BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 197

In the Matter of	)	
PORTLAND GENERAL ELECTRIC,	)	OPENING BRIEF OF THE CITIZENS' UTILITY BOARD OF OREGON
Request for a general rate revision.	)	***REDACTED***

I. Introduction

On February 27, 2008, PGE, the most expensive utility that the PUC regulates[1], filed its Pre-Trial Brief in this docket, requesting revision of its tariff schedules. PGE stated that its application for revision of its tariff schedules was different from its past applications in that it did not include adjustments for new generating facilities. Rather, PGE claimed the tariffs needed adjustment because of increasing costs for hydro re-licensing, improvements to its transmission and distribution systems, and increasing costs in the areas of regulatory and business expenses.[2] PGE is correct in stating that its application is different this time. This time, PGE's application provides little or no

[1] CUB/100 Jenks/8.
[2] PGE Pre-Trial Brief at pg. 1.

rational justification for the general non-power cost portion of the tariff adjustments that it seeks.[3]

> Staff found it very difficult to support the basis of PGE's request for an increase for the general non-power cost portion of the rate proceeding. While the rate request presented by the Company in its application for UE 197 purported to identify new programs and other changes as justification for its rate request, Staff's review did not verify those assertions.

As demonstrated above, this has been a frustrating case for Intervenors and, we believe, Staff.[4] On a number of matters, PGE has changed its theories and arguments regularly as the case has developed. And, rather than responding to Parties' concerns about certain concepts, the Company has developed new concepts and added more costs. To compound all this, PGE has frequently criticized the other Parties for their failure to make accurate calculations, only for it later to be determined that the other Parties' calculation theories were correct but that the numbers input – the numbers provided by PGE – were wrong.[5] This has led to a lot of wasted time.

These constantly shifting theories and numbers have left CUB wondering what PGE's real grounds were for filing for this tariff increase and it is CUB's considered opinion that the filing was necessitated by PGE's own failure to manage its costs.[6]

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[3] UE 197/Staff/100/5.

[4] Staff/800 Owings/9 at line 5-6 and then at lines 17-19 discussing PGE's request for more FTEs stated:

> PGE's [sic] has structured its testimony regarding this issue in an extremely convoluted manner.
> * * * * * *
> Staff can only conclude that, just as was demonstrated in its request for an increase in R & D, there is a discrepancy between what PGE has requested and what it has demonstrated in its work papers and response to data requests.

[5] PGE/197 Tooman-Tinker/8 at lines 9 – 15. "Staff's analysis is based on PGE's response to OPUC Data Request No. 203, Attachment 203-B, which unfortunately was in error when it listed actual FTEs for 2007 as 2,560." And PGE/197 Tooman-Tinker/16 at lines 1-6 "The 55.40% rate cited from PGE's errata filing (Attachment 2, page 4) is, unfortunately, due to an error on PGE's part."

[6] PGE's 2007 Results of Operations report does not suggest that the Company is financially struggling. To the contrary, with an authorized return on equity (ROE) of 10.1%, PGE's 2007 Regulated Utility ROE,

CUB does not want to see PGE rewarded for its inefficient behavior and requests that the PUC, in addition to other cost reduction recommendations made in this Brief and in the previously filed Stipulations, also step in to actively promote efficient utility operation through imposition of a cost reduction specifically for cost control purposes. The Commission has done this before (UE 88 and UE 115) and there is nothing to prohibit it from doing so now in response to PGE's filing in this case.[7]

For ease of review CUB sets forth the following outline of its arguments with page numbers for easy reference.

was 10.59%, and its Regulated Adjusted ROE was 11.58% (the largest two drivers behind the adjusted ROE being the cost removal of the Management Deferred Compensation Plan and a portion of incentive pay). PGE's net income of $145 million in 2007 was more than twice the Company's 2006 net income of $71 million. PGE has an annual power cost adjustment mechanism, the Annual Update Tariff, so the Company has no reason to file a rate case to recover increasing power costs. PGE has no major capital investment to bring into its rate base at this time, because the schedule in UE 180 was extended to bring Port Westward into rates, Biglow Canyon 1 was brought into rates in a separate proceeding, and AMI installation costs have been brought into rates through a separate proceeding. PGE is over-earning, and, after examining this rate case for months, we still do not believe it is necessary. Apart from the largely unavoidable increases in UE 198, this docket's proposed rate increase is unrelated to the general increase in energy costs both regionally and nationally, and is a sign that PGE is not managing its costs effectively. CUB/100 Jenks/ 2-3 citing to PGE 2007 Results of Operations. Cover Letter at 1., and Report at iii-iv, 6-7, and 10-11.And to CUB/102 Jenks/25 PGE Presentation – Analyst Day, June 2008.

[7] CUB/100 Jenks/6-9.

II. PGE's Proposal

A. Opening

PGE requested an authorized return on equity (ROE) of 10.75%. PGE claimed that without an increase PGE would earn an ROE of approximately 3.4%, which is lower than its currently authorized rate (of 10.1%) and, PGE claimed, below the level needed for PGE to maintain adequate credit ratings and attract capital. PGE Pre-trial Brief at pg. 2-3.

> We are requesting an increase in revenue requirements of about $146 million, which translates to an increase in our cost of service prices of approximately 8.9%. It is comprised of three major categories of cost increases. First, roughly one-third of the increase is the result of fuel and purchased power cost increases. The fuel and power markets are continuing to feel the effects of supply constraints, and PGE is directly impacted by these market forces. Had we not filed this general rate case, we would have requested essentially this amount through our Schedule 125 Annual Power Cost Update Tariff (AUT).
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> Second, a little over one-third of the increase is due to increases in Operations and Maintenance (O&M) and Administrative and General (A&G) expenses. These costs are driven by increases in the cost of labor, materials, supplies, and new compliance related costs.
>
> The final third of the increase is related to several items including: a larger rate base (e.g., the Selective Water Withdrawal Tower at our Pelton Round Butte Hydro Project and fuel inventories), higher other non-O&M expenses (e.g., depreciation and non-income taxes, such as payroll taxes and franchise fees) and a higher cost of capital.[8]

In support of its request, PGE cited things such as increased regulatory compliance needs,[9] hydro re-licensing requirements,[10] increases in power costs; cost of labor; and cost of health care.[11]

In addition to the above, PGE also proposed revenue decoupling – what PGE calls a "sales normalization adjustment."

Then, in its April 3, 2008 Errata filing, PGE stated that it had revised the $1732.7 million revenue requirement, which was already an increase of $145.9 million, through

[8] UE 197/PGE/100/Piro/1 beginning at line 18 and UE 197/PGE/100/Piro/2 ending at line 10.
[9] UE 197/PGE/100 Piro/4-5.
[10] UE 197/PGE/100 Piro/5-6
[11] UE 197/PGE/100 Piro/9-10.

addition of a further $1.3 million in expenses. This increase was due to calculation errors in PGE's original filings.[12]

B. Rebuttal

Since then PGE has updated its load forecast and increased its revenue requirement by an additional $10 million, and has updated its power costs as of July by an additional $92 million.

During early to mid-August PGE settled, by stipulation, various issues from its filing; the stipulation which is set out in Section III below, resulted in a decrease of $13.6 million.[13], [14] Contrary to what one might expect, the amount claimed by PGE as a necessary increase in revenue requirement did not decrease significantly with the filing of the Stipulations.

Then, in PGE's August 15, 2008 Rebuttal filing Mr. Piro stated that:

> [a]fter all the updates and stipulations, the estimate increase in PGE's revenue requirement for the 2009 test year is approximately $229.1 million. . .approximately two-thirds are due to power costs and all remaining costs represent approximately one-third of the increase.[15]

In the same August filing, PGE proposed to reduce its costs by $16.2 million in O&M and A&G costs for a total increase of $213 million – a 13% overall rate increase.[16] This reduction was achieved as a result of PGE accepting reductions advocated by PUC Staff – again PGE did not offer any independent voluntary reductions.[17] In October, PGE settled some additional issues by stipulation. The details which reduced revenue

[12] PGE/1300 Piro/7-8.
[13] 8-5-08 Stipulation.
[14] An additional stipulation in UE 198, reduced power costs by $5.1 million.
[15] PGE/1300 Piro/9 lines 18-21.
[16] PGE/1300 Piro/10 lines 7-8 and Table 1 and PGE/1400 Tooman-Tinker/3 at lines 13-14.
[17] CUB/100 Jenks/4 lines 1-5.

requirement by $13.2 million are listed in Section III. At the time of CUB's Surrebuttal filing, CUB estimated that PGE, in spite of any reductions it had agreed to, had in fact increased its requested rate increase by nearly $40 million from the date of case filing. This raised the projected increase in the rate to residential customers from 9.5% to 13.9%.[18]

C. Sursurrebuttal

In Sursurrebuttal, PGE accepted a number of Staff proposed adjustments, agreed with CUB that the helicopter should be removed from rates, and with ICNU-CUB that officer incentives should be excluded ($13.7 million). This now results in a revenue requirement of $160.7 million,[19] an increase of approximately $15 million over the original filing.

III. Stipulations and Litigated Issues

A. Summary of Stipulations

A series of Stipulations has already been filed in this matter. A summary of those Stipulations follows:

8-5-08 This stipulation was filed by PGE, Staff, CUB, ICNU, ODOE, and Fred Meyer to reflect agreements relating to ROE, the Tualatin Call Center Lease, fuel inventories, WECC membership, the Kelso-Beaver pipeline, and true-ups to rate base for Biglow Canyon I and Port Westward. The estimated impact of all of these changes is a reduction in revenue requirement in this Docket of approximately $13.6 million. However, the final impact on revenue requirement is unknown as it is dependent, in part, on revenue sensitive factors that are not included in this stipulation.

10-08-08 This Stipulation between PGE, CUB, ICNU, and Kroger addresses issues regarding PGE's overall rate design and marginal cost study. In the view of the Stipulating Parties, there was not sufficient opportunity to thoroughly vet all issues and

[18] CUB/100 Jenks/4.
[19] PGE/2300 Tooman-Tinker/1 at lines 16-19.

their implications. Since the marginal cost study and rate design principles contained in PGE's filing are similar to those adopted by the Commission in UE 115 and UE 180, the Stipulating Parties propose to maintain the status quo until these issues can be further studied. Therefore, the Stipulating Parties agree that for this case, with the exception in the following paragraph, it is appropriate to use the marginal cost study and rate design principles contained in PGE's filing in this docket, and request that the Commission do so.

The difference between the Schedule 83-P and 83-S facilities charge will be set at 50 cents/kW before blocking the Schedule 83-S facilities charges.

