2,652
OverTime	95	100	90	90	93	95
	2,738	2,670	2,639	2,652	2,696	2,747
Actual:						
Straight time	2,579	2,517	2,509	2,504	2,540	2,597
OverTime	108	99	113	97	126	116
	2,687	2,616	2,622	2,601	2,666	2,713
Budgeted in excess of Actual	51	54	17	51	30	34

ICNU-CUB/111, Blumenthal/5.

According to Ms. Blumenthal, "[i]f rates in this case are set using PGE's budgeted FTEs, it [is] more likely than not that a significant number of these positions will go unfilled." ICNU-CUB/100, Blumenthal/6 at 3-4. Customers should not be required to repeatedly fund unfilled positions. Furthermore, PGE has failed to demonstrate the need for these positions.

In fact, the Company could not explain how an FTE was calculated. When asked how exempt overtime is converted to FTEs, Mr. Tooman was not sure. He stated that straight time FTEs could equal the head count depending on "how you calculate it." Tr. at 50.

4. PGE's FTE Count Should be Set Based on Escalation of Historical Averages

Instead of relying on an over-inflated budget, Ms. Blumenthal based her adjusted salaries and wages on PGE's historical growth in FTEs. ICNU-CUB/100, Blumenthal/6 at 8-9. The table below summarizes PGE's actual straight time FTEs and the increase in FTEs year over year for the years 2002 through 2007.

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TABLE 3

	2002	2003	2004	2005	2006	2007
Total FTE	2,596	2,538	2,531	2,529	2,554	2,612
Office FTE	(15)	(14)	(13)	(13)	(14)	(15)
FTE, no officers	2,581	2,524	2,518	2,516	2,540	2,597
Change in FTEs from previous year		(57)	(6)	(2)	24	57
Average % growth in FTE 2004-2007						1.04%

ICNU/114 at 8; ICNU/117.

This table shows that PGE's workforce declined from 2002 through 2005, increased by 24 employees in 2006, and by 57 employees in 2007. Of course, 52 of the 57 FTE increase in 2007 represents overtime of exempt employees (converted into FTEs) who are not paid for this overtime. Ms Blumenthal used the average growth in FTEs from 2004 to 2007, 1.04 percent, in her calculation of salaries and wages for the 2009 test year. These are the only years during the last five years in which PGE actually had an expanding workforce.

Ms. Blumenthal proposed FTE numbers based on historical data for the years 2004 through 2007 for all classes of employees except officers. Because officers have realized increases that are substantially greater than all other classes of employees over the last few years, she did not include any salary increase for this group of employees. She increased the actual 2007 number of FTEs by the 1.04% and then increased that result by the same 1.04% to estimate a reasonable and necessary number of FTEs for the 2009 test year. This calculation results in an increase of approximately 39.5 FTEs over the actual 2007 number of 2,612 FTEs. She increased the number of full-time equivalents from 2,591 to 2,664, which is 42 FTEs less than PGE is currently seeking in the case. See, ICNU-CUB/113, Blumenthal/1.

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5. The Officer Count Should be Reduced from 12 to 11

PGE currently has 12 officers who are included in the test year. ICNU/130; ICNU/118. One officer, Pamela Lesh, has been loaned out to an unknown "outside agency." Tr. at 25, 14-15. There is no current plan to replace Ms. Lesh, and her function is being performed by other managers. Id. at 26. PGE apparently is able to function adequately with 11 officers, and Ms. Lesh does not appear to be providing any customer benefit. One twelfth of the officer salaries, approximately $287,000, should be removed from the calculation of PGE'srevenue requirement.

C. PGE Wages and Salaries Should be Based on Reasonable Escalation of Actual Wages and Salary Levels

1. PGE's Wage and Salary Estimates for the 2009 Future Test Year are Based on Assumptions which are Compounded by Further Assumptions

PGE bases its test year on a 2008 budget. A budget is by definition based on assumptions and forecasts. According to PGE, "…the 2009 test year forecast is based on the 2008 budget, which is escalated for inflation and updated for known and measurable changes." PGE/1400, Tinker-Tooman/13, lines 7-9. In other words, the 2009 test year is twice removed from actual 2007 results of operations. Given PGE's track record in budgeting accuracy, PGE's escalated budget is too unreliable to serve as a basis for setting rates.

