

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1235

In the Matter of)	
)	
SP NEWSPRINT,)	
)	
Complainant,)	TELEPHONE
)	CONFERENCE
vs.)	MEMORANDUM
)	
PORTLAND GENERAL ELECTRIC)	
COMPANY,)	
)	
Defendant.)	

**DISPOSITION: EXPEDITED DEADLINE TO INTERVENE AND
OBJECT TO STIPULATION**

On December 16, 2005, at 9:30 a.m., a telephone conference was held in the above captioned proceeding. Among others, the following persons participated: Doug Tingey and Randy Dahlgren participated on behalf of Portland General Electric Company (PGE); Tamara Faucette and Chad Stokes participated on behalf of SP Newsprint Co. (SP Newsprint); Michael Weirich, Lisa Schwartz and Maury Galbraith participated on behalf of Staff of the Public Utility Commission of Oregon (Commission); Brad Van Cleve participated on behalf of the Industrial Consumers of Northwest Utilities (ICNU); and Phillip Carver participated on behalf of the Oregon Department of Energy (ODOE).

Background

On December 2, 2005, SP Newsprint filed a complaint against PGE. The complaint involved a dispute between SP Newsprint and PGE about the ability of SP Newsprint to modify its baseline demand under PGE’s Schedule 75, Partial Requirements Service (Schedule 75). On December 14, 2005, PGE answered the complaint. The same day, PGE and SP Newsprint jointly filed a Stipulation that resolved the dispute and a Joint Explanatory Brief that supported the Stipulation. (The Stipulation is attached to this memorandum as Appendix A and the Joint Explanatory Brief is attached as Appendix B.) PGE also filed a motion to set expedited dates to intervene in the proceeding and to file responses to the Stipulation.

The Stipulation states that PGE and SP Newsprint agree to modify SP Newsprint’s Baseline Demand under Schedule 75 to 11.0 MW and to not otherwise change SP Newsprint’s Baseline Demand during the year of 2006. The Stipulation acknowledged that the modified Baseline Demand should be utilized in setting Schedule 125, Part A, rates for PGE in Docket No. UE 172 regarding PGE’s Resource Valuation Mechanism. PGE and SP Newsprint request Commission approval of the Stipulation and PGE agreed, should the Commission approve the Stipulation, that PGE would withdraw Advice Filing 05-17.

Procedural Schedule Adopted

As represented during the telephone conference, any resolution in this docket will affect rates set in UE 172 under Schedule 125. SP Newsprint and PGE represent that they have reached a settlement of all issues in this proceeding, as set forth in the filed Stipulation and telephone participants agreed that the issues in this proceeding could be resolved by a Stipulation between PGE and SP Newsprint and the withdrawal of the complaint by SP Newsprint. Due to the interrelationship of the settlement of these issues with rates set in Docket No. UE 172, however, telephone participants acknowledge that the resolution of issues in this proceeding affect the resolution of issues in Docket No. UE 172. Consequently, SP Newsprint and PGE filed the terms of the Stipulation, thereby providing notice of the terms to interested persons.

During the telephone conference, ICNU and ODOE each stated an intention to not object to the Stipulation. Staff also stated that it would not object to the Stipulation should no other person object to the Stipulation.

As issues in Docket No. UE 172 will be presented to the Commission at a Public Meeting that is scheduled for December 22, 2005, it is appropriate to allow this docket to resolve expeditiously. Consequently, telephone conference participants agreed to the following deadline: by 5:00 p.m. on December 19, 2005, prospective parties must file a petition to intervene, together with an objection to the Stipulation.

Should no objection from any interested person be received by this deadline, PGE and SP Newsprint agree that the Stipulation will be ratified between the parties to it and that SP Newsprint will withdraw the Complaint, allowing this docket to close. Telephone conference participants also agreed that if no objection was received by the deadline, that Staff could represent at the Public Meeting to be held on December 22, 2005, that interested persons had been notified of a settlement between PGE and SP Newsprint that would modify SP Newsprint's Baseline Demand under Schedule 75 to 11.0 MW for 2006, and that no person had objected, thereby allowing the Commission to use the modified Baseline Demand for SP Newsprint for purposes of setting Schedule 125 rates in Docket No. UE 172. To the extent that any objection is received by the deadline, however, telephone participants agreed that such objection(s) will be handled as appropriate in this docket and that Staff will notify the Commission, at the Public Meeting to be held on December 22, 2005, that this proceeding is not resolved and will advise the Commission to act accordingly.