The Stipulating Parties further agreed that additional inquiry into marginal cost and rate design issues would be beneficial for future rate proceedings. Accordingly, the Stipulating Parties requested that the Commission open a new docket to address cost allocation and rate design issues for PGE early in calendar year 2009. The purpose of the new docket would be to establish the methodology for cost allocation and rate design to be used in PGE's subsequent general rate case. The Stipulating Parties agreed to cooperate to propose a schedule in the new docket that will allow the results of the new docket to be implemented in PGE's subsequent general rate case.

10-09-08 This Stipulation is between PGE, Staff, CUB and ICNU and reflects agreements concerning research and development, capital additions relating to Clackamas re-licensing and Selective Water Withdrawal at Pelton-Round Butte, the WECC Reliability Center, un-collectibles, energy audits, NERC/WECC consultant, RCM Program costs, and software upgrades. The Stipulating Parties agreed that PGE's requested revenue requirement should be reduced by approximately $13.2 million, including appropriate rate base modifications, to reflect the agreement and adjustments. However, the final impact on revenue requirement is unknown as it is dependent, in part, on the total revenues authorized by the Commission in this proceeding. For the items identified above, the Stipulating Parties agreed that this Stipulation fully resolves the issues addressed and that the Stipulating Parties will support the inclusion in PGE's revenue requirement of such expenses as adjusted pursuant to the terms of this Stipulation.

B. The Bulk of the Case is Litigated

CUB acknowledges that PGE has settled with certain parties in regard to certain matters related to this Docket. CUB does not, however, agree with PGE's position that major cost reductions have been made for the test year in the area of general non-power costs.[20] The cost reductions in the Stipulations relate to costs that should never have been included in the test year, such as the Company's proposed increase in ROE. This means that the bulk of the real issues in this case, large and small, remain to be resolved. It is CUB's opinion that the number of litigated issues remaining reflects the failure of PGE to convince the other Parties that its proposal is, in total, reasonable.[21] This failure to persuade is likely based, at least in part, on the fact that total revenue requirement increase requested by PGE has risen from $145.9 million to $160.7 million not withstanding the previously discussed Stipulations. This is a sizeable increase over the original filing – almost $15 million.

IV. Standard of Review: Who Bears the Burden of Proof?

A. PGE Bears the Burden of Proof to Show that Its Rates Are Just and Reasouable.

A review of UE 115, Order No. 01-777, demonstrates that PGE has the burden to show that proposed rates are just and reasonable.[22] That means the utility must show that the components that make up the costs in the proposed test year are reasonably likely to occur and are prudent. The test year is representative of prudent business activity going forward. General non-power costs are part of the test year. PGE's general non-power costs may well need to be adjusted to reflect prudent and reasonable business practices

[20] PGE/1300 Piro/5, lines 16-23.

> Staff found it very difficult to support the basis of PGE's request for an increase for the general non-power cost portion of the rate proceeding. While the rate request presented by the Company in its application for UE 197 purported to identify new programs and other changes as justification for its rate request, Staff's review did not verify those assertions. UE 197/Staff/100/5.

[22] ORS 757.210(1); Pacific Northwest Bell Tel. Co. v. Sabin, 21 Or. App. 200,213-214 (1975).

and economic considerations going forward. It is PGE that bears the burden throughout the rate case to show that the proposed general non-power costs are reasonable. The Commission has directly addressed this issue, by saying:

> We . . . affirm that, under ORS 757.210, the burden of showing that the proposed rate is just and reasonable is borne by the utility throughout the proceeding. Thus, if PGE makes a proposed change that is disputed by another party, PGE still has the burden to show, by a preponderance of the evidence, that the change is just and reasonable. If it fails to meet that burden, either because the opposing party presented compelling evidence in opposition to the proposal, or because PGE failed to present compelling information in the first place, then PGE does not prevail.[23]

It is not CUB's role to prove that the proposed cost is unreasonable or imprudent. It is PGE's role to show that the proposed cost is reasonable and prudent – throughout the case. Bob Jenks' Testimony on behalf of CUB, and Ellen Blumenthal's Testimony on behalf of ICNU-CUB, address the issue of why PGE's general non-power cost proposal is not reasonable and why CUB's proposed general non-power cost proposal is more accurate and reasonable. The Commission may consider this Testimony and weigh it against PGE's Testimony, but ultimately the Commission must be convinced that PGE has carried the burden of proving why its proposal is reasonable and prudent.

B. Reasonableness Is Based on Overall Rates, Not Each Adjustment.

The Commission is responsible for ensuring that PGE's customers are charged just and reasonable rates.[24] This case has gotten lost in the under-brush. Because of clear discrepancies in PGE's numbers the Parties have had to spend a lot of time beating about in the under-brush amongst the weeds trying to establish numbers that should have been easily determined and quickly reported by the Company – numbers such as current levels

[23] UE 115. Order No. 01-777 at 6 (Aug. 31, 2001).
[24] ORS 756.040(1); Pacific Northwest Bell Tel. Co., 21 Or. App. At 213.

of employees, R&D numbers, justification numbers for many costs. Lack of clear numbers makes it hard to determine a theory, or theories, upon which to make rate adjustments. But that should not stymie the decision-making process. As the PUC has noted previously:

> the validity of the determined rates rests on the reasonableness of the overall rates, not the theories or methodologies used or individual decisions made. As the United States Supreme Court explained in *Hope,* if the total effect of the rate order is not unjust and unreasonable, "[t]he fact that the method employed to reach that result may contain infirmities is not then important."[25]

In short, as PGE and the courts have previously noted, ratemaking is, and should be, a holistic process.[26] If all of PGE's numbers can not be verified through a reasonable process, then assumptions can and must be made and rates calculated accordingly. *See also* ICNU's Opening Brief Section III. Standard of Review.

C. Rather than Getting Lost in the Under-Brush, the Connnission Needs to Focus on an Overall Rate Level.

Even though CUB will, in Section V below, review certain programs (disputed issues) in this matter in detail, CUB respectfully reminds the Commissioners that these detailed reviews are set forth merely as examples/indicators of what CUB has determined is a wider failure within PGE to control its costs. The Commission must focus on the big picture — overall rate level and not get lost in the under-brush.

CUB has found throughout this case that PGE's numbers are, more often than not, unverifiable and clearly inflated. Given the excessive number of inflation discrepancies that CUB has unearthed, CUB assumes that the total amount requested by PGE is not

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[25] DR 10. UE 88 & UM 989 at p. 7-8 citing to *Hope,* 320 US at 602. See also Morgan Stanley Capital Group, Inc. v. Public Util. Dst. No. 1 of Snohomish County, 554 US ___, 128 S Ct 2733, 2738, 171 L.Ed 2d 607 (2008)("We have repeatedly emphasized that the Commission is not bound to any one ratemaking formula.").
[26] DR 10, UE 88 & 989 at p. 64.

reasonable. If, after applying its usual "Principles"[27] for review, the Commission agrees with CUB that PGE's total revenue requirement number is not reasonable then the Commission may impose an adjustment that will attempt to bring PGE's requested tariff increase to a reasonable level.

CUB proposes, and PUC Staff is supporting, a 1% revenue reduction to accomplish this purpose. CITE

V. Disputed Issues: Indicators of a Company-Wide Failure to Control Costs

ICNU has taken the lead in the calculation of employee wages, benefits, incentives and pensions as itemized in ICNU-CUB/113 Blumenthal/1. CUB thanks ICNU for its leadership in these areas. CUB adds its own additional arguments below.

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[27] DR 10, UE 88 & 989 at p. 66 [emphasis added].

> *(1) Least-cost Planning Principles.* Least-cost planning principles were first adopted by the Commission in 1989 and are designed to encourage utilities to make resource decisions that yield an adequate supply of energy **at the least cost and risk to customers.**
> *(2) Balancing of Interests.* In determining a range of just and reasonable rates, the Commission must balance the customers' interest in safe, reliable, and adequate service **at just and reasonable rates** with the utility's interest in a return "commensurate with the return on investments in other enterprises having corresponding risks."
> *(3) Utility's Financial Integrity.* The Commission must set rates that are "[s]ufficient to ensure confidence in the financial integrity of the utility, allowing the utility to maintain its credit and attract capital."
> *(4) Intergenerational Equity.* The Commission must balance customers' interests over time, known as intergenerational equity. When determining the period over which utilities will recover the costs of assets incurred to produce future benefits, as well as the period over which customers will receive the benefit of utility cost savings, **the Commission attempts to equitably allocate those costs and benefits to customers over time so no one generation of customers receives an inequitable share.**
> *(5) Rate Stability and Avoidance of Rate Shock.* The Commission sets rates with the goals of promoting rate stability over time and avoiding sudden substantial rate increases (often referred to as "rate shock").

A. Employee Levels.

PGE states that it faces three major challenges to its compensation philosophy: 1) recruiting – a lack of skilled applicants; 2) rising health care costs; and 3) an experienced but aging workforce – in other words, retirements.[28] PGE further states that increases in its FTEs between 2007 and 2009 are primarily due to: 1) additional regulatory requirements; 2) new generating plants; 3) growth in PGE's customer base; and 4) efforts to reduce overtime.[29] PGE also advised that its salaries were based on market analysis.[30]

i. Difficult to determine what current level of employment is

It seems to CUB that one of PGE's biggest challenges is its own tracking and accounting system related to employees. ICNU-CUB's expert witness had to request information from PGE several times PGE to try and ascertain the exact number of employees employed by PGE.[31] PGE prefers to use FTEs but states that: "[a]n FTE represents 2,800 hours work. . . it does not represent employees or head count so much as a level of effort needed to perform PGE's regulated activities."[32] If PGE does not know exactly how many employees it has, how can it monitor its employee costs? And without reasonable employee wage and salary numbers, how can the Commission set rates? As Ellen Blumenthal stated:

> If this Commission were to set rates based on a utility's budget, Oregon utilities would prepare budgets with few constraints. Utility rates are not set

[28] UE 197/PGE 800 Barnett-Bell/2-4. The retirement piece of this is hard to figure. If the workforce is aging and retiring wouldn't highly paid workers then be replaced by lower paid new hires thus decreasing overall wages and salaries? See ICNU-CUB/111 Blumenthal/7 at lines 4-7.

[29] UE 197/PGE800 Barnett-Bell/5.

[30] UE 197/PGE800 Barnett-Bell/8.

[31] ICNU-CUB/104 Blumenthal/1-4.PGE Data Response to No. 203; ICNU-CUB/106 Blumenthal/1-3.PGE Data Response to No. 175; ICNU-CUB/107 Blumenthal/1-3.PGE Data Response to No. 271; ICNU-CUB/108 Blumenthal/1-3.PGE Data Response to No. 272.

[32] PGE/1400 Tooman-Tinker/6.

> based on a utility's wish list. Utility rates are intended to be cost-based and, therefore, must be set based on actual costs incurred to provide utility service adjusted for known and measurable changes. Even 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.[33]

ii. Difficult to determine what level of employment the Company is seeking – it is clear that PGE has consistently over budgeted FTEs.

