

September 9, 2005

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission
Attention: Filing Center
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Re: In the Matter of PORTLAND GENERAL ELECTRIC
Application for a Hydro Generation Power Cost Adjustment Mechanism
OPUC Docket No. UE 165
In the Matter of PORTLAND GENERAL ELECTRIC COMPANY Application for
Deferral of Costs and Benefits Due to Hydro Generation Variance
OPUC Docket No. UM 1187

Attention: Filing Center

Enclosed for filing in the above-captioned docket are eight copies of the Post-Hearing Brief of Portland General Electric for filing in the above-captioned dockets. This document is being filed by electronic mail with the Filing Center.

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

Thank you in advance for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ DOUGLAS C. TINGEY

DCT:am

cc: UE 165 and UM 1187 Service List

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 165 / UM 1187

In the Matter of)	
PORTLAND GENERAL ELECTRIC)	
Application for a Hydro Generation Power)	
Cost Adjustment Mechanism)	POST-HEARING BRIEF OF
)	PORTLAND GENERAL
)	ELECTRIC
In the Matter of the Application of)	
PORTLAND GENERAL ELECTRIC)	
COMPANY for an Order Approving the)	
Deferral of Costs and Benefits Due to Hydro)	
Generation Variation)	

INTRODUCTION

The issue raised in Dockets UE 165 and UM 1187 is the manner in which cost of service ratemaking should handle the costs and benefits of variations in hydro generation. After much work, testimony, and discussions, Staff and PGE entered into related Stipulations in these dockets seeking implementation of a temporary System Dispatch Power Cost Adjustment Mechanism (the “SD-PCAM”) to include in rates the costs and benefits of the variation in hydro generation. The mechanism will, if approved, apply to calendar years 2005 and 2006, with the intent that parties will address the terms and conditions of an ongoing PCA beginning in 2007 in PGE’s next general rate case.

The SD-PCAM mechanism was crafted and agreed upon after much work in these dockets and previous dockets. The SD-PCAM mechanism is an appropriate two-year approach to the costs and benefits of hydro generation variation. It will properly match the costs and benefits of hydro generation, will yield just and reasonable rates, and should be approved.

CONTENTS

We first provide a brief background of these dockets and how we arrived at where we are today. Second, we address the stipulated SD-PCAM mechanism, including how it satisfies the issues raised by other parties. Third, we show that the legal arguments some parties raised in testimony are misplaced. Last, the brief concludes with some brief comments regarding certain arguments against the stipulated mechanism raised by CUB and ICNU.

BACKGROUND

Changed power costs caused by PGE's hydro generation variation were last addressed by the Commission in UM 1071. In that docket, the Commission denied PGE's request for a deferral of excess power costs in 2003 caused by a shortfall from "average water."¹ *See* Order No. 04-108 (March 2, 2004). However, the Commission also explicitly recognized that the cost impact of hydro variability, both positive and negative, needs to be addressed. *Id.* at 10-11. The Commission encouraged the parties to "present alternatives to deal with hydro variability" and further stated that "a PCA may be an appropriate way of permanently allocating risks and benefits of hydro variability between shareholders and ratepayers." *Id.* PGE's filing in UE 165 was in response to that direction from the Commission.

Docket UE 165 began on May 18, 2004, when PGE filed tariff sheets seeking the implementation of an automatic adjustment clause under ORS §757.210 to track, in a balancing account, the cost of service changes associated with hydro generation assets and contracts. The filing also contained an application for a deferral of the amounts in that balancing account with a

¹ As explained in UE 165/PGE/300, Niman-Tinker/9-13, average refers to a 60-year hydro period from 1928 to 1988.

requested effective date of July 1, 2004. The Commission suspended the tariff filing and later set a procedural schedule in the docket.²

As explained with the UE 165 filing, 2004 presented PGE with the fourth straight year of below “average” hydro generation. Hydro conditions remained below “average” through the end of 2004, and projections were for continued below normal hydro conditions in 2005. On December 30, 2004, PGE filed an application in Docket UM 1187 under ORS §757.259 and OAR 860-027-300. That application sought to defer, beginning January 1, 2005, the cost of service effects of the variation in hydro generation. On January 21, 2005, PGE filed an Amendment to its Application to clarify that, because of the ongoing drought conditions in the Pacific Northwest, PGE was requesting approval of the Application irrespective of the ultimate outcome of UE 165. The Amendment also stated that if the ongoing mechanism PGE requested in UE 165 was approved, the amounts deferred under the application would be treated in a manner consistent with the outcome of that docket. Hydro conditions have recently improved, but still remain significantly below normal, so a fifth consecutive year of below average hydro generation appears probable. UE 165/PGE/1100, Lesh-Tinker/21-22.

