

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

DR 10/UE 88/UM 989

In the Matters of )  
)  
The Application of Portland General Electric )  
Company for an Investigation into Least Cost Pla )  
Plant Retirement, (DR 10) )  
)  
Revised Tariffs Schedules for Electric Service )  
in Oregon Filed by Portland General Electric )  
Company, (UE 88) )  
)  
Portland General Electric Company's )  
Application for an Accounting Order and for )  
Order Approving Tariff Sheets Implementing )  
Rate Reduction. (UM 989) )

**POST-HEARING  
MEMORANDUM AND  
RULING**

**DISPOSITION: BRIEFING SCHEDULE TO BE SET AFTER  
RECORD CLOSED; EXTENSION TO SUBMIT  
POST-HEARING DOCUMENTS GRANTED**

On August 29, 2005 and August 30, 2005, a hearing was held in the above-captioned dockets in Salem, Oregon. The following parties appeared at the hearing: Jeanne Chamberlain and Jay Dudley, on behalf of Portland General Electric Company (PGE); Stephanie Andrus, on behalf of Public Utility Commission of Oregon Staff (Staff); Linda K. Williams, on behalf of Morgan, Gearhart and Kafoury (MGK), and Dan Meek, on behalf of Utility Reform Project, et al. (URP).

During the hearing, I made three rulings that necessitated leaving the record open in the above-captioned dockets. The first ruling allows URP to further address the admittance of Mr. Meek's testimony on behalf of URP into the record. As Mr. Meek represented URP at the hearing, URP agreed to withdraw the testimony of Mr. Meek, pursuant to Rule 3.7 of the Oregon Rules of Professional Conduct (Rule 3.7) and prior rulings, but did so with protest. At the hearing, I indicated that although I did not want to delay the hearing to address the issue further, I did not want to deprive URP of what it considered to be a full opportunity to be heard on the matter. Consequently, I indicated that the record would be left open and that URP would be allowed to file

documents until close of business on September 2, 2005 that either: 1) indicated that Mr. Lazar or Ms. Williams had conducted the independent review necessary to adopt the testimony; or 2) briefed the issue of whether the hardship exception to Rule 3.7 justifies Mr. Meek acting as both witness and attorney for URP in these proceedings.

I also left the record open to allow URP to have an opportunity to make post-hearing motions to strike portions of pre-filed testimony. URP may file a motion to strike the testimony of PGE or Staff on the basis that the testimony includes what counsel for URP identified as “future facts.” I noted, however, that the term “future fact” is a term of art proffered by URP for which there is no approved definition and directed URP to fully and precisely define the term. With regard to the testimony of PGE, URP may also move to strike testimony on the basis that the testimony sets forth legal conclusions. I allowed three business days, until September 8, 2005, for responses to any document filed by URP.

At the conclusion of the hearing, I indicated that I would establish a briefing schedule after the record was closed in this proceeding. I stated that in setting the briefing schedule, I would take into consideration the concerns about timing expressed by all of the parties.

On August 31, 2005, URP filed a motion for an extension of time, from September 2, 2005 to September 6, 2005, to file post-hearing documents. URP represented that it had conferred with PGE and that PGE did not object to the extension, so long as there is no effect on the schedule for post-hearing briefs. URP also represented that it had notified Staff.

In recognition of the Labor Day holiday, and based on URP’s representations that PGE and Staff have been notified and that neither has expressed opposition to the extension, I grant PGE’s motion and approve an extension to September 6, 2005, for URP to submit post-hearing documents. Staff and PGE are also granted a one-day extension until September 9, 2005, to file responses to any documents filed by URP. I do not expect the extensions to have a significant impact on the briefing schedule.

Dated this 1<sup>st</sup> day of September, 2005, at Salem, Oregon.

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Traci A. G. Kirkpatrick  
Administrative Law Judge