CUB and its witness have found that it is difficult to determine the level of employment that the Company is seeking; in its Opening Testimony, PGE stated that it wanted to add an additional 130 new FTEs - that number is now 87 new FTEs.[34],[35],[36] One thing that has become clear from a review of the PGE records is that PGE has "consistently over budgeted FTEs".[37] As Ms. Blumenthal further stated:

> If 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. Customers should not be required to repeatedly fund unfilled positions. Furthermore PGE has failed to demonstrate the need for these positions.[38]

Having employees loaned out to other entities but collecting wages and salary from PGE also renders FTE calculations more difficult.[39]

iii. ICNU-CUB witness conclusion regarding current employment level and what should be allowed in 2009

Given the unreliability of PGE's numbers Ms. Blumenthal based her salary and wage calculations on PGE's historical growth in FTEs.[40] Using this formula, Ms.

[33] ICNU-CUB/100 Blumenthal/5 lines 7-16.
[34] ICNU-CUB/111 Blumenthal/4 lines 14-17.
[35] ICNU-CUB/105 Blumenthal/1-4. Data Response No. 242.
[36] ICNU/120 Blumenthal/ 3. Data Response No. 035.
[37] ICNU-CUB/111 Blumenthal/4 lines 21-22.
[38] ICNU-CUB/111 Blumenthal/5 lines 4-7.
[39] CUB/217 Jenks/1 and ICNU/124 and 130– See references to Pamela Lesh is on loan to NRDC.
[40] ICNU-CUB/100 Blumenthal/6 lines 8-9.

Blumenthal found that PGE's workforce had declined from 2002 through 2005, increased by 25 employees in 2006 and by 6 employees in 2007. She then used the average growth in FTEs from 2005 to 2007, 0.613%, in her calculation of test year 2009 salaries and wages. These were the only years during the last five years in which PGE had an expanding workforce.[41] Her calculation resulted in an increase of approximately 31.5 FTEs over actual 2007 numbers of 2,560 FTEs.[42] When additional information was obtained from PGE, Ms. Blumenthal updated her calculation to base it upon 2,612 FTEs for 2007 rather than 2,560.[43]

B. Compensation Levels

i. Wages and salaries

PGE opposes ICNU-CUB's wage and salary proposals for four reasons. CUB will address three of those stated reasons: 1) that ICNU-CUB's proposed changes to wages and salaries would not allow PGE to compete successfully for qualified employees;[44] 2) that ICNU-CUB's expert witness did not consider historical events that affected wages and salaries; and 3) that ICNU-CUB's expert witness used incorrect data for her calculations.[45] These three statements, and PGE's other arguments, are fallacious. First, ICNU and CUB are only proposing bringing PGE's salaries in line with other local utilities, both in terms of rigorous review and financial content. Second, Ms. Blumenthal did use historical data; she looked at actual employee levels for prior years. Third, as

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[41] ICNU-CUB/100 Blumenthal/6 -7.
[42] Id. at lines 17-18.
[43] ICNU-CUB/112 Blumenthal.
[44] PGE/1500 Barnett-Bell/1 lines 16-20.
[45] Id. at lines 4-6.

soon as PGE produced what PGE claimed was the correct data, ICNU-CUB's expert witness revised her calculations.[46]

To calculate wages and salaries Ms. Blumenthal took the FTE number determined above and applied it to three of PGE's four major groups of employees: exempt, hourly, and union – officers were treated differently in her revised calculations.[47],[48] The details of her calculations are set out in her Direct and Surrebuttal Testimony. Her conclusion was that for hourly and union employees a 3% salary increase would be reasonable.[49] For exempt employees Ms. Blumenthal applied a 2% rate of increase.[50] And, finally for PGE officers, after noting that their salaries had increased disproportionately in both 2006 and 2007 compared to all other employees – and that their bonus and stock options had exceeded their salaries in 2007 – she proposed no increase in salary and wages for this group.[51]

The PUC Staff report cited in the prior footnote contains a discussion of officer compensation. That discussion states:

> Attachment 1 compares budgeted 2008 Officers' salaries and other compensation with 2007 levels for Portland General Electric (PGE or Company). *Officers' salaries show an increase of 1.0 percent while pensions and other fringe benefits indicate an increase of 239.2 percent, due to performance and restricted stock grants being amortized. Overall compensation increases by 41.9 percent.*

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[46] PGE/197 Tooman-Tinker/8 at lines 9-15. "Staff's analysis is based on PGE's response to OPUC Data Request No. 203, Attachment 203-B, which unfortunately was in error when it listed actual FTEs for 2007 as 2,560." The same data was provided to ICNU-CUB's witness Ms. Blumenthal. And PGE/197 Tooman-Tinker/16 at lines 1-6 "The 55.40% rate cited from PGE's errata filing (Attachment 2, page 4) is, unfortunately, due to an error on PGE's part."

[47] Id. at 8 lines 5-14.

[48] ICNU-CUB/111 Blumenthal/7 at lines 11-12.

[49] Id. at 9 lines 1-6.

[50] Id. at 9 lines 10-12.

[51] Id. at lines 18-19. See also ICNU-CUB/109 Blumenthal/1-3.PGE Data Response to No. 267; ICNU/124 Blumenthal/1-8 Public Utility Commission of Oregon Staff Report Public Meeting Date: March 11, 2008 recommending that PGE's 2008 Budget of Expenditures be accepted for accounting purposes only.

> *For comparable positions, salaries reveal an increase of 3.7 percent. Pensions and other fringe benefits increased by 255.7 percent, which directly relates to performance and restricted stock grants being amortized, resulting in an overall change of 23.5 percent.*
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> Attachment 2 shows salary history for the years 2003 through 2008. For comparable positions, annual average salaries increased by an average of 7.7 percent per year over the five year period.
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> Attachment 3.1 and 3.2 show officer's cash compensation, including bonuses, for 2003 through 2007. Bonuses are attributed to the year they are paid. For example, a bonus earned in 2006 is paid by the Company in 2007, and attributed (in Attachments 3.1 and 3.2) to the 2007 salary. Attachment 3.2 shows that for comparable positions, cash compensation for the period 2003through 2007 increases 10.1 percent annually.
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> *Attachment 4 shows officer's [sic] salary changes compared to Consumer Price Index (CPI) changes for the years 2003 through 2007.* Since budgets present values at the beginning of the budget year, the 2007 budget increase, for example, is shown on this table as 2006. *As of the end of the period, salaries for comparable positions are 22.4 percent higher than they would have been if CPI percentage increases had been granted during the period.* When bonuses are included, comparable positions increase by 33.8 percent more than the CPI average. In a general rate case, staff typically proposes to exclude officers' bonuses, and salary changes are limited to a percentage increase measuring cost changes, such as CPI.[52]

CUB supports Ms. Blumenthal's assessment that "[t]here is no evidence that PGE's 2009 future test year wage and salary costs represent the reasonable and necessary actual costs of operations for that future period."[53] CUB supports the recommendation for no increase in wages or salaries of officers because they are already paid a much higher rate than the local market rate would support. CUB also supports the other percentages

[52] ICNU/124 Blumenthal/1-8 – Public Utility Commission of Oregon Staff Report Public Meeting Date: March 11, 2008 recommending that PGE's 2008 Budget of Expenditures be accepted for accounting purposes only. [emphasis added]

[53] ICNU-CUB/111 Bluemnthal/3 at lines 8-10.

determined for other employees. CUB recommends to PGE the use of other local utility pay scales as a reference for calculating PGE officer and employee salaries.[54]

CUB encourages the Commission to adopt all of Ms. Blumenthal's recommendations for changes to wage and salary levels.

***ii*. Incentives**

PGE claims that its incentives program benefits customers and shareholders because it allows PGE to attract, retain and motivate qualified employees.[55]

CUB's witness Ellen Blumenthal reviewed PGE's payroll costs which include employee benefits, pension costs, incentive compensation and payroll taxes. Based on Ms. Blumenthal's review of these costs, CUB will focus its arguments on incentives. CUB respectfully requests that the Commission adopt the other recommendations made by Ms. Blumenthal, as set forth in ICNU-CUB/113 Blumenthal/1, notwithstanding CUB's choice not to discuss all of them in its Opening Brief.

PGE has several stock incentive programs including the Corporate Incentive Program (CIP) and the Annual Cash Incentive Program (ACI). It also has a Notable Achievement Awards Program and a Miscellaneous Awards Program.[56] CUB's witness Ellen Blumenthal determined that all stock incentive plan costs, and all officer Annual Cash Incentives should be excluded from rates charged to customers. This determination was based on the fact that making Company Officers into shareholders likely caused the Officers' primary motivations to become focused on increasing the price of the Company's stock. Because the ACI plan primarily benefits shareholders, and not

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[54] ICNU/125/Blumenthal/1 - 6: PUC Staff report for Public Meeting August 26, 2008 pertaining to Pacific Power and Light officer remuneration; ICNU/126/Blumenthal/1-6: PUC Staff report for Public Meeting June 10, 2008 pertaining to NW Natural officer remuneration.
[55] PGE/1500 Barnett-Bell/13 at lines 17-20.
[56] UE 197/PGE 800/Barnett-Bell/9-11.

customers, the cost of the plan should be borne by shareholders, and not by customers.[57] PGE has agreed in its Surrebuttal to the removal of officer incentives.[58]

CUB respectfully recommends that, in addition to the agreed removal of officer incentives, all stock incentive plan costs for all employees be excluded from rates. Removal of the $4.6 million in stock incentive and officer annual cash incentives from PGE's requested rate of $14.8 million leaves $10.2 million to be shared between customers and shareholders. The reasonable amount to include in rates is, therefore, $5.1 million.[59]

iii. Employee discount.

PGE states, among other things, that giving its employees this discount is just like a retail store giving its employees a discount on products that it sells.[60] CUB begs to differ. First, common knowledge tells us that most retail store employees in Oregon do not earn $75,000 per year – see argument below. Second, such employee entitlement is not likely to be based on where an employee lives. Third, a customer who does not like a store policy related to employee discounts does not have to move his or her house in order to obtain the services of an alternative retailer as is the case of a power customer.