The cost of service variation caused by hydro variation is far greater today than in the past. Gas-fired generation, provided under market-based prices, is the marginal resource that sets the cost or value of replacement power. In addition, market prices have the potential to vary tremendously, and tend to increase more in poor hydro years than they decrease in good hydro years. UE 165/PGE/100, Lesh/10. Given the significant variation in hydro production and asymmetric nature of the financial impact of the variation, use of an average for hydro production in setting rates, as has been done historically, almost guarantees that rates will not

² PGE later withdrew the deferral portion of the filing.

match costs both in the short term and over the long term. This situation is not shared by many other utilities - PGE is one of only a handful of investor-owned utilities in the country with significant hydro resources. UE 165/PGE/100, Lesh/8-9.

It is with this background that Staff and PGE arrived at the terms of the Stipulations as a two-year mechanism to address the cost of service effects of hydro variation, with the intent that an ongoing mechanism will be addressed in PGE's next general rate case.

LEGAL STANDARD

In considering the settlement overall, the Commission is guided by ORS 757.040, which states:

The commission shall balance the interests of the utility investor and the consumer in establishing fair and reasonable rates. Rates are fair and reasonable for the purposes of the subsection if the rates provide adequate revenue both to the operating expenses of the public utility ... and for capital costs of the utility.....

If the Commission concludes that the SD-PCAM produced by the settlement with Staff meets this test, it can and should approve the settlement.

As discussed in detail below, the opposing parties raise objections to the settlement but none of these objections detract from the fairness and balance, to customers and investors, of the SD-PCAM. Also as discussed below, the settlement is appropriate under the deferral statute, ORS 757.259. There is no legal impediment to the Commission's approval of the settlement.

ARGUMENT

As more fully described in the Stipulations and the joint testimony of Maury Galbraith and Jay Tinker, the SD-PCAM will track the annual difference between the power cost forecast used to set PGE's RVM rates and an updated power cost forecast using the same model but incorporating actual data for hydro generation and market electric and natural gas prices. All

other inputs will be held constant. That difference in power costs is then subject to a deadband and an earnings test before any adjustment to customer rates occurs. The same power cost model, Monet, that is used to set rates in PGE's RVM proceedings will also be used to calculate the difference in modeled power costs caused by the actual variation in hydro generation.³ Pursuant to the Stipulations, implementation of the SD-PCAM will be through both dockets before the Commission. From January 1, 2005 to the effective date of the ongoing automatic adjustment clause in UE 165, implementation will occur under the deferral in UM 1187. After the effective date of the automatic adjustment clause, that tariff will handle any rate adjustments according to its terms through calendar year 2006.

Staff and PGE believe that the SD-PCAM is a fair and reasonable way to meet the cost of service ratemaking challenge posed by hydro variability. The mechanism will provide a means for tracking and accounting for financial impacts, both positive and negative, associated with changes in hydro generation over the next two years. The SD-PCAM balances the concerns of both ratepayers and investors, and does so in a transparent and relatively simple manner. While no ratemaking mechanism is perfect, and the SD-PCAM should be considered a stepping stone to a more permanent solution, it is a fair and straightforward way to address this complex issue.

I. The Stipulated SD-PCAM Addresses Concerns Expressed by the Parties

The SD-PCAM mechanism addresses concerns parties have expressed in this docket and in prior dockets. These concerns are the potential for imbalance if a utility were allowed to collect increased costs in poor hydro years but not reflect decreased costs in rates in good hydro years, and the effect of company-owned gas-fired generation costs caused by hydro variation.

³ As discussed in the testimony, some changes to the model are necessary to be able to use daily prices in the model.