2. PGE's Labor Escalation Rates Should be Rejected

PGE has four major groups of employees: officers, exempt, hourly, and union. ICNU-CUB/100, Blumenthal/8 at 5-8. Ms Blumenthal computed an average straight time wage per FTE for each of these groups using the actual straight time base wages and straight time

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FTEs for calendar year 2007. Id. PGE escalated its 2008 labor budget by applying the following "inflation" rates to determine the 2009 proposed test year amounts:

Table 4

Employee Class	Escalation Factor
Exempt	4.50%
Non-exempt	4.50%
Union	4.00%
Executive	6.00%

ICNU-CUB/103, Blumenthal/1.

In contrast, Ms. Blumenthal increased 2007 average straight time wage per FTE for hourly FTEs by 3 percent and by 2 percent for exempt and union FTEs for 2008 and again for 2009. ICNU-CUB/100, Blumenthal/8 at 9-11. As described in further detail below, she did not increase the average straight time wage per FTE for officers. Id. at 11. She multiplied her calculated 2009 average straight time wage per FTE by the adjusted FTEs to determine the adjusted 2009 annual straight time salaries and wages of $190,120,130 for 2,2652 FTEs. ICNU-CUB/113, Blumenthal/1.

In its response to ICNU DR 311, PGE indicates it is now requesting total wages and salaries of $221,372,069. ICNU/119. It appears that PGE included the 12 officers in the total number of FTEs on line 1 of Attachment 311-A and then added officer salaries again on line 2a. ICNU/119 at 2. Mr. Tooman indicated at hearing that Ms. Blumenthal's correction of this double counting was correct.

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3. The Labor Market is Likely to Loosen

PGE points out in its testimony that "[b]y 2009, one-third of PGE's entire workforce will be eligible for retirement." PGE/100, PIRO/8 at 4. Because retiring employees are generally paid much more than new hires, overall wages and salaries can decrease significantly if a number of higher paid employees retire and are replaced by lower paid employees. Also with higher unemployment looming, PGE should find it easier to locate replacements, compared to the tight job market described in PGE's testimony.

Since PGE filed this case, the U.S. has under gone a significant decline in economic conditions. This decline undermines some of the bases for PGE's rate increase. For example, PGE's wage escalation rates were justified on the basis that "PGE currently competes in an extremely tight labor market. . . ." PGE/800, Barnett-Bell/7 at 16-17. Since PGE's filing, the labor market has changed. The Oregon Employment Department reports that September 2008 unemployment was 6.4%, a 1.1% increase over September 2007. [1] Another impact from the current recessionary conditions is that customers will be less able to bear the burden of PGE's rate increase. CUB has proposed that PGE make a discretionary cut in its budget of 1%. Current conditions seem to support such a result.

4. Overtime Wages

PGE is proposing to include $12,909,269 for overtime wages in rates. PGE did not change this amount even after it lowered the total number of FTEs it is requesting. This implies that fewer employees will work even more overtime. Somehow, this seems unrealistic.

[1] The September 2008 unemployment statistics can be accessed at: http://www.oregon.gov/EMPLOY/COMM/news/september_2008_unemployment.shtml

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Ms. Blumenthal calculated overtime as a percentage of regular wages based on historic payroll information. Her overtime wages are equal to 6.158 percent of total non-officer wages. This is clearly a more realistic method for computing overtime.

D. PGE's Benefit and Incentive Costs are Unreasonable

1. The Employee Loading Rate Should be Reduced

ICNU calculated its payroll overheads by multiplying its recommended adjusted wages by the employee loading factor. This is exactly the same approach used by PGE except that the wage base used by PGE is not total wages, but some lesser amount. According to PGE, "the loading rate applies to components of labor; not all labor." Tr. at 34, line 8. Consequently, applying the loading rates shown in the table below to the total adjusted wages results in an overstatement of the costs included in the loading rate.

Table 5

	PGE	ICNU
Benefits	28.88%	28.88%
Payroll taxes	10.50%	10.50%
Incentives	5.99%	0.00%
Employee support	3.13%	0.00%
	48.50%	39.38%

ICNU-CUB/111, Blumenthal/8.

When the loading rate is computed using total wages and salaries in the denominator, the benefits rate becomes 23.6 percent. This is calculated by dividing PGE's total requested benefits of $52,505,000 by its total wages of $222,519,000. PGE 800/Barnett-Bell/12; ICNU/127. The payroll tax rate becomes 5.75 percent. This is calculated by dividing PGE's

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request payroll taxes of $12,792,769 by the same wage amount. PGE/206. When the sum of these two rates is applied to ICNU's recommended wages and salaries of $204,738,431, the reasonable and necessary overhead loading amount is $60,080,095, compared to the amount requested by PGE of $65,297,769.