Recognizing that this deadline is very expedited, telephone participants agreed that notice of the Stipulation and of the deadline to intervene and object to the Stipulation should be widespread and asked that persons on the service lists for Docket Nos. UE 172 and UE 176 be served with this memorandum. As Staff asked whether parties to Docket No. UE 158 should also be served, I direct that this memorandum and the attached Stipulation and Joint Explanatory Brief be served on the service lists for this docket as well as Docket Nos. UE 172, UE 176 and UE 158. Notice will be provided according to normal Commission procedures, which include electronic mail service. It should also be noted that PGE represented for the record that persons expected to be interested in the proceeding were aware of the issues and the settlement on those issues.

Dated this 16th day of December, 2005 at Salem, Oregon.

Traci A. G. Kirkpatrick
Administrative Law Judge



Portland General Electric Company
Legal Department
121 SW Salmon Street • Portland, Oregon 97204
(503) 464-8926 • facsimile (503) 464-2200

Douglas C. Tingey
Assistant General Counsel

December 14, 2005

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission
Attention: Filing Center
PO Box 2148
Salem OR 97308-2148

Re: In the Matter of the Complaint of SP NEWSPRINT CO. against
PORTLAND GENERAL ELECTRIC COMPANY
OPUC Docket No. UM 1235

Attention Filing Center:

Enclosed for filing in the above-captioned docket are the following documents, which are being filed by electronic mail with the Filing Center:

- Stipulation of PGE and SP Newsprint Company;
- Joint Explanatory Brief of PGE and SP Newsprint in Support of Stipulation; and
- Motion of PGE to Set Deadline for Intervention and to Shorten Response Time to Stipulation.

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

Thank you in advance for your assistance.

Sincerely,

/s/ DOUGLAS C. TINGEY

DCT:am

cc: UM 1235 Service List

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1235

In the Matter of)	STIPULATION
)	
SP NEWSPRINT CO.)	
)	
v.)	
)	
PORTLAND GENERAL)	
ELECTRIC COMPANY)	

This Stipulation (“Stipulation”) is among Portland General Electric Company (“PGE”) and SP Newsprint Co. (“SP”) (collectively, the “Parties”). Capitalized terms used in this Stipulation have the meanings ascribed to them in this Stipulation.

BACKGROUND

1. SP is a customer of PGE, currently taking service under PGE’s Partial Requirements Service Tariff Schedule 75 at its Newberg Mill in Newberg, Oregon. SP has two gas turbine electric generators at its Newberg Mill that it has used to supply most of the electricity used at the mill since July 2003.

2. Since January 2005, SP’s Baseline Demand under Schedule 75 has been 2.0 megawatts. On October 28, 2005, SP sent a letter to PGE (a copy of which is attached as Exhibit 1 to the Complaint in this matter) requesting that PGE increase its Baseline Demand at the Newberg Mill from 2.0 megawatts to 20.0 megawatts, effective January 1, 2006.

3. Special Condition 9 of Tariff Schedule 75 states:

The Consumer's Baseline Demand may be modified as requested by the Consumer upon the addition of permanent energy efficiency measures, load shedding, or the removal of equipment. The Consumer's Baseline Demand may be modified by the Company if the Company determines that the level does not reflect load adjusted for the actual Consumer generation.

4. SP states that it has added permanent energy efficiency measures and made changes in its processes and production lines that decrease its energy needs and make uneconomic the dispatch of its second gas turbine. SP claims that as a result of such changes it has met the requirements to increase its Baseline Demand under Schedule 75.

5. On November 1, 2005, PGE notified SP that it did not qualify under Schedule 75 to raise its Baseline Demand as requested. (A copy of PGE's letter to SP is attached as Exhibit 2 to the Complaint in this docket.)

6. On or about November 15, 2005, SP elected the annual cost of service option for its Baseline Demand energy.

7. On December 2, 2005, SP filed the Complaint in this docket claiming that it met the requirements to increase its Baseline Demand under Schedule 75 effective January 1, 2006. PGE denies that SP has met the requirements, and further denies all other allegations that PGE has misapplied the tariff or otherwise acted improperly.

8. The level of SP's baseline demand has an effect on Schedule 125, Part A, rates for other large, non-residential customers.