In previous dockets, some parties expressed concern that the use of deferrals for changes in hydro generation would lead to deferrals in poor years but not in unusually good years. *See, e.g.,* UM 1071 Opening Comments of Staff, p.4, Opening Comments of ICNU, pp. 5, 7, Opening Comments of CUB, p. 3. In response PGE proposed an ongoing automatic adjustment clause mechanism that will capture the costs and benefits of hydro generation variation in both above and below normal levels. It serves both the interests of the customers and investors by improving the accuracy of PGE's cost of service. The stipulated SD-PCAM is an ongoing mechanism in two respects. First, it will last for two years. If, after five poor hydro years, 2006 turns out to be a good hydro year, the mechanism will capture that cost of service reduction and return it to customers. Second, the SD-PCAM is intended to be a stepping-stone to an ongoing mechanism to be addressed in PGE's next rate case concerning hydro variation.

During the course of these proceedings, the parties also argued that only looking at the variation of generation of the hydro plants did not adequately capture the costs to PGE because the optionality of PGE's thermal plants was not included. CUB/100, Jenks-Brown/2-10. In response to this concern, the SD-PCAM approach uses actual market energy prices and incorporates the resulting changes in thermal plant dispatch into power costs. The optionality and potential dispatch of PGE's thermal plants are therefore captured in the same way, and using the same model, as they are when rates are set in the RVM process.

This docket and the learning from previous dockets have resulted in a stipulated two-year mechanism that both Staff and PGE agree appropriately matches the costs and benefits of variations in hydro generation with customer rates, with the expectation that the terms of an ongoing PCA will be addressed in PGE's next rate case. Notwithstanding this, CUB and ICNU

still oppose the SD-PCAM mechanism. As discussed below, they have presented no persuasive arguments that the Stipulations should not be approved.

II. The Positions of CUB and ICNU Are Not Well-Founded

Each of the parties' factual and policy positions have been addressed and properly rebutted in PGE's testimony. Response to some policy positions was difficult because the positions were internally inconsistent or inconsistent with each other. For example, CUB initially argued in UE 165 for a narrow PCA limited to hydro and electric prices, and states in its last testimony that it stands behind those principles. CUB/100, Jenks-Brown/21; CUB/200, Jenks-Brown/27. But, in its latest testimony, CUB also criticizes the SD-PCAM mechanism for being too narrow and not including load changes or updating for power purchase contracts. CUB/200, Jenks-Brown/5, 8-15. This criticism contrasts with CUB's description, in that same testimony, of the SD-PCAM as a major power cost adjustment that has the major variables covered. CUB/200, Jenks-Brown/18. And CUB's proposal as an alternative to the SD-PCAM is for the Commission to adopt an even broader power cost mechanism. CUB/200, Jenks-Brown/28. CUB's proposal also conflicts with ICNU's argument for a narrower approach, including only hydro variation. *See* ICNU/300, Falkenberg/7 *et seq.*

CUB and ICNU further disagree on whether a deferral should be granted. CUB argues that while no automatic adjustment clause should be adopted, it would support the Commission adopting a deferral mechanism for 2005 with a deadband and sharing bands similar to those used in other dockets dealing with broad mechanisms for temporary deferrals. CUB/200, Jenks-Brown/29. CUB also posits that PGE could file for a deferral for 2006. CUB/200, Jenks-Brown/31-32. ICNU, on the other hand, continues to argue that deferrals are inappropriate to use to address hydro variation like that at issue here. ICNU/300, Falkenberg/4, 15-21.

Both CUB and ICNU also make a legal argument in testimony claiming that the Stipulations call for retroactive ratemaking. *See* CUB 200, Jenks-Brown/16-17; ICNU 300, Falkenberg/5-14. PGE noted this in its responsive testimony, and indicated that the issue would be addressed in briefs. We do so below.⁴

III. Approval of the SD-PCAM and Related Deferral Would Not Constitute Impermissible Retroactive Ratemaking

The Commission has ample authority to approve the SD-PCAM and the related deferral requested in the Stipulations, with the deferral effective January 1, 2005. The proposed deferral meets the statutory standard set out in ORS 757.259. The method of accounting for costs associated with hydro variation in the SD-PCAM is not the same as the method proposed in PGE's initial application. However, the new methodology will actually be more effective in matching the "costs borne by and benefits received by ratepayers." ORS 757.259(1)(e). This was the goal of the stipulating parties and should be the goal of all of the parties to this docket.