Incentives should be excluded from the loading rate and applied as a separate line item to reflect changes to PGE's incentive levels. Incentive compensation does not vary with payroll; therefore, it is inappropriate to include this cost in the loading rate.

Employee support costs also should be removed from the loading rate because PGE has not demonstrated that these costs vary with payroll. PGE makes two arguments in its rebuttal to support including these costs in the loading rate, neither of which is persuasive. First, PGE states that it "described each functional area in detail in our last general rate case. . . ." PGE/1400, Tooman-Tinker/17 at 16-17. The fact that PGE "described" something in another unrelated case does not satisfy its burden of proof in this case. Second, PGE argues that the employee support department "has been in existence for a very long time and its costs were approved in UE 180." Id. at 19-20. ICNU has no objection to including the same absolute dollar amount in this case that the Commission included in PGE's rates in Docket UE 180. However, there is no evidence that indicates that these costs vary directly with payroll. Therefore, they should not be included in the payroll overhead loading rate. In fact, these costs are included in PGE's administrative and general costs as evidenced by Table 1 of PGE 500, because as Mr. Tooman explained at hearing, employee support is provided by PGE's own internal labor. PGE has double counted the costs of employee support.

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2. PGE's Cost of Incentives is Unreasonable

PGE's revenue requirement includes $14.8 million for incentive compensation. ICNU-CUB/100, Blumenthal/13 at 9-10. Ms. Blumenthal proposed to remove the cost of the stock incentive plan and all officer annual cash incentives from the test year, and to split the costs of the remaining incentives equally between customers and shareholders. Id. PGE has already agreed to remove officer and director incentives from its revenue requirement, which reduces revenue requirement by $3.9 million. PGE/1500, Barnett-Bell/3 at 6-10.

With respect to non-officer incentives, for performance-based incentives, the OPUC's practice has been to disallow 75%. Re Northwest Natural Gas Co.,UG 132, Order No. 99-697 at 45 (November 12, 1999). For merit-based incentives, the OPUC's practice has been to disallow 50%. Id.; see also, OPUC Docket No. UE 102, Order No. 99-033 at *153 (January 27, 1999) (disallowing 75% of non-officer incentives). PGE unsuccessfully attempts to distinguish these cases by arguing that its incentive plans are different. PGE/2400, Barnett-Bell/9. Those cases were based on the premise that incentives that benefit both customers and shareholders should be shared equally. Order No. 99-697 at 45. Sixty percent of PGE's test year incentives are based on "financial strength and generation plant availability," factors that undoubtedly benefit shareholders, as well as customers. PGE/1500, Barnett-Bell/10. PGE also relies on Order No. 07-015 in UE-180 for the proposition that the Commission has allowed 75% of non-officer incentives; however, that decision was the result of a stipulation. Further, PGE agreed that it would not cite the stipulation as precedent in future cases. Re PGE, OPUC Docket No. UE 180, Order No. 07-015, Appendix A at 3 (January 12, 2007).

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Ratepayers and shareholders should equally share the non-officer incentive compensation program costs. After the costs of the stock incentive plan and the officer ACI are removed from PGE's requested amount of $14.8 million, the remaining amount to be shared is $10.2 million. The reasonable amount to include in rates, therefore, is $5.1 million.

3. The Employee Discount Should be Eliminated

PGE offers a 25% discount on electric rates to full time employees, retired employees, including retired officers, and spouses of deceased retired or regular employees. ICNU-CUB/100, Blumenthal/14 at 10-13. Part-time employees who work at least 20 hours a week are eligible for a 12.5 percent discount. Id. The test year includes $885,846 for the employee discount. PGE/1202, Kuns-Cody/1. The employee discount should be eliminated for the following reasons:

- This employee discount is discriminatory because not all PGE employees live in PGE's service territory. Employee benefits should be non-discriminatory. Further, this employee benefit creates a separate customer class, which is not treated as a separate customer class in PGE's cost of service study, and for which there is no tariff.
- PGE has not supported the reasonableness and necessity of the employee discount in its rate filing. PGE has the burden to show that the employee discount is a reasonable and necessary cost of providing service to its customers, which it is not. While PGE is not prohibited from offering an employee discount, shareholders, and not ratepayers, should bear the cost.
- As a policy matter, there is no reason that PGE employees should be partially insulated from the impacts of PGE's rate increases. Therefore, the Commission should eliminate the employee discount to better align the interest of employees and customers.
- The employee electricity discount does not promote conservation among the group of employees who are eligible for the discount. All utility customers are being urged to conserve energy. Providing discounted rates to any group of customers is contrary to this initiative.