The PGE Employee Discount requires customers to subsidize approximately 2,521 PGE employees' energy bills.[61] Persons receiving the employee discount actually include full-time employees, retired employees – including retired officers, certain part-time employees and spouses of deceased, retired or regular employees.[62] Given that the

[57] ICNU-CUB/100 Blumenthal/13 lines 9-16.
[58] PGE/1500 Barnett-Bell/3.
[59] ICNU-CUB/100 Blumenthal/13-14.
[60] PGE/1500 Barnett-Bell/26 at lines 11-13.
[61] CUB 121/Jenks/1; PGE Exhibit/1505 Barnett.-Bell/1; PGE Exhibit/1506 Barnett-Bell/1.
[62] ICNU-CUB/100 Blumenthal/14 lines 10-13 and ICNU-CUB/110 Blumenthal/1-3.PGE Data Response to No. 275.

average customer income in Oregon in 2007 was $34,784,[63] and that the average PGE employee wage for those eligible for the subsidy was $75,764,[64] this subsidy seems particularly unfair and unjustifiable. And, in addition to being unfair and unjustifiable, when viewed in light of rate-paying customers' salaries, it is also unfair because the rate paying customer is paying for employees who may be conducting unregulated activities,[65] and because other employees in the Company can not, by virtue of where they live, qualify for the subsidy.[66] CAPO's Jim Abrahamson also opposes continuation of the employee discount in its current form.[67]

Also noteworthy is the fact that:

- PGE does not include this as a benefit when it does its compensation studies to determine the level of compensation necessary to attract employees and provide service.
- Requiring customers to subsidize unregulated functions of the Company violates long-standing principles that govern utility rate making.

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[63] CUB/100/Jenks/43 fn.72.

[64] CUB/100/Jenks/43 fn.73; ICNU/118 Blumenthal/1PGE Data Response to No. 088.

[65] PGE Exhibit/1507 Barnett-Bell/1 PGE response to CUB Data Request No. 082 " PGE does not distinguish between regulated and unregulated activities for purposes of the employee discount."

[66] ICNU-CUB/100 Blumenthal/14:

> This employee benefit is discriminatory because not all PGE employees live in PGE's service territory. . . Employee benefits should not be discriminatory.

[67] CAPO/100 Abrahamson/3:

> If PGE wishes to continues this employee benefit program, or if it is part of a negotiated union agreement, then the Company might want to consider funding it with corporate rather than ratepayer funds. If the discount program is continued the Commission might also wish to consider ordering a third-party comparison of the electricity use patterns of PGE employees who receive the discount with other similarly situated PGE customers who do not in order to identify potential differences in usage patterns and evaluate potential causes. Eliminating the employee discount may be an easy and cost effective way for PGE to generate needed energy and demand savings and help reduce the carbon footprint of the Company's employee base.

> Customers should not be required to pay for a cost that is not necessary to the provision of service.[68]

CUB hopes that requiring employees to pay their full PGE bill will create an incentive within PGE's workforce for efficiency.[69]

While the $885,846 cost of this benefit is relatively small, it is a hidden cost that could and should be avoided.[70] CUB's Surrebuttal proposes phasing out the employee discount entirely.[71] Even PGE recognizes that there are issues with this subsidy and proposes its own phase out plan.[72] The problem is that PGE's phase out plan would take decades. If the Commission decides to phase out the subsidy, rather than eliminating it from rates, CUB suggests phasing out the subsidy over a period of five years.

iv. CUB's recommendation regarding wages, salaries, necessary payroll related costs.

CUB has found in researching this issue that the more CUB reads, the more dumbfounded it becomes by PGE's lack of rigorous oversight in the area of employee compensation, wages, benefits, subsidies, etc. CUB is concerned that PGE is, among other things, overspending on officer salaries through failure to peg salaries to the local market, and is over-budgeting on benefits due to budgeting for employees that do not, and may never, exist. ICNU-CUB's expert witness, Ellen Blumenthal, originally

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[68] CUB/100 Jenks/42-43; ICNU-CUB/100 Blumenthal/14-15:

> 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 the employee electricity 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.

[69] CUB/100 Jenks/43.
[70] ICNU-CUB/100 Blumenthal/15 at lines 4-6.
[71] CUB/200/32.
[72] PGE/2400 Barnett-Bell/18.

recommended in her Direct Testimony that PGE's total wages and salaries of $222.5 million be reduced by approximately $19 million to $203.5 million. She further recommended that the reasonable and necessary payroll-related costs that should be included in rates is $85.3 million rather than the $123.3 million proposed by PGE. The total impact of these adjustments was a reduction in PGE's filed revenue requirement of $57 million [73] After the revision of the calculation in her Surrebuttal Testimony the figures are: $205 million for total wages and salaries and $85.8 million for reasonable and necessary employee costs. This represents a recommended reduction in PGE's revenue requirement of $36,542,606. CUB recommends the adoption of these figures.

C. Boardman Simulator.

i. Background.

In response to higher off-site training costs, PGE decided to consider installing a plant simulator at Boardman that would allow them to do training on-site:

> Training for plant staff is critical to maintain high reliability. In the past, PGE sent Boardman employees off-site for training; however, due to an uncontrollable change in service providers, the costs for Boardman training were expected to increase over 350%, from approximately $60,000 up to $272,000 per year. The initial proposal for the Boardman simulator was approved in August 2005 as a response to these increased costs and to maintain plant reliability.

CUB Exhibit 107 at 1-2.

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When PGE first looked at the project in August 2005, it was expected to cost [redacted]. However, the cost soon began rising. In August 2006 (Revision 1), the

[73] ICNU-CUB/100 Blumenthal/2 lines 10-15 and ICNU-CUB/102 Blumenthal/1-2.

expected cost had increased to [redacted]. In February 2007, the projected cost had increased to [redacted], and in March 2008, it was projected to be [redacted].[74]

After Revision 1, where the cost increased by [redacted] from the original proposal, PGE undertook a study to determine the economic benefits of the simulator, and found that the investment was cost effective with a payback period of less than 5 years. After the cost increased by an additional $1 million, the Company recognized that it no longer had a payback period of less than 5 years, but decided to pursue the simulator anyway:

> After Revision 1 in August 2006 the project had a 4.88 year payback period. In February 2007, PGE increased the project cost by an additional $0.6 million for the simulator and a further $0.4 million to increase the size of the building for Boardman offices and storage. With these additional costs, the project was not expected to have an economic payback of less than 5 years; however, it was still considered a critical part of training, reliability and safety.

CUB Exhibit 107 at 1-2. Boardman Simulator Data Response.

ii. The cost/benefit analysis that determined Revision 1 was cost effective modeled the reliability benefits of the simulator.

When the cost of the project rose to $1.5 million, PGE decided to conduct an analysis of the benefits of that investment. The analysis looked at the savings in training costs and the increased reliability of the plant:

[redacted]

CUB Exhibit 108 at 2. CRG Summary of Boardman Simulator.[75]

[74] CUB Exhibit 108 at 1. CRG Summary of Boardman Simulator.
[75] PGE Exhibit 2602C Quennoz/13.

Specifically, PGE believed that the improvement in training from the simulator would reduce forced outages due to operator error and that this would reduce the overall forced outage rate by [redacted][76]

END CONFIDENTIAL

iii. PGE misrepresents the analysis and argues that because the additional $1 million improved reliability, there was no reason to revisit the analysis.

In its Rebuttal Testimony, PGE claims that the analysis we cited was an analysis of the benefits "in addition to reliability" and that there was no need to revisit the analysis after costs increased because the project was being pursued for the purpose of reliability:

> The original version and the subsequent revisions of the project profile for the simulator at Boardman have always been approved on the basis of reliability. An economic valuation was performed in the original version of the project profile and subsequently updated in revision one of the project to understand what benefits in addition to reliability would be obtained from the simulator at that point; however, the project was always pursued on the basis of reliability.

UE 197/PGE/1800/7.

PGE is claiming that the economic analysis was looking at the benefit "in addition to reliability," but that economic analysis modeled the reliability benefits by adjusting the Forced Outage Rate. After the cost increased another $1 million, PGE did not bother to update its modeling; instead they simply declared that its purpose was reliability. The Company seemed to believe that cost-effectiveness no longer was relevant.

iv. PGE claims that much of the additional cost was unrelated to the simulator.

In Sursurrebuttal Testimony, PGE claims that the addition $1 million that was not found to be cost effective is only partially related to the Boardman Simulator. A

[76] CUB Exhibit 108 at 2; PGE/197 Exhibit 2602C Quennoz/19.

significant portion of it is an increase in office space associated with "the addition of pollution control through the BART process."[77]

Of course, there is no evidence on the record of this case to suggest that "the addition of pollution control through the BART process" is currently used and useful or that those costs are prudent. If some of the capital costs that PGE claimed were related to the Boardman Simulator are actually related to the BART process, then recovery of those costs are clearly premature.

v. The Commission should allow recovery of the costs that were found to be cost effective, but should not allow recovery of the costs that were not found to be cost effective.

While acknowledging in Sursurrebuttal Testimony that some of the costs of the Boardman Simulator are not related to the Boardman Simulator, PGE still states that the "entire cost of the Boardman Simulator is necessary and critical to maximizing the value of the plant. The entire cost of the simulator should be included" in rates.[78] However, the evidence in this case does not support PGE's request.

There is evidence that the first $1.5 million is a cost effective investment that will reduce training costs and increase reliability. The improvement in reliability has been forecast and the UE 198 net power cost stipulation passes these benefits through to customers.

The additional $1 million, however, has not been found to be cost effective. This includes $400,000 that is unrelated to the simulator, is not used and useful, and has not been found to be prudent. The Commission should reject adding the $1 million cost to rate base.

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[77] PGE/2600/7.
[78] PGE Sursurrebuttal 2600/9.

D. Generation Excellence.

i. Background.

The Generation Excellence Program is a list of activities that the Company intends to undertake at its generating plants. The Company claims that the program is built around four "cornerstones": safety, process improvement, human performance, and plant reliability.[79] The 2009 cost of the program is forecast as $1.2 million.[80] Of this, $0.9 million is for additional employees.[81]

ii. PGE has provided no analysis that supports finding this program to be cost effective.

CUB asked the Company to provide its analysis of the program, but what we got back was a list of actions at each plant, with little or no analysis of the benefits of those activities:

> The Generation Excellence 2008 presentation, provided as CUB Exhibit 115,[82] provides a structural list of actions to be completed and makes clear that the Generation Excellence Initiative will require adding several new employees, but offers little analysis of either the costs or the benefits which would allow the Company (or anyone else) to evaluate the prudence of the Initiative.

CUB/100/27.

We followed up and asked the Company to:

> Please provide a copy of the proposals (analyses, memos, and all other documentation) that was considered by Jim Piro, the Officers, and the Board of Directors concerning this new program.
>
> b. How does this program benefit customers?

CUB Exhibit 116, page 1.

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[79] PGE/1800/2.
[80] PGE/1800 Quennoz/4 at line 11.
[81] Id. at lines 21-22.
[82] The background pictures have been removed for readability.

In response, PGE provided us with two Power Point presentations. The first had already been provided in response to our earlier data request. The second was one that had been provided to the Board of Directors "for informational purposes only." It includes forecasts of costs which the Company claims are "preliminary estimates and many were subsequently revised." [83]

In response to the second part of our question, PGE provided the following:

> As discussed in PGE Exhibit 400, page 17, the Generation Excellence initiative benefits customers by improving safety, employee performance, plant reliability, and work processes. The increased training will help minimize the likelihood of outages due to operator errors and improve maintenance program implementation at our thermal and hydro plants.