ICNU Witness Falkenberg argues in his testimony that "[a]pproval of the SD-PCAM retroactively to January 1, 2005, would constitute retroactive ratemaking." ICNU/300, Falkenberg/4; *see generally* ICNU/200, Falkenberg/11-14; ICNU/300, Falkenberg/5-14. Falkenberg suggests that modification of the deferral methodology identified in PGE's initial application violates the rule against retroactive ratemaking because the SD-PCAM would allow PGE to defer costs "unrelated" to those originally specified in PGE's application for a deferral.

⁴ Public Utility Commission proceedings often present issues that are a mix of fact, law and policy, so at times some discussion of related legal principles is unavoidable. But here, there is extensive testimony by non-legal witnesses on a purely legal issue, and that is not appropriate. Unfortunately, this is not the only docket where testimony containing extensive legal argument has been filed. Some direction from the Commission on this issue would be helpful in future dockets.

ICNU/300, Falkenberg/6. He also claims that modifying the scope of costs being deferred would “create countless problems in future deferral cases.” Id. at 12.⁵

ICNU’s arguments fail for several reasons. First, the costs PGE will defer under the SD-PCAM are appropriately and necessarily related to hydro variations. Though the scope of the specific costs being deferred is greater than those identified in PGE’s initial application for a deferral because the SD-PCAM includes electric and gas market energy prices and plant dispatch, the end result is simply to more accurately determine actual cost impacts associated with hydro variations—the intended result of that deferral. Second, the argument ignores the fact that ORS 757.259 authorizes what would otherwise be retroactive ratemaking in specific circumstances. Because the instant case satisfies the statutory standard, the claimed prohibition on retroactive ratemaking simply does not apply. Finally, the argument that approving the SD-PCAM and deferral effective January 1, 2005 will somehow complicate future deferral proceedings is absurd. This very docket is clear evidence that deferrals already are, at times, complicated if the deferral is to meet the objectives set forth in the statute and cost changes are to be identified and deferred in the most effective and appropriate manner possible.

A. The SD-PCAM and Related Deferral Proposed in UM 1187 Does Not Include Costs “Unrelated” to Hydro Variations.

PGE’s initial application for a deferral sought to defer for later ratemaking treatment “certain costs or revenues associated with variations in hydro generation.” UM 1187 Deferral Application at 1. The question, of course, is how one determines what those costs and revenues are. The Hydro Generation Adjustment (“HGA”) originally proposed by PGE tracked the market value of the differences in hydro generation between baseline amounts set in PGE’s annual RVM

⁵ CUB summarily claims that the deferral violates a traditional prohibition on retroactive ratemaking. CUB/200, Jenks-Brown/20-21. The response herein to ICNU’s arguments are also responsive to CUB’s claim.

process and actual hydro generation. Deferral Application at 2. As PGE and Staff Witnesses Galbraith and Tinker point out in their joint testimony, however, this methodology failed to take into account how hydro conditions could affect the use of PGE's thermal plants, particularly PGE's natural gas-fired generation. UE 165 – UM 1187/Staff – PGE/100, Galbraith-Tinker/5.

The energy PGE uses to replace hydro shortfalls may come from the market, from increased self-generation, or from a combination of both, depending on the economics. When spark spreads (the spread between market gas prices and market electric prices) are large, it becomes more economical for PGE to use its own generation to meet load; when spark spreads are small, PGE is more likely to purchase energy from the spot market. Because hydro replacement costs could be reduced by PGE dispatching its natural gas-fired resources, the Stipulating parties agreed it was necessary to track spark spreads and plant dispatch changes in order to more accurately capture the cost impact of hydro variations. As a result, the SD-PCAM tracks actual hourly hydro generation, actual market electricity prices, and actual natural gas prices, and uses PGE's Monet model to estimate changes to PGE's cost of service resulting from variations in hydro generation.