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E. PGE Officer Compensation is Out of Control

PGE's proxy statement indicates that PGE's CEO received total compensation in 2007 of nearly $2.8 million, and the average total compensation for PGE's 6 most senior officers was $880,228. ICNU/123 at 4. PGE's OPUC Budget of Expenditures Report showed that the total compensation paid to PGE's CEO for the period 2003-2007 increased by an annual average of 22.7%. ICNU/124 at 7. A comparison of officer compensation with Northwest Natural Gas and PacifiCorp shows that PGE's officers are compensated at much higher levels than other local utility executives. ICNU/125 at 4; ICNU/126 at 4. PGE admits that officer salaries should be set based on objective market standards and that the compensation of PacifiCorp and Northwest natural officer's is relevant. Tr. at 27 and 29. The compensation gap between PGE's officers and other local utility executives is troubling given the fact that a large portion of PGE's costs appear beyond its ability to control. PGE has some of the highest rates in the region (allegedly due to its resource mix) and that fact is unlikely to change. This raises the question, what exactly is PGE's management being highly compensated to do?

PGE has already agreed to remove officer incentives from its revenue requirement. PGE/1500, Barnett-Bell/3 at 6-7. Ms. Blumenthal proposed that officer's receive no wage increase from 2007, given the substantial increases in total compensation that PGE's officers have received over the last few years. ICNU-CUB/100, Blumenthal/9 at 18-19, ICNU-CUB/111, Blumenthal/6 at 9-11. PGE's proposed escalation of officer salaries for the test year is set out at ICNU-CUB/109, Blumenthal/3. Given current economic conditions, PGE's relatively uncontrollable cost structure, and PGE's relatively high officer compensation

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compared to other local utility executives, ICNU's proposal is reasonable. If PGE insists on further raising officer compensation, then this should be a shareholder expense.

F. The Commission Should Reject Staff's Proposed Rate Design Changes

Staff witness, George Compton, proposed in his direct testimony to implement seasonal rates for certain rate schedules. In particular, for Schedule 89, which applies to customers larger than 1 MW, he proposed to impose an expensive super-peak rate during the summer. Mr. Compton also proposed a higher summer season rate for Schedules 32 and 83. Staff/500, Compton/9 at 12-13, 20-23. Finally, he proposed a third inverted block rate for Schedule 7 residential customers. Id. at 16-17.

Mr. Compton's rate design proposal was based on evidence that purported to show that market prices are higher during certain peak hours of the summer than at other times of the year. In its rebuttal testimony, PGE pointed out that market prices and loads also are high in the winter, and PGE's highest peak on a weather normalized basis occurs in the winter. PGE/2000, Kuns-Cody-Lynn/3 at 11-15. PGE concluded that creating seasonal pricing and a summer super peak price signal were unwarranted. Id. at 15-16. PGE also pointed out that imposing seasonal pricing would unduly complicate the calculation and application of transition adjustments for direct access customers. PGE/2000, Kuns-Cody-Lynn/3 at 22-23; PGE/2000, Kuns-Cody-Lynn/4 at 1. Finally, PGE noted that the proposal could negatively impact agricultural and water uses, without adequate justification. Id. at 7-12. In his Surrebuttal testimony, Mr. Compton merely reiterated his argument that seasonally differentiated rates are necessary because summer prices are higher. Staff/1200, Compton/4-8.

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In its Sursurrebuttal testimony, PGE stated that Staff's conclusion that prices are higher during super peak hours during the summer was based on forward prices from a single day. PGE/2800, Kuns-Cody-Lynn/4 at 1-5. PGE looked at forward prices for the period 2003-2007 and found that prices were 10.5% higher in the fourth quarter, than the third quarter. Id. at 5-6; PGE/2801. PGE concluded that "[t]hese data are not consistent with Staff's assertion that higher prices prevail in the summer." PGE/2800, Kuns-Cody-Lynn/4 at 10-11.

Staff's rate design proposals deserve further consideration. For that reason, ICNU, CUB, PGE and Fred Meyer Stores entered into the Stipulation regarding Rate Spread and Rate Design Issues, which provides for a follow on proceeding to address rate spread and rate design for PGE. The Commission should not, however, adopt Staff's rate design proposals in this case. PGE/2801 convincingly demonstrates that the analytical basis for Staff proposal (i.e. summer having the highest prices) is not supported by the weight of the evidence. Further, there has been no study of the customer impacts that would result from this proposal. Finally, ICNU believes that implementation of seasonal pricing would unduly complicate PGE's transition adjustment mechanism. As a result, Staff's rate design proposals should be rejected.