CUB Exhibit 116 at 2.

PGE claims this will increase safety, employee performance, plant reliability and work processes, but offers no analysis to support this claim.

iii. Improved plant reliability can be modeled.

As we showed above, with respect to the Boardman Simulator, improved plant reliability can be modeled. An increase in reliability should be reflected in a decrease to a plant's forecasted Forced Outage Rate. If customers are paying costs that are supposed to increase the reliability of a plant, then they should receive the benefits of that plant's improved performance. But with no analysis to support the claim that these costs will improve the plant's reliability, there is no basis to provide customers with the corresponding benefit.

iv. PGE wants to increase staff at its generation plant. The Benchmarking by TPG suggests that PGE's generation plants are overstaffed.

[83] CUB Exhibit 116 at 1.

When Texas Pacific Group (TPG) attempted to purchase PGE, they benchmarked PGE's performance and found that PGE's generation plants were overstaffed. CUB was concerned that TPG would endeavor to cut costs in a manner that might reduce performance.

> CUB Exhibit 105 is an August 20, 2003, memo which examines PGE's generating facilities. It argues that turbine overhauls at Boardman occur too frequently, that Boardman is overstaffed and that Boardman O&M can be cut by 5 to 10%. It suggests that Beaver should rely more on outsourcing "anything beyond basic daily maintenance" and that a simple retrofit will allow the combustion inspection maintenance intervals to extend from 4,000 hours to "as long as 10,000 hours." Finally, it concludes that PGE's hydro operations "are over staffed by as much as 25%," and that capital expenditure "commitments to the re-licensing efforts should be thoroughly reviewed for cost reduction opportunities."

UM 1121 CUB/100/ Jenks-Brown/11.

While we were concerned that TPG might be overaggressive at cutting costs at PGE's generating plants based on its benchmarking, this does not mean that we should instead increase staffing at PGE's generating plants. TPG plans to reduce PGE's employment at generating plants were supported by analysis. PGE's plans to increase staffing, at the same facilities, is not supported by any analysis.

v. PGE claims only 10% of the Generation Excellence Program is Incremental in 2009.

PGE claims that most of the Generation Excellence Program costs are not incremental. The Company began incurring the costs in 2008, and only 10% of the costs are new to the 2009 budget.[84] For the purposes of this rate case, this information is irrelevant. The Generation Excellence costs were not included in UE 180, PGE's last general rate case, which used a 2007 test year. The costs of this program have never been before this Commission and have never been found to be prudent. This case should

[84] PGE/1800/4.

review the prudence of new costs that have been added since that rate case, not just costs that are added in 2009. Put another way, a utility is not allowed to avoid a prudence review of a new program by adding the costs between rate cases so they are not considered "incremental" to the next test year.

vi. Much of the cost of the Generation Excellence Program is labor and can be included in a labor adjustment.

There are two parts to the Generation Excellence Program: $900,000 in additional labor costs and $300,000 in other costs. The labor increase is one of many increases in personnel that PGE is proposing in this case. In their Opening Testimony PGE claimed that the case included 130 new positions above what was contained in the 2007 budget.[85] While they have backed off the request to add 130 new positions, the Company is still asking to add significantly to its staffing levels.

If the Commission adopts a significant labor adjustment[s], such as is proposed by ICNU-CUB witness Ellen Blumenthal, then it does not need to adjust the employee levels for the Generation Excellence Program. Typically, the Commission sets rates based on a particular level of employees, but does not tell the Company what jobs these employees should work. Both Ms. Blumenthal, and PUC witness Carla Owings, propose significant adjustments to PGE's forecasted staffing levels. Adopting either adjustment would reduce the employee levels to a reasonable increase since 2007 and, as such, would make an additional labor adjustment unnecessary.

If the Commission does not make these significant adjustments to the Company staffing levels, then the Commission should eliminate the $900,000 associated with new

[85] PGE/800/5.

staff in the Generation Excellence Program, since PGE has failed to offer evidence that these new employees provide a benefit to customers.

vii. The Commission should remove the non-labor costs associated with the Generation Excellence Program.

However, regardless of other adjustments, the Commission should eliminate the $0.3 million associated with the non-labor piece of this program. PGE has failed to offer evidence that the costs will provide customer benefits.

E. Customer Focus Initiative.

i. Background.

The Customer Focus Initiative is PGE's attempt to enact "long-term cultural change to become more customer-focused."[86] According to the Design Team Report, the Customer Focus Initiative is an attempt to define the culture that the Company wants to set in the wake of its split from Enron.

> In November 2005, the PGE officer team anticipated emerging from a period of ownership uncertainty, permitting the company to more proactively set an agenda for improvement, and selected customer-driven-culture as one next best pursuit of excellence. In June 2006, the officers commissioned a management team to design and propose a way forward.

CUB Exhibit 106 at 2.

PGE claims that the "ultimate outcome will be improved reliability, service, and cost efficiency."[87] PGE makes a similar claim to investors stating that the goal of the Customer Focus Initiative is:

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[86] CUB Exhibit 105 at 1.
[87] PGE/1700/6 at lines 8-9.

> Continuous process improvements focused on improving customer interactions and cost efficiencies to achieve increased customer satisfaction.

CUB Exhibit 102 at 8.

ii. But the Customer Focus Initiative is not focused on cost efficiencies.

We asked PGE to provide us with all documents "describing, guiding, or governing" the Customer Focus Initiative. In response, PGE provided the Customer Focus Initiative Design Team Report, provided as CUB Exhibit 106. This report is more than 30 pages long, and does not once mention minimizing customer rates, cost efficiencies, cost control, or anything else to suggest that PGE's focus on customers might involve a focus on controlling the rates that PGE charges its customers.

Instead the initiative is designed around two primary principles:

- Be the Beam
- Play for the Leave

CUB Exhibit 106 at 5.

How a corporate culture built around these principles will benefit customers is unclear to say the least.

In its Rebuttal Testimony, PGE criticizes us for using the Design Team Report rather than the Facilitator's Guide, which PGE claims "reminds trainers about cost efficiency."[88] PGE backs up its claim by including 2 quotes from the Facilitator's Guide, but does not include the actual guide, which places the quotes in context.

In our Surrebuttal Testimony, we include the entire Facilitator's Guide as Exhibit 212 and conclude that:

> A review of the Facilitator's Guide, just like a review of CUB Exhibit 106, the Design Team Report, demonstrates that the Customer Focus

[88] PGE/1700/9.

Initiative does not focus on cost control and efficiency in a meaningful way.

CUB/200/25.

At best, cost control and efficiency is a minor part of the Customer Focus Initiative. At its core, the Initiative is an attempt to build a new corporate culture built around serving "customers" without offering anything new to customers. It is filled with corporate buzz words which attempt to motivate employees, but without any core focus. The design report identifies the following as what the Initiative is about:

- WE AIM TO GO FROM GOOD TO GREAT
- THIS BUILDS ON STRENGTH
- IT IS ABOUT CULTURE
- IT IS ABOUT BUILDING CAPABILITY
- IT'S A MULTI-YEAR PURSUIT
- WE ALREADY CARE --This goes with the grain of why people want to work at PGE
- WE ALL HAVE A ROLE --We all impact paying customers

CUB Exhibit 106, page 3.

As we said, it is built around the concepts of "be the beam" and "play for the win" which are described as the following:

BE THE BEAM

We want to ....

- build an organization that naturally, continuously self-improves, rather than spearhead a few improvements.
- stimulate the organization to have ideas, not just have ideas ourselves
- lead differently (eg. sponsoring, guiding, challenging, supporting, seeding), "**servant leader**"
- leverage our leadership contribution, get leadership satisfaction as organization builders, not as doers

PLAY FOR THE LEAVE

We want to ....

- Create conditions and capabilities that are lasting, sustainable ("give 'em a fishing pole").
- View leaders' contribution not as making improvements, but rather improving the improvement process.
- Leave a legacy of greater capacity to improve.

CUB Exhibit 106 at 5.

iii. The Customer Focus Initiative should be removed from rates.

Normally, a program that is focused on corporate culture would be evaluated to determine whether it was focused on providing benefits to customers (rates, service, efficiency) or shareholders (earnings). If its design is primarily focused on a culture of providing benefits to customers, it would be allowed in rates, whereas, if its focus was primarily about benefiting shareholders, it would not be allowed in rates.

Despite its name, the Customer Focus Initiative is not designed to provide any specific benefits to customers – at best it is an attempt to have employees listen to customer complaints.[89] It is not clear that it is designed to improve earnings and benefit shareholders either. Our conclusion is that it is a poorly designed program that provides little or no benefit to employees, customers or shareholders.

The cost of the initiative in the 2009 test year is $300,000[90] and the Commission should remove that amount from rates.

PGE believes that this program which is still in its infancy will yield cost savings, cost efficiencies and cost avoidance. PGE has failed to show that it is currently oriented to produce any of these outcomes and provide any benefit. If, in its next rate case, the Company can demonstrate that the initiative is focused on costs, and is producing results, then the Company can propose it at that time.

F. Helicopter

i. Background.

BEGIN CONFIDENTIAL MATERIAL

PGE's original filing included adding the costs of a new $2.4 million helicopter into rates.[91] CUB challenged this in our Direct Testimony. CUB demonstrated that based on the number of hours PGE actually flew its current helicopter in 2006 and 2007, that it would be cheaper for the Company to outsource its helicopter.[92] PGE disputed this, arguing that outsourcing the helicopter would have the same cost regardless of how many hours were flown.[93] However, this is contradicted by the bids that PGE received for outsourcing the helicopter. PGE Exhibit 1604 shows that while the bid included some fixed costs, it also included an [redacted], a [redacted] and an [redacted]

[89] CUB/106 Jenks/ 18.
[90] PGE/1700 Hawke/8 at lines 11-13.
[91] CUB/109 Jenks/1.
[92] CUB/100/18-20 and CUB/112 Jenks/1.
[93] PGE/1600 Hawke/17-18.

[redacted].[94] PGE's claim that there is no difference in cost regardless of the number of hours is inconsistent with the facts.

END CONFIDENTIAL MATERIAL

However, PGE now believes that the new helicopter will not be placed in service during 2009, so we do not have to resolve whether outsourcing the helicopter is cheaper than purchasing a new one.[95] However, the underlying issue, of how many hours a helicopter will be used by PGE, still remains as a disputed issue.

ii. PGE continues to forecast 250 hours of helicopter flight time, when the evidence demonstrates this is unlikely.