These actual prices are by no means "unrelated" to cost variations associated with hydro generation. As described above, data related to spark spreads must be considered to estimate the actual dollar amounts associated with hydro variations. The SD-PCAM result is absolutely related to variation in hydro generation – it simply provides a more effective methodology for estimating the financial impact of that variation. And as Mr. Galbraith points out in his testimony, the Commission is well within its authority to approve an alternative method for calculating hydro cost variations that will better capture those variations than the method proposed by PGE. Staff/102, Galbraith/15.

ICNU proposes an “acid-test” to determine if electric and natural gas prices are sufficiently “related” to hydro cost variations to be included in the deferral effective January 1, 2005. ICNU/300, Falkenberg/11. Under the terms of this acid-test, any cost factors that will not result in zero deferred costs if there is no variation in hydro generation are by definition “unrelated” to the subject of the deferral. *Id.* As a preliminary matter, it is important to bear in mind that ORS 757.259 in no way establishes such a test. The statute provides no limitation on the costs that the Commission may include in a deferral based on whether those costs are sufficiently “related” to specific costs identified in a utility’s deferral application. *See* ORS 757.259; *see also* Section III(B), *infra*. Even if the statute had such a limitation, however, ICNU provides no support in logic or precedent for the definition of “related” its acid-test creates.

Under ICNU’s definition, any cost not directly and systematically correlated with the subject of the deferral must be considered unrelated. This definition is simply illogical. Power costs are affected by a complex web of directly and indirectly related factors, many of which cannot be systematically linked but nonetheless should be considered to accurately assess other factors. The case in point is a perfect example: electric prices and natural gas prices do not directly correlate with hydro variations. Market prices do not always go up when hydro production is down or vice versa. However, spark spreads, and the way they impact PGE’s dispatch of its thermal plants, directly inform the financial impact of hydro variations. Undeniably, electric and gas market prices do not directly correlate with hydro, but to assert that they are “unrelated” makes no sense.

B. Modification of the Deferral Application Does Not Constitute Impermissible Retroactive Ratemaking

By their nature, *all* deferred accounting orders constitute retroactive ratemaking. *See* Or. Att’y Gen. Op. No. 6076 (Mar. 18, 1987) (“AG Opinion”). Nonetheless, the authority granted to

the Commission under ORS 757.259 allows it to grant a deferral order *despite the fact* that the order would otherwise constitute retroactive ratemaking. PGE's deferral application is no different from any other deferral application in this respect. It would constitute retroactive ratemaking, but is permissible because it meets the statutory standard.

ICNU appears to argue that by applying for a deferral and identifying "certain specific costs," in its application, a utility somehow avoids retroactive ratemaking. ICNU/200, Falkenberg, 11. This is simply not the case. It is only where a deferral application complies with ORS 757.259 that the Commission may grant the application. Conversely, as long as the deferral meets the standard articulated in ORS 757.259, the Commission has the authority to grant that deferral, regardless of the specificity used in the initial application.⁶

In 1987, the Oregon Attorney General examined in detail the Commission's authority to impose a deferred accounting order and found it lacked such authority because of the prohibition on retroactive ratemaking. *See AG Opinion*. The Attorney General found, however, that the legislature could explicitly authorize the Commission to impose such orders, presuming that authority did not violate the United States or Oregon Constitution. *Id.* In response to this opinion, and with the express purpose of providing the Commission with the explicit authority to implement deferred accounting orders, the Oregon Legislature enacted ORS 757.259. Thus the question is not whether the SD-PCAM and deferral of costs as outlined by the Stipulation constitutes retroactive ratemaking. The question is whether the deferral is permitted under the explicit authority granted to the Commission in ORS 757.259.

ORS 757.259 states in pertinent part:

⁶ In UM 995, the Commission approved PacifiCorp's application for deferral of excess net power costs despite the fact that the precise components of the deferred account were not identified at the time of the application. *See Order No. 01-420* (May 11, 2001). A significant component of the deferral as approved was for costs

Upon application of a utility or ratepayer or upon the commission's own motion and after public notice, opportunity for comment and a hearing if any party requests a hearing, the commission by order may authorize a deferral of the following amounts for later incorporation in rates:(e) identifiable utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayer...