9. The Parties have worked to resolve this issue both before and after the filing of the Complaint. To settle the matter and provide certainty with respect to SP's rates starting January

1, 2006, and also certainty with respect to the impact that a change in SP's Baseline Demand will have on other customers through Schedule 125 credits in 2006, the Parties have agreed on the compromise position set forth herein. The Parties agree to and request that the Commission adopt orders in this docket implementing and approving the following:

STIPULATION

10. From January 1, 2006, through December 31, 2006, SP's Baseline Demand under Schedule 75 will be 11.0 MW. The Baseline Demand will not be changed during 2006.

11. The Parties agree to seek expedited consideration of this Stipulation such that the rate effects can be implemented on January 1, 2006. This Stipulation does not affect SP's ability to give notice in 2006 for a change to its Baseline Demand effective in 2007 under Schedule 75; nor does it bind PGE to accept SP's interpretation of Schedule 75 provisions.

12. The Parties agree that this Stipulation resolves all the issues related to this Complaint docket.

13. The Parties agree that this Stipulation is in the public interest and will produce rates that are fair, just and reasonable.

14. The Parties shall file this Stipulation with the Commission. The Parties agree to support this Stipulation before the Commission and before any court in which this Stipulation may be considered. If the Commission rejects all or any material part of this Stipulation, or adds any material condition to any final order which is not contemplated by this Stipulation, or fails to utilize the results of this Stipulation in setting Schedule 125, Part A, rates in PGE's current RVM proceeding, Docket UE 172, each Party reserves the right to withdraw from this Stipulation upon

written notice to the Commission and the other Party within five (5) business days of service of the final order rejecting this Stipulation or adding such material condition.

15. Upon adoption of this Stipulation by the Commission, PGE will withdraw Advice Filing 05-17. PGE has agreed to extend the effective date of the Advice Filing until the Commission acts on this Stipulation.

16. This Stipulation may be signed in any number of counterparts, each of which will be an original for all purposes, but all of which taken together will constitute one and the same agreement.

17. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements, and documents disclosed in the negotiation of this Stipulation shall not be admissible as evidence in this or any other proceeding. The Parties agree that a Commission order adopting this Stipulation will not be cited as precedent in other proceedings for the matters resolved in this Stipulation.

18. This Stipulation will be offered into the record in this proceeding as evidence pursuant to OAR § 860-14-0085. The Parties agree to cooperate in drafting and submitting the explanatory brief or written testimony required by OAR § 860-14-0085(4).

19. By entering into this Stipulation, no Party shall be deemed to have approved, admitted or consented to the facts, principles, methods or theories employed by any other Party in arriving at the terms of this Stipulation. Except as provided in this Stipulation, no Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding.

DATED THIS 14th day of December, 2005.

PORTLAND GENERAL ELECTRIC
COMPANY

SP NEWSPRINT CO.

/s/ DOUGLAS C. TINGEY

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Of Attorneys for SP Newsprint

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the following documents:

- Stipulation of PGE and SP Newsprint Company;
- Joint Explanatory Brief of PGE and SP Newsprint in Support of Stipulation; and
- Motion of PGE to Set Deadline for Intervention and to Shorten Response Time to Stipulation

to be served by First Class US Mail, postage prepaid and properly addressed, and by electronic mail, upon each party on the following official service list in this proceeding:

TAMARA FAUCETTE CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP 1001 SW 5TH AVE STE 2000 PORTLAND OR 97204 tfaucette@chbh.com	CHAD M STOKES CABLE HUSTON BENEDICT HAAGENSEN & LLOYD, LLP 1001 SW 5TH - STE 2000 PORTLAND OR 97204 cstokes@chbh.com
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Dated at Portland, Oregon, this 14th day of December, 2005.

/s/ DOUGLAS C. TINGEY
Douglas C. Tingey

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1235

In the Matter of)
)
SP NEWSPRINT CO.) **JOINT EXPLANATORY**
) **BRIEF**
 v.)
)
PORTLAND GENERAL)
ELECTRIC COMPANY)

Pursuant to OAR 860-014-0085, Portland General Electric Company (“PGE”) and SP Newsprint Co. (“SP Newsprint”) (collectively, the “Parties”) submit this brief (“Explanatory Brief”) supporting the stipulation (“Stipulation”) dated December 12, 2005. Capitalized terms used in this Explanatory Brief have the meanings ascribed to them in this Explanatory Brief or in the Stipulation.