In 2006, PGE flew the helicopter for 154 hours. In 2007, PGE flew the helicopter for 164 hours. This includes flights that were not for regulated purposes and flights that were for maintenance of the helicopter, not for maintenance of PGE's transmission system. Over those two years, the Company averaged 145 hours of flight time related to maintaining their transmission and distribution system.[96] In their Rebuttal Testimony, PGE claimed that flight time was reduced due to the age of the helicopter and the health of the pilot. PGE projected that in 2008 they would use the helicopter for 225-250 hours and in 2009 they would use it for 250 hours.[97]

In their Surrebuttal Testimony, PGE revised these figures. Their new estimate for 2008 is 205 hours and their new estimate for 2009 is 225-250 hours.[98]

[94] PGE/1604/1.
[95] PGE/2300 Tooman-Tinker/6; PGE/2500/Hawke/10 at lines 4-7.
[96] CUB/100/18-19.
[97] PGE/1600/14-15.
[98] PGE/2500/11.

Year	Actual flight hours	PGE estimate – Rebuttal	PGE estimate -- Surrebuttal
2006	154		
2007	164		
2008		225-250	205
2009		250	225-250

Even PGE is no longer forecasting 250 hours of flight for their helicopter in 2009. They are, instead, forecasting 225-250 hours. This is identical to the forecast for 2008 in their Rebuttal Testimony. However, that 2008 forecast has been revised down to 205 hours. Based on the actual flight history in 2006 and 2007, and the flight projection for 2008, projecting 225-250 flight hours in 2009 seems rather optimistic.

PGE opposes reducing the estimated flight time for their helicopter in the UE 197 revenue requirement below 250 hours, even though they now admit that the helicopter may only be used for 225 hours. PGE claims that this is a small amount of money – that the difference between 205 hours and 250 hours is $16,000.[99] But PGE admits that the helicopter may fly less than 250 hours. PGE's unwillingness to accept a small adjustment in revenue requirement that is supported by its own Testimony contributes to CUB's belief that the utility is not trying to control rates.

In Surrebuttal Testimony, CUB recommended that the Commission use a three-year average as the forecast of flight time for the helicopter: 2006, 2007 and PGE's

[99] PGE/2500/11.

projection for 2008. Such an approach would allow for 175 hours of helicopter flights in 2009, and would require a revenue reduction of $26,000.[100]

VI. PGE Claims That It Is Trying To Control Costs: But PGE Offers Little Evidence To Support This Claim.

As CUB witness, Bob Jenks, stated in CUB's Surrebuttal Testimony, PGE's Rebuttal again failed to tell the story of a company working to control costs. PGE's Rebuttal did not offer any meatier evidence to the effect that it was a company trying to control its costs, or that it had a culture dedicated to controlling costs, or that it had a strong review process for costs, or that it had taken any steps to control costs in 2009. Instead PGE fell back on its prior arguments about AMI savings in 2010,[101] and claimed that its financial position would be weakened if the recommended revenue reductions were made.

A. PGE Falls Back On AMI As Its Primary Cost Saving Activity.

PGE criticized CUB for not addressing AMI in its Opening Testimony when PGE felt it was the primary cost savings activity of the Company. CUB did not originally address AMI because it has no impact on the 2009 test year. But, after PGE's criticism of CUB, CUB decided to make additional data requests for AMI information; PGE's response to those requests was that the AMI data was not relevant since AMI was not part of this case.[102] Fearing PGE would change its mind again, CUB reviewed the data provided and determined that, were it in fact relevant to the case, the projected $1.5

[100] PGE identifies the cost of the helicopter as $345/hour. PGE/2500/11. A 75-hour reduction would translate into a revenue requirement reduction of $26,000.
[101] CUB/200 Jenks/2 lines 8-13. CUB 200 was erroneously marked CUB 100 at the time of filing but was corrected by affidavit.
[102] CUB/204 Jenks/1 PGE response to CUB Data Request No. 108.

million average annual expected benefit of AMI was likely overstated.[103] PGE in Sursurrebuttal states that it has determined that AMI, "is not a component of, or relevant to, this docket."[104] CUB is glad PGE now agrees with CUB.

B. PGE Claims That Its Financial Position Will Be Weakened If The Recommended Revenue Requirement Reductions Are Made.

James. J. Piro, in his Rebuttal Testimony, states that to the extent that PGE cannot match the proposed reductions in revenue requirements with reductions in costs, PGE's earnings will be reduced below authorized levels, its balance sheet will suffer, and the effect will be magnified by SB 408's "double whammy."[105] But such an outcome is far from certain and is, in fact, quite unlikely. If PGE is required to make the revenue reductions, and then reduces its costs, then PGE would hit its targeted ROE. However, given PGE's Company-wide over inflation of costs, it is more likely that PGE's actual costs will turn out to be less than projected which would add dollars to its ROE raising the ROE to a level that is above the authorized amount.[106] PGE, contrary to Mr. Piro's statement, would be insulated from any negative to this benefit by SB 408's double whammy; customers would be required to pay a surcharge for the additional taxes caused by the increase in income. The benefits would then flow to shareholders instead of customers. Given the circumstances listed above, it is hard to see how PGE's financial position will be weakened if the proposed revenue requirement cuts are made.

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[103] CUB/205 Jenks/1; CUB/200 Jenks/10-12.
[104] PGE/2200/Piro/9.
[105] PGE/1300/Piro/5 at 1-5.
[106] This circumstance could happen because PGE is allowed to forecast costs higher than they are likely to be (such as the projection for flying the helicopter for 250 hours); or it could happen because PGE seeks to cut costs and find efficiencies, but does so only after the rates have been established in this case (such as deciding - after rates are set - that it does not need the new personnel it budgeted and that those positions should remain vacant)

C. PGE's Costs Are Rising At The Same Time That Unemployment Is Rising.

While the CUB adjustments for the helicopter, the Boardman Simulator, the Generation Excellence non-labor costs, and the Customers Focus Initiative each is not large, they point to a utility which is not controlling even the small costs, much less the larger ones. Under normal circumstances, this would be troubling, but in the context of this case, this a serious issue that must be addressed by the Commission.

PGE is expected to double its rate-base in the next five years, which will put significant upwards pressure on rates. In a presentation to investors in June of 2006, PGE stated that it planned to add $2.3 billion in capital additions between 2008 and 2012. This would double the current average rate-base of $2.37 billion.[107] PGE estimates that the Boardman Clean Air expenditures will be between $300 and $400 million, but could be as high as $620 million. Biglow 2 and 3 will add an additional $740 to $780 million to PGE's rate-base.[108]

At the same time, Oregon's economy has hit a rough spot. When PGE filed this case, employment in Oregon was at its peak. By the time CUB filed its Surrebuttal Testimony, Oregon had lost 11,000 jobs and unemployment had increased to 6%.[109]

There is little doubt that PGE's capital investment over the next few years will push rates up, at a time when customers are struggling to pay their bills. PGE should be making every reasonable effort to control its costs, in order to allow customers to absorb these capital costs as they are added to rate-base. But there is little evidence in this case that the Company is making such an effort.

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[107] CUB Exhibit 102 at 29 and 30. PGE Presentation – Analyst Day, June 2008.
[108] *Id.* at 13 and 15.
[109] CUB/200/4-5 and CUB/201 Jenks/1.

CUB began this case, in its Direct Testimony, by pointing out that all of the cost savings that the Company could identify in its Opening Testimony added up to less than $1 million:

> PGE estimates it has, through business efficiencies, saved $980,000 annually through discontinuing a vendor maintenance agreement, switching its email system from GroupWise to Outlook, and implementing a process that converts paper checks to electronic payments.[110] For a requested increase of $147 million and an ultimate revenue requirement of $1.7 billion, PGE coughed up less than $1 million in annual cost savings, approximately 6/100[ths] of 1%.

CUB/100/24.

Unfortunately, here we are several months later, and little has been added to this list. PGE has settled a handful of issues that were raised by the parties, but PGE has not added any significant savings.[111] Instead, PGE is arguing that there are no discretionary costs in its budget to cut. PGE/2200/ 5.

D. PGE Acknowledges "Tough Times" But Fails To Take Constructive, Cost-Cutting Actions.

In the Company's Rebuttal Testimony, the Company acknowledges that the economy is experiencing tough times and that the Company should evaluate whether it can adjust any costs and "defer some costs":

> We fully appreciate that the current state of the economy and rising costs are major concerns for our customers. Like any business, we understand that in tough times we must evaluate whether a given expenditure needs to be made now, or if a greater benefit can be achieved by deferring costs to a later time... Some costs can and should be deferred in a tough economy.

UE 197/PGE/1300/2.

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[110] UE 197 PGE/100/Piro/11-12.

[111] CUB/114 Jenks/1 PGE Response to CUB data request No. 009; CUB/202 Jenks/1 PGE's response to CUB data request No. 110; CUB/203 Jenks/1.

> Even as this rate case proceeds, PGE is constantly looking for efficiencies, more effective strategies to control costs, and opportunities to leverage market forces to our customers' advantage.

UE 197/PGE 1300/4.

As CUB points out in its Surrebuttal Testimony, acknowledging that in tough times the Company should take action to defer some costs is meaningless, if the Company does not actually take any constructive cost-cutting action to control its costs.[112] But instead of doing what it claims it should, PGE attacks CUB for circular logic for pushing the Company to identify discretionary programs:

> Q. Is CUB's reasoning circular in this regard?
>
> A. Yes. They assume there are discretionary programs included in PGE's request that can be cut without harm to service quality and reliability. When we do not offer to cut systems and programs that are integral to reliable service, CUB claims that we are making "no effort" to identify discretionary programs. Ironically, the inability of parties to find many discretionary program to cut helps to prove PGE's position and undermine CUB's.

PGE/2200/5.

First, it is important to note that the large staffing adjustment being proposed by ICNU-CUB and Staff is an attempt to reduce the cost of discretionary programs. Rather than look program-by-program, an examination of staffing levels is an attempt to identify a reasonable level of overall growth in programs and require that the Company reduce itself to that level.

Second, PGE's Sursurrebuttal Testimony suggests that it is the job of Intervenors and PUC Staff to manage the Company program-by-program, to identify discretionary programs, and to propose cutting those programs. PGE has a $1.7 billion revenue

[112] CUB/200/5-6.

requirement. If PGE is really saying that it is unable to identify any place within its budget where it can cut costs, then customers are not getting the value that we should be getting when we fund PGE's management. PGE is a large organization. Asking customers and PUC Staff to micromanage its programs is unrealistic. Regulation assumes that management is doing what it can to control costs and run an efficient operation. Traditionally, PUC Staff and customers focus on the larger additions to rates, but allow the Company to provide the overall management of costs.

Third, where CUB has identified discretionary programs that it believes should be cut, the Company is opposing its proposals. CUB has done something unusual in this case. Because CUB could not identify any individually large cost increase drivers within this case, CUB examined some of the small individual items that result in increases. It is the sum of many of these small individual items that adds up to the large increase in this case. Since CUB does not have the staff or budget to comprehensively examine all of the programs that exhibit increasing costs, CUB identified a handful of programs to examine in detail. What CUB found in every case, was a program that was of little value or contained inflated costs. Projections that a helicopter would run 250 hours were used to justify a new helicopter; when that new helicopter was delayed, the Company refused to adjust its flight hours, knowing that it is unlikely their old helicopter will fly that many hours. The Customer Focus Initiative seems to offer no benefit to customers. The Generation Excellence Program has no analysis to support it as cost effective. Finally, the Boardman Simulator has been plagued by increasing costs and now includes hundreds of thousands of dollars of costs that are unrelated to the simulator, including building office space for future uses.