ORS 757.259(2). The Commission may authorize the deferral "beginning with the date of application." ORS 757.259(4). Notably, the statute limits the type of costs that may be deferred to those that will achieve the important policy objectives of minimizing rate changes or more closely matching the benefits and burdens of utility services. The statute provides *no* limitation on the costs that may be deferred based on how the deferral mechanism is described by a utility applicant, or for that matter, by the Commission should it act upon its own motion. In addition, the costs the Commission ultimately approves need only be "identifiable" not "specific" as ICNU claims.

Sound policy supports the legislature giving the Commission the authority to designate which costs it will include in a deferral order. As demonstrated in this very docket, the Commission may find during the course of a deferral proceeding that the costs to be deferred must be broadened or shifted from those originally identified by the utility to more closely achieve the objectives of stabilizing rates and matching the benefits and burdens of utility services. *See* UE 165/Staff/400, UM 1187/Staff/200, Galbraith/11. If the Commission and the utility were bound by the costs identified in the original application, the input of Commission Staff and Intervenors would necessarily be limited to a consideration of the utility's original proposal, and the Commission would lack the authority to create a deferral that is best suited to

related to a six-month outage of one of PacifiCorp's largest generating units – an outage that began after the

achieve the statutory objectives identified at ORS 757.259(2)(e) and ORS 756.040. Clearly, the legislature envisioned a process that would allow interested parties to participate in the Commission's consideration of a deferral. It is illogical to presume that the legislature also then intended for the Commission to ignore the advice of those parties, including its own Staff, should those parties suggest for the deferral to include costs other than those initially described by the utility as long as the purpose of the statute is achieved.

ICNU Witness Falkenberg argues that approving the Stipulation will allow the "genie of retroactive ratemaking out of the bottle of deferred accounting" and will greatly complicate future consideration of deferred accounting orders. ICNU/200, Falkenberg/11. Mr. Falkenberg's vision of this scenario includes utilities filing for deferral of single tax items but later trying to include other new taxes, or applying for a deferral for storm damage but later expanding the deferral to include other distribution costs, turning deferral requests into a "blank check." Id. at 12-13. This argument fails on several levels.

First, Mr. Falkenberg appears to entirely ignore the fact that it is the Commission that approves the deferral, not the utility. There is no "blank check" under ORS 757.259. It requires the Commission to "find" that the deferral request meets the statutory standard. The Commission has ample authority to reject deferral requests that unfairly or unnecessarily attempt to broaden the issues underlying the initial deferral request in subsequent filings. Mr. Falkenberg's scenario also suggests that deferral applications today are simple and tidy and do not involve a multitude of issues. This docket is ample evidence that this is not the case. As all of the parties must admit, there is nothing simple about creating a mechanism to accurately and fairly apportion the cost of hydro variability. To suggest that approval of the SD-PCAM

application for deferral was filed. Id. at 8.

settlement, which is the product of an enormous amount of hard work and compromise, and an attempt by PGE and Staff to address very complex issues in a just manner, will make deferrals into a blank check is simply incorrect.

Finally, Mr. Falkenberg's likening of the SD-PCAM and deferral of power costs related to thermal plants and natural gas costs to the inclusion of unrelated distribution costs in a deferral for storm damage is a gross exaggeration. While the SD-PCAM captures a broader range of variables than PGE's HGA, the purpose of that broadening is to craft a method for calculating a deferred account balance that will more accurately the cost impacts of variations in hydro production. Thus while the types of costs that may be reflected in the deferral are more broad, the effect is simply to more closely match the policy objectives set forth in ORS 757.259.

IV. The SD-PCAM is consistent with the Commission's decision in UM 1071.

ICNU, in further legal argument contained in testimony, incorrectly claims that the Commission's Order in UM 1071 dictates that the deferral request in UM 1187 should not be granted. That position is unfounded.

ICNU incorrectly claims that UM 1187 is analogous to UM 1071. It is not. The settlement in UM 1187 is part of a two-year SD-PCAM mechanism that will track the costs and benefits of hydro generation variation. The Commission's order in UM 1071 specifically stated that "a PCA may be an appropriate way of permanently allocating risks and benefits of hydro variability between shareholders and ratepayers." The deferral in UM 1187 is part of a PCA allocating the risks and benefits of hydro variability. It is not permanent, but it is intended to be a two-year step leading to a permanent PCA mechanism. The stipulated outcome of UM 1187 is consistent with and implements the directions contained in the UM 1071 Order.