G. The Commission Should Adopt the Stipulation on Rate Spread and Rate Design Issues

There was significant disagreement between the parties in this case over both rate spread and rate design. ICNU proposed a new method for rate spread that recognized the cost of peaking resources. ICNU's proposal was opposed by other parties; however, PGE proposed an alternative approach to address ICNU's concerns. On rate design, Staff made the seasonal pricing proposal described above, which also was opposed by other parties. It became clear that

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both rate design and rate spread needed further review, and that there was insufficient data on which to base significant changes to either rate spread or rate design. As a result, ICNU, CUB, PGE and Fred Meyer entered into the Stipulation regarding Rate Spread and Rate Design Issues, which proposes to use the rate spread and rate design contained in PGE's original filing, except for a minor change to Schedule 83. In addition, the stipulating parties agreed to request that the Commission open a docket in early 2009 to address rate spread and rate design for PGE. ICNU anticipates that this would be a formal proceeding in which the parties would retain expert witnesses. ICNU urges the Commission to approve the Stipulation regarding Rate Spread and Rate Design Issues.

IV. CONCLUSION

PGE bases its test year costs for payroll, benefits and incentives on a "bottom up" budgeting process that greatly overstates the actual costs that are likely to occur during the test year. While some of the budget was based on actual results of operations for a portion of 2007, these amounts were subject to compound escalation at exorbitant levels. PGE compounded this problem by filing inconsistent and confusing numbers throughout the proceeding. Staff, ICNU and CUB calculated their adjustments based on numbers that PGE later disclosed were inaccurate. The only conclusion that can be drawn is that even now PGE's numbers cannot be trusted.

ICNU bases its adjustments on actual historic data which has been escalated at reasonable escalation rates. ICNU's approach will produce a more accurate result than PGE's speculative budget amounts. This is particularly true given the changes in the outlook for the labor and commodity markets that have occurred since PGE filed its case. As Oregon likely faces increasing unemployment, declining housing values and a serious recession, now is not the time to raise the highest electric rates in the Northwest by an additional $160 million. ICNU urges the Commission to adopt ICNU's adjustments and send PGE a message that it needs to get serious about controlling its costs.

Dated this 24th Day of October, 2008.

Respectfully Submitted,

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Exhibit 1

Portland General Electric
Wage and Salary Comkparison
Docket UE-197

Line #		PGE	ICNU	Difference
1	# of FTEs per original filing	2,733	2,664	
2	Adjustments	(43)		
3	Previously authorized generating plant	16		
4	Officers	-	(12)	
5	FTEs excluding officers	2,706	2,652	
2	Wage per non-0fficer employee	$ 75,764	$ 71,700	
3	Total non-officer wages	$ 205,017,384	$ 190,120,130	$ 14,897,254
	Officer wages	3,445,416	2,909,600	535,816
4	OT wages	12,909,269	11,708,701	1,200,568
5	**Total wages**	**$ 221,372,069**	**$ 204,738,431**	**$ 16,633,638**
6	Portion to expense	71.75%	71.75%	71.75%
7	Payroll expense	$ 158,834,460	$ 146,905,298	$ 11,935,080
8	Payroll capitalized	62,537,609	57,833,133	4,698,558
9	Total payroll	$ 221,372,069	$ 204,738,431	$ 16,633,638

Portland General Electric
Employee Benefits, Incentive Compensation,
Payroll Taxes and Employee Support
Docket UE-197

Line #		Benefits		Payroll Tax		Incentive Comp		Employee Support		Total
1	PGE original request	$ 52,505,000	(a)	$ 12,792,769	(b)	$11,356,174	©	$ 5,795,686	(d)	
2	PGE original proposed wages	222,519,000		222,519,000						
3	Calculated "loading" rate	23.60%		5.75%						
4	ICNU recommended wages	$204,738,431		$ 204,738,431						
5	ICNU recommended amount	$ 48,309,543		$ 11,770,552		$5,111,705		$		
6	ICNU adjustment	$(4,195,457)		$(1,022,217)		$(6,244,470)		$(5,795,686)		$(17,257,829)

Payroll Adjustment	$(16,633,638)
Total ICNU Adjustment	$(33,891,467)

(a) PGE 800/WP12 (ICNU/127)
(b) PGE/206
(c) PGE 800/WP12 (ICNU/127) less PGE adjustment per Table 1, PGE/1500
(d) ICNU 312-A