The Company did accept a few adjustments proposed by PUC Staff in Stipulations in this case. They agreed to reduce their ROE, and a few other costs that were unlikely to be accepted by the Commission. In addition, they have accepted $13.7 million in reductions to other costs that fall short of what other parties are proposing.[113] It should be noted, however, that every adjustment that the Company is proposing is in response to an issue raised by PUC Staff - with the exception of removing the helicopter that will not be used and useful in this test year; PGE has not itself volunteered any possible reductions.

What PGE hasn't done is identify any additional place for cost savings. While PGE said that due to "tough times" it should delay some capital projects, it is not proposing to do so. While it says that the on-going budgeting process may allow it to identify further places to cut, it has not done so.

VII. The Commission Should Require a 1% Discretionary Reduction.

As previously stated in CUB Direct Testimony, if PGE cannot, or will not, provide any additional, substantive examples of cost reductions, CUB can only presume that they do not exist.[114] The Commission should make the same assumption. The burden of proof is on PGE.

In determining whether a cost can be considered to be a prudent investment and be charged to customers through rates, the Commission must follow its previously adopted standard of proof:

> [U]nder ORS 757.210, the burden of showing that the proposed rate is just and reasonable is borne by the utility throughout the proceeding. Thus, if PGE makes a proposed change that is disputed by another party, PGE still

[113] PGE/2300/6.
[114] CUB/100 Jenks/24, 25-34.

> has the burden to show, by a preponderance of evidence, that the change is just and reasonable. If it fails to meet that burden, either because the opposing party presented compelling evidence in opposition to the proposal, *or because PGE failed to present compelling information in the first place, then PGE does not prevail.*

CUB/100 Jenks/31, quoting UE 139 OPUC Order No. 02-772 at 4 [emphasis added].[115]

PGE has failed to show that its overall revenue requirement is reasonable. CUB looked at a number of costs and found in each case that they were not fully justified. PGE has settled with several parties in regard to some of these costs – see Section II above. PGE would have the Commission believe that they have already made major cost reductions due to those Stipulations,[116] but the reductions made in the Stipulations relate mostly to programs that should never have been included in the test year in the first place. Thus, few actual cost reductions have been made in this case.

Even though CUB, due to time and financial constraints, did not come close to examining the entire PGE budget, it is reasonable to infer that if each examined cost was not justified then the budget-in-total contains many more unjustifiable costs. And it is, therefore, reasonable for the Commission to impose a 1% budget-wide reduction in order to account for the inflated and unjustified costs in all parts of the Company's budget. We note that ORS 756.040 provides:

> The Legislature has expressed no specific process or method the Commission must use to determine the level of just and reasonable rates, and the Commission has great freedom to determine which of the many possible methods it will use. Order No. 08-487, Docket DR 10 (Sept.30, 2008), UE 88 & UM 989 at p 4.

[115] Quoting UE 115 OPUC Order No. 01-777 at 6.
[116] PGE/1300 Piro/5 at lines 16-23.

A. PGE claims that a 1% reduction is too much and will slash their O&M.

PGE states that "CUB's concern is O&M expenses, which account for a small portion of the request" PGE/2200/6. They claim that our 1% reduction therefore represents a "5% reduction in O&M."

This misrepresents what CUB is proposing. CUB is proposing a 1% revenue requirement reduction or approximately $17 million. PGE can apply this reduction to whatever parts of the organization it wants. It is an attempt to get management to actually focus on where costs can most efficiently be cut. CUB was not proposing that it all come from O&M. CUB would expect it to come from O&M, A&G and Capital Investment.

CUB does not know where PGE gets the idea that CUB is primarily concerned about O&M. CUB's adjustments to the Boardman Simulator are for a capital expense. CUB's examination of the helicopter began with a review of the Company's analysis to purchase a new one, which is a capital expenditure.

In CUB's Surrebuttal Testimony CUB discussed the Company's capital expenditures. CUB Exhibit 216 shows the Company's list of capital expenditures for 2009. Of the 211 projects listed for 2009, PGE identifies a single one as discretionary. That one was an upgrade/replacement of the fitness equipment in the Tualatin Call Center. PGE management believes that none of the other 210 projects are discretionary.

The Commission should not be misled. CUB is not primarily concerned with O&M and CUB is not recommending a $17 million reduction to O&M. CUB does believe, however, that the only way to make some progress with this Company – the only way to get it to actually look at its costs in a serious attempt to identify cost reductions – is to order it to do so. PGE has proven that it will not do so voluntarily.

B. The Commission has required discretionary reductions in the past.

PGE does not pay attention to costs; its focus is on profits. To some this might seem like an oxymoron. Surely a company concerned about profits would also be concerned about costs? But no, PGE does not have to worry about costs from inefficiencies because it can (at least try to) foist those costs off onto the customer. Under the current system, PGE's bottom-line could be largely unaffected by inefficiency costs if the PUC does not step in, as it has done in the past in UE 88 and UE 115,[117] to actively

[117] The following quotes are from the Commission's Orders in UE 88 and UE 115 and were quoted previously at CUB/100 Jenks/32-33:

> Commission Staff asked the Commission to impose on PGE an additional reduction in discretionary costs (operating and maintenance expense accounts excluding Trojan O&M, amortization of energy efficient balances, uncollectible accounts, regulatory expenses, and rents) if the Commission found that PGE's cost reduction efforts were insufficiently diligent in the circumstances. We have imposed an additional one percent cost reduction on PGE, which reduces PGE's revenue requirement by approximately $1.6 million in each test year.

UE 88 OPUC Order No. 95-322 at 5:

> PGE has failed, however, to establish that it has made every reasonable effort to reduce other, discretionary Customer Service costs to help offset its spiraling power costs. We acknowledge that such reductions require difficult choices. Nonetheless, given the increasing wholesale power costs and PGE's reliance on that market to meet customer load, we believe that PGE must consider the rate impact on customers and critically examine whether some of these proposed expenditures should be delayed or simply not made at this time.

> ... we conclude that PGE's Customer Service costs forecast for the 2002 test year should be reduced by an additional $3.5 million above and beyond the adjustments contained in the stipulation. We decline to identify particular program areas that may be susceptible to reassessment or to impose specific cost reductions. These discretionary costs are best managed by the company.

UE 115 OPUC Order No. 01-777 at 11-12.

promote efficient utility operation through imposition of a cost reduction specifically for cost control purposes.[118]

CUB respectfully recommends, in addition to the specific programmatic cost cuts listed above, that if PGE's total required revenue number is not reasonable that the Commission impose an adjustment that will attempt to bring PGE's requested tariff increase to a reasonable level. CUB proposes, and PUC Staff is supporting, a 1% revenue requirement cost reduction to accomplish this purpose – approximately $17 million - to be implemented as PGE sees fit. Staff/800 Owings/34. Imposing this 1% revenue requirement reduction makes sense for all of CUB's previously iterated reasons,[119] and the bottom-line is: the 1% revenue requirement cost reduction would serve to capture the fiscal inefficiency that appears to be rampant throughout PGE.[120]

C. PGE Made Even Greater Discretionary Reductions In 2002.

After the Commission imposed a $3.5 million discretionary cost reduction in PGE's UE 115 2002 test year, customers reacted to the rate hike and cut their usage. This forced PGE to identify $14.8 million in additional cost reductions, eventually adding up to more than $18 million in costs that were cut from the 2002 budget.[121] Since that time, PGE's revenue requirement has grown by 40%. PGE could find $18 million in discretionary costs to cut in 2002; therefore, it is not unreasonable that a larger PGE can find $17 million in costs to cut today.[122]

[118] CUB/100 Jenks/6-9.
[119] A summary of the reasons appears at CUB/100 Jenks/33-35.
[120] CUB/100 Jenks/32-33.
[121] UE 139 CUB/100/Jenks at 10-11.
[122] CUB/100 Jenks/33.

VIII. PGE's Request For Decoupling

A. CUB's Prior Support For Decoupliug Revisited.

The word "decoupling" comes from this concept: to decouple utility profits from the volume of sales.[123] PGE wants decoupling because, as James J. Piro pointed out, "Unfortunately [for PGE] the existing regulatory structures leave utility shareholders absorbing costs while society and customers gain the long-term benefits of expanding energy efficiency efforts."[124] Although CUB, in years past (1990s), supported decoupling for electric and gas utilities with the hope that any disincentive to pursue energy efficiency would be removed, CUB's experience since then (energy programs were cut even with decoupling) leads CUB to believe that PGE's proposal should be rejected.[125] Like CUB, Fred Meyer's witness Kevin C. Higgins, [126] ICNU, PUC Staff's Steve Storm[127] and CAPO's witness Roger D. Colton[128] all oppose decoupling.

Witness Bob Jenks says that:

> [d]ecoupling is a way to ensure that utility profits do not decline when there are changes in load. . . For example, **one significant risk that is removed from the utility and placed onto customers is the risk of a recession**. When a recession hits our economy, loads tend to be less than forecast and this reduces the revenue collected by a utility (utilities are not unique, in that many businesses have their sales volume decline during a recession). **With decoupling in place during an economic downturn,**

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[123] CUB/100 Jenks/46.

[124] UE 197/PGE/100 Piro/18.

[125] CUB/100 Jenks/45 and 46.

[126] UE 197/FM/ 100 Higgins/4 and 10:

> Decoupling. . . provides unwarranted insulation to the utility from the effects of price elasticity. Generally, all sellers of goods face a risk that price increases will reduce sales. But, with decoupling, if PGE customers respond to the Company's rate hikes by reducing their electric consumption, Schedule 123 will be increased to compensate PGE for any resultant reduction in per-customer usage. The transfer of this risk is a clear benefit to the utility for which no compensation is being offered.

[127] Staff/1300 Storm/1.

[128] CAPO/100 Colton/56

> Not only will the decoupling mechanism likely result in the disproportionate transfer of additional fixed costs to low-income, low-use customers, but those costs are costs that the low-income, low-use customers did not cause the Company to incur in the first instance.

> **however, a surcharge would be added to customers' bills to eusure that utilities earned the same profit they would have earned if loads hadn't declined.** It insulates the utilities from the effect of an economic downturn, but **raises customers' rates at a time when customers can least afford it.**[129]

If decoupling is to take place then the customer should receive something in return now – more conservation programs. PGE offers no new programs, only costs and risks,[130] and wants time to come up with conservation programs.[131] This is like agreeing to pay a child beforehand for doing his or her chores sight unseen, and then that the child may report back on the chores that he or she accomplished at the end of five years.