One argument referenced by the Commission in its UM 1071 order was Staff's theory that hydro variation is a cost that can be stochastically modeled. Order 04-108 at 8-9. In this docket Staff has explained that the costs of hydro variation are asymmetric and in its opinion Expected Value Power Cost modeling is necessary to properly reflect that asymmetry in rates. UE 165/Staff/100, Galbraith/14-16. However, it is currently not possible to do the modeling Staff desires, and Staff recommends that it be addressed in PGE's next rate case. As Maury Galbraith explained at the hearing in this matter:

“Part of the consideration there – or as part of Staff's thinking in entering into the stipulation – is that Staff recommends that you use Expected Value Power Cost models to create a more permanent Power Cost Adjustment Mechanism. PGE currently does not have the capabilities to do Expected Value Power Cost modeling, and we recommend that the Commission consider it in PGE's next general rate case. Staff also opposes the use of one-time deferred accounting to allocate hydro risk. Part of Staff's thinking in entering into the Stipulation is that we believe – that some sort of supplemental ratemaking is warranted in this case, and that it is unfair to the utility to put them between a rock and hard place of requiring Expected Value Power Cost modeling and saying no to a one-time deferred accounting. So I think the answer to your question is that yes, we feel a mechanism is warranted, and we feel it's unfair to keep postponing the implementation of that mechanism indefinitely.”

Transcript of Proceedings, August 9, 2005, hearing, pp. 57-58. As Staff explained, it would be unfair if Staff's position on Expected Value Power Costs were adopted without also allowing for supplemental ratemaking in the form of the SD-PCAM to be adopted.

In the UM 1071 Order the Commission also discussed two Idaho Power cases, UM 480 and UM 673 as follows: “In those cases, however, the utility had endured a multiyear drought, to which the Commission explicitly referred as a deciding factor. PGE does not face a multiyear drought in this application.” Order 04-108, p. 10. The UM 1071 order addressed an application

for deferral of costs for 2003. As has been uncontested in these dockets, hydro conditions have been below normal for five years now. The deferral in UM 1187 will be effective for costs incurred in 2005. PGE has endured a multiyear drought, and granting the deferral is consistent with the Order in UM 1071 and the Idaho Power decisions.

V. The SD-PCAM Deadband is Appropriate

Both CUB and ICNU take issue with the deadband included in the SD-PCAM. Their policy positions are not well founded. Both CUB and ICNU argue for at least a 250 basis point deadband. This position is based on nothing more than reference to previous deadbands, which were adopted for much broader power cost deferrals. It is important to note that all prior PGE power cost deferrals that have contained such a deadband were the result of settlements and cannot be used a precedent. CUB and ICNU also fail to recognize that the SD-PCAM is a narrow, focused mechanism, not a broad power cost mechanism. It would make no sense, and be bad policy, to use the deadband from a much broader power cost deferral and apply it to a hydro-only mechanism.

CONCLUSION

Ratemaking is an exercise in the reasonable, not the perfect. Hydro variation presents a challenge in cost of service ratemaking. The stipulated SD-PCAM is a good approach to meeting this challenge. PGE believes that the arguments made in opposition to the stipulated SD-PCAM mechanism are not well founded in fact, law or policy. The question presented to the Commission is whether, as a two-year mechanism, the SD-PCAM appropriately reflects the costs and benefits of variations in hydro generation in rates. The testimony of PGE and Staff unequivocally shows that it does. The SD-PCAM is meant to be a step toward a long-term PCA mechanism to be developed in PGE's next rate case, and nothing more than that. The

Stipulations in these dockets should be approved and the SD-PCAM implemented for 2005 and 2006.

DATED this 9th day of September, 2005.

Respectfully submitted,

/s/ DOUGLAS C. TINGEY

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CERTIFICATE OF SERVICE

I certify that I have caused to be served the foregoing **Post-Hearing Brief of Portland General Electric** in Docket UE 165 and UM 1187 by mailing a copy by First Class U.S. Mail, postage prepaid and properly addressed, and by electronic mail, to the following persons on the combined official UE 165 and UM 1187 service lists maintained by the Commission:

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Dated this 9th day of September, 2005.

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