Discussion

The dispute in this docket centers around the ability of SP Newsprint to increase its Baseline Demand under Schedule 75 beginning January 1, 2006. Special Condition 9 of Schedule 75 provides the ability to modify a customer’s Baseline Demand under certain circumstances. Schedule 75, Special Condition No. 9 states:

The Consumer’s Baseline Demand may be modified as requested by the Consumer upon the addition of permanent energy efficiency measures, load shedding, or the removal of equipment. The Consumer’s Baseline Demand may be modified by the Company if

the Company determines that the level does not reflect load adjusted for the actual Consumer generation.

SP Newsprint originally sought to increase its Baseline Demand from 2.0 MW to 20.0 MW beginning January 1, 2006 due to its installation of permanent energy efficiency measures. PGE denied the request for an increase on November 1, 2005. The parties were not able to resolve the issue and SP Newsprint filed the Complaint in this matter on December 2, 2005. The Stipulation settles all issues raised in the Complaint in this matter. Stipulation ¶ 12. The Parties agree that the Stipulation is in the public interest and will produce rates that are fair, just and reasonable. Stipulation ¶ 13.

SP Newsprint claims that it met the requirements under the tariff to increase its Baseline Demand. PGE claims that it has not. The level of the Baseline Demand affects the pricing of electric service to SP Newsprint both below and above the designated Baseline Demand. The level of SP Newsprint's Baseline Demand also has an impact on Schedule 125, Part A, rates of other large, non-residential customers of PGE. Stipulation ¶ 8.

A compromise has now been reached by the Parties whereby SP Newsprint's Baseline Demand for calendar year 2006 will be set at 11.0 MW. Paragraph 10 of the Stipulation contains this agreement. Under the compromise, SP Newsprint's Baseline Demand will be increased by 50 percent of its request. Moreover, SP Newsprint agrees that it will not seek to change its Baseline Demand again in 2006. The Stipulation, however, does not affect SP Newsprint's ability to give notice to PGE in 2006 that it will modify its Baseline Demand in 2007 under Schedule 75, nor does it bind PGE to accept SP Newsprint's interpretation of Schedule 75 provisions. Stipulation ¶ 11.

By agreeing to settle this dispute for 11 MW for 2006, any impact on other large, non-residential customers through Schedule 125, Part A, will be reduced from those that would have occurred if SP Newsprint's Baseline Demand were increased to 20 MW. Stipulation ¶ 10. This Stipulation is in the public interest and results in rates that are fair, just and reasonable.

The settlement is a compromise of disputed positions. Because this is a compromise, the Parties' ability to set forth additional explanation of the Stipulation is somewhat limited. One of the primary motivations for both Parties to enter the settlement is to achieve as soon as possible certainty as to rates in 2006. This includes certainty for SP Newsprint's ongoing operations, and also certainty for the Schedule 125, Part A credit for other large, non-residential customers. Power cost rates, and associated Schedule 125 rates arising from PGE's RVM proceeding, Docket UE 172, will take effect January 1, 2006. Both parties and other customers have an interest in achieving certainty about those rates as soon as possible.

PGE filed Advice 05-17 as a result of this dispute and to amend the conditions under which a customer may modify its Baseline Demand under Schedule 75. PGE's proposed changes to Schedule 75 were contested by SP Newsprint. PGE will withdraw Advice Filing 05-17 if this Stipulation is accepted by the Commission. Stipulation ¶ 15. PGE plans to file a general rate case in 2006. It is PGE's intent that Schedule 75 issues will be dealt with along with all other issues raised in that rate case. SP Newsprint reserves the right to oppose any modification to Schedule 75 in the upcoming rate case.

As is common in settlements, each party likely used different reasoning, and different analyses of the likely outcome of this Complaint proceeding to arrive at the settlement position.

Since the Stipulation represents the settlement of a disputed claim, each Party independently relied on its own reasoning and analysis in agreeing to the settlement. Nevertheless, both Parties believe that the settlement is a reasonable compromise.

The Stipulation also contains a number of provisions typically contained in stipulations filed with the Commission. Stipulation ¶¶ 14-19.

Conclusion

The Stipulation is a reasonable compromise of the dispute in this docket. The Stipulation is in the public interest, provides certainty for PGE, SP Newsprint and other customers about the rates for 2006 and results in rates that are fair, just and reasonable. For the reasons set forth above, the Parties request that the Commission approve the Stipulation.

DATED THIS 14th day of December, 2005.

PORTLAND GENERAL ELECTRIC
COMPANY

SP NEWSPRINT CO.

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