CUB supported natural gas utility requests for decoupling in the last few years because the decoupling was directly linked to tangible and quantifiable energy efficiency

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[129] CUB/100 Jenks/46 [emphasis added].

[130] Staff/1300 Storm/12-13 [citations omitted]:

> Staff acknowledges that national recessions can have different timings and impacts on any individual state or region thereof, but clearly here are: a) three years in at least part of which the U.S. economy was in recession, b) three years in which PGE experienced growth in the number of residential customers, and c) three years in which PGE's residential usage per customer declined. Admittedly, the declines for 1990 and 1991 were of a smaller percentage than that used in Staff's example. Staff also acknowledges the events of 2000 – 2001 were extraordinary in several ways. Still, here are three recessionary years, three years with positive PGE residential customer growth, and three years of negative growth in PGE usage per residential customer. In fact, examination of PGE-provided data reveals this is not at all unusual. In the 22 years for which PGE provided data (1986 – 2007), the following occurred: a) the number of PGE residential customers never declined year-over-year (not once!); b) total PGE residential usage had four years of year-over-year decline—all since 2000 (2000, 2001, 2002, and 2005); and c) PGE usage per residential customer experienced year-over-year declines in 15 years. In other words, Mr. Cavanagh's "implausible in the extreme" (mis)characterization of Staff's hypothetical situation—positive PGE residential customer growth with simultaneous decline in PGE residential usage per customer—is arguably the norm; it has occurred 15 years in the last 22. The facts cited in the immediately preceding are viewed by Staff as exceptionally strong support for the likelihood of scenarios and outcomes under PGE's SNA decoupling proposal in which the SNA adjustment positively applies, with a customer charge (not a credit) resulting from a decline in weather-normalized residential usage per customer while simultaneously the number of PGE's residential customers increases. This is precisely the over collection scenario discussed at length in Staff/600 (*see* Staff/600, pages 17 – 21). And, based on PGE's history over the last 22 years, this scenario occurs with relatively high frequency; i.e., in 15 of the past 22 years between 1986 and 2007, inclusive.

[131] UE 197 PGE/1200/Piro/19.

programs being operated simultaneously with decoupling and by entities independent of the utility. Though decoupling still shifted risks and costs onto customers, in the case of the gas utility requests those risks and costs were offset by new energy efficiency programs which provided economic and environmental benefits directly to customers simultaneously with decoupling.[132] As Fred Meyer's witness Kevin C. Higgins notes:

> the utility case for special ratemaking treatment is especially weak in Oregon, as Oregon has made the effort of creating a non-utility administrator of energy conservation programs in the Energy Trust. One of the benefits of a non-utility administrator is that conservation program management is not placed in [sic] hands of the party which claims to have a disincentive to realize program success. Adopting revenue decoupling now to ameliorate utility disincentives for conservation ignores this advantage of having established an independent program administrator in the first instance.[133]

B. Why PGE's current request for decoupling should be denied.

PGE is offering nothing but cost and risk to its customers and is notably doing this right at the start of what appears to be a severe recession. As PUC Staff witness Steve Storm states:

> decoupling adjustments "go both ways". . . except using PGE's own recent history, it goes against ratepayers 15 of 22 years.[134]

Mr. Storm then poses an additional "hypothetical" that succinctly, and effectively, demonstrates the anticipated, and extremely likely, effects of the requested decoupling on both customers and the environment:

> Consider the following hypothetical situation. Suppose every residential PGE customer (ratepayer) who would be subject to PGE's proposed SNA decoupling mechanism reduces usage by five percent for 2010 over and above any amounts included in PGE's 2009 test year load forecast. Consider this reduction is on a weather-normalized basis. Let's also assume there is no growth in customers; indeed, every 2009 customer is a

[132] CUB/100 Jenks 47.
[133] FM/100 Higgins/12 at lines 16-23.
[134] Staff/1300 Storm/15 at lines 3-5.

> 2010 customer. Each customer's reduction can be for any reason at all: they are reacting to an electricity volumetric price signal, their personal circumstances have changed, they want to "do the right thing," they have incorporated energy efficiency measures, *et cetera*.
>
> Now, what happens to their bills? First, their bills go down vis-à-vis what the bills otherwise would have been. Let's say their bills go down for each of 12 months and that, for the "typical" (or average) customer, each monthly bill declines by 4.5 percent. They've done "something:" they have changed their behaviors, they have invested in energy efficiency measures, "something." They presumably not only feel like they have saved money, they can see that this is so by viewing their monthly PGE bills.
>
> All else being equal, PGE shareholders would bear the burden of these savings as manifested in reduced PGE earnings versus what would otherwise be the case. While the Company could potentially mitigate this outcome by reducing costs, shareholders have traditionally borne this type of burden and it is one for which they have been and are currently compensated.
>
> How would this change under PGE's proposed SNA mechanism? PGE's Sales Normalization Adjustment would begin billing for approximately fifty percent of the 4.5 % reduction in customers' bills. In fact, under the provided assumptions, customers would pay back approximately one-half of every dollar of savings each initially realized, no matter what it was each customer did or did not do to create the energy savings and bill reductions. Abstracting from any issues due to the time shifting of cash flows, PGE shareholders are "made whole." PGE residential customers are "made less." This outcome captures the redistribution of equity between ratepayer and shareholder inherent in PGE's proposed SNA mechanism.
>
> Additionally, Staff struggles to see how this arrangement is supportive of energy conservation, as viewed from the perspective of the individual ratepayer. It is not clear to Staff that a Nash equilibrium under PGE's proposed SNA decoupling mechanism is other than for residential customers to not perform any actions which result in energy conservation.
>
> Errata filing Staff/1300 Storm 21-23 [citations omitted].

CUB respectfully requests that the PUC reject PGE's request for decoupling.[135]

[135] CUB/100 Jenks/49.

IX. Conclusion

A. The Reasons For CUB's Recommendations.

Given the weak and flawed cost analyses that CUB did examine, imagine the flaws in the analyses and justifications of costs that CUB did not examine. When the Commission demands compelling information, the information should be compelling, and this requires that the supporting information is based on quality analysis and identifies concrete benefits to the customer for the money being spent. Anything short of this does not meet the burden of proof.[136]

CUB has repeatedly asked questions of PGE in an attempt to try to understand PGE's financial review process. PGE's answers were inconsistent at best and did not seem to represent actual Company policy. When CUB reviewed the Generation Excellence Initiative and the Customer Focus Initiative it found no cost benefit analyses.[137] And review of the Boardman Simulator and new Helicopter showed that PGE's capital review process did not concern itself with rates.[138]

As previously discussed, PGE does not watch/care about its costs; it only cares about its profits. PGE does not have to worry about costs from inefficiencies because it can (at least try to) foist those costs off on the customer. Under the current system, PGE's bottom-line could be largely unaffected by inefficiency costs if the PUC does not step in, to actively promote efficient utility operation through imposition of a cost reduction specifically for cost control purposes.

B. CUB's Recommendations.

CUB respectfully recommends the following:

[136] CUB/100 Jenks/32.
[137] CUB/100 Jenks /11
[138] CUB/100 Jenks/ 10 and 12

- **Employee Levels –**

Adopt the labor adjustment proposed by Ellen Blumenthal in ICNU-CUB/111.

- **Compensation Levels –**

  - **Wages and salaries –** Adjustments of $205 million for total wages and salaries, $85.8 million for reasonable and necessary employee costs representing a recommended reduction in PGE's revenue requirement of $36,542,606.
  - **Incentives –** That, in addition to the agreed removal of officer incentives, all stock incentive plan costs for all employees be excluded from rates. Removal of the $4.6 million in stock incentive and officer annual cash incentives from PGE's requested rate of 14.8 million leaves $10.2 million to be shared between customers and shareholders. The reasonable amount to include in rates is, therefore, $5.1 million.
  - **Employee Discount -** PGE's employee discount is not justified as employee compensation. The Commission should not allow PGE to charge the costs of this program to customers. While the $885,846 cost of this benefit is small it is a hidden cost that could and should be avoided. CUB's Surrebuttal Testimony proposes phasing out the employee discount entirely. Even PGE recognizes that there are issues with this subsidy and proposes its own phase out plan. The problem is that PGE's phase out plan would take decades. If the Commission decides to phase out the subsidy, rather than eliminate it from rates, CUB suggests phasing out this subsidy over a five-year period.

- **Generation Excellence –**

If the Commission does not make the recommended significant adjustments to the Company staffing levels, then the Commission should eliminate the $900,000 associated with new staff in the Generation Excellence Program, since PGE has failed to offer evidence that these new employees provide a benefit to customers. And, the Commission should eliminate the $0.3 million associated with the non-labor piece of this program. PGE has failed to offer evidence that the costs will provide customer benefits.

- **Boardman Simulator –**

There is evidence that the first $1.5 million is a cost effective investment. The additional $1 million, however, has not been found to be cost effective. This includes $400,000 that is unrelated to the simulator, is not used and useful, and has not been found to be prudent. The Commission should reject adding the $1 million cost to rate-base.

- **Cnstomer Focus Iuitiative –**

  The cost of the Initiative in the 2009 test year is $300,000 and the Commission should remove that amount from rates.

- **Helicopter –**

  CUB recommends that the Commission use a three-year average as the forecast of flight time for the helicopter: 2006, 2007 and PGE's projection for 2008. Such an approach would allow for 175 hours of helicopter flights in 2009, and would require a revenue reduction of $26,000. The Commission should remove that amount from rates.

- **Decoupling –**

  The PUC should reject PGE's request for decoupling. The start of a recession, with no offer of additional energy efficiency programs to offset new costs and risks to the customer, is not the time to grant PGE's request for decoupling.

- **1% Revenue Requiremeut Cost Reduction –**

  If PGE's total cost number is not reasonable then the Commission should impose an adjustment that will attempt to bring PGE's requested tariff increase to a reasonable level. CUB proposes, and PUC Staff is supporting, a 1% revenue requirement cost reduction to accomplish this purpose – approximately $17 million - to be implemented as PGE sees fit. Imposing this 1% revenue requirement cost reduction will serve to capture the additional fiscal inefficiency that appears to be rampant throughout PGE.

- **Acceptance of the previously entered Stipulations –**

  Several of the parties have previously entered into Stipulations in regard to certain issues in this case. CUB recommends that the Commission accept the previously entered Stipulations.

Respectfully Submitted,

October 24, 2008
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UE 197 – CERTIFICATE OF SERVICE

I hereby certify that, on this 24th day of October 2008, I served the foregoing Opening Brief of the Citizens' Utility Board of Oregon upon all parties of record in this proceeding by delivering a copy by electronic mail, and by mailing a copy by postage prepaid first class mail or by hand delivery to the parties accepting paper service.

Respectfully submitted,

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