



# Oregon

Theodore R. Kulongoski, Governor

## Public Utility Commission

550 Capitol Street NE, Suite 215

Mailing Address: PO Box 2148

Salem, OR 97308-2148

Consumer Services

1-800-522-2404

Local: 503-378-6600

Administrative Services

503-373-7394

October 3, 2007

TO: Parties to Dockets DR 10, UE 88, and UM 989

RE: Timing of Commission Decision

As you are aware, the Public Utility Commission of Oregon is conducting remand proceedings in response to two judicial decisions on rate orders allowing Portland General Electric Company (PGE) to collect a return on its undepreciated investment in the retired Trojan generating facility. The Court of Appeals determined that a 1995 rate order allowing the return was in error and remanded the matter for further proceedings. *Citizens' Utility Board v. PUC*, 154 Or App 702 (1998). The Marion County Circuit Court concluded that a subsequent 2000 rate order removing all Trojan costs was also in error, because it failed to redress the rates paid by customers for the time between the two rate orders—that is, 1995 to 2000.

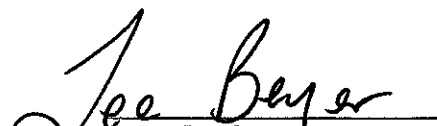
These remand proceedings have become linked to separate civil court actions filed in Marion County Circuit Court. Certain PGE ratepayers filed complaints against PGE and seek refunds of all amounts that ratepayers illegally paid between 1995 and 2000. Finding that the PUC's remand proceedings involve essentially the same controversy and ratepayers, the Oregon Supreme Court ordered the civil actions be abated "at least until the PUC responds to certain remands . . . because the PUC's disposition of those remands may negate some or all the damages that plaintiffs now claim." *Dreyer v. Portland General Electric*, 341 Or 262, 265 (2006).

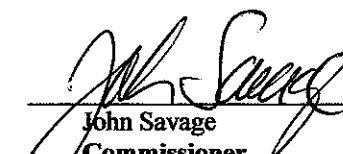
The Supreme Court imposed no time limit as to how long the civil proceedings should be abated. Nonetheless, the Honorable Judge Paul Lipscomb has indicated he will reinstate the cases if the PUC does not resolve the remands proceedings by October 5, 2007.

The purpose of this letter is to give notice that we are working diligently on rendering a decision in this matter. Our decision, however, will not be issued prior to October 5, 2007.

As the opinion in *Dreyer* made clear, we must resolve whether the PUC is authorized to provide refunds to ratepayers for charges collected under approved tariffs later found to be unlawful. Although the court's remand of the 2000 rate order assumed the PUC had such authority, the issue has not been conclusively determined in Oregon. In fact, the matter is so uncertain that both PGE and its primary opponent in these cases, the Utility Reform Project (URP), have each renounced earlier arguments as to the PUC's retroactive ratemaking authority and now advocate positions similar to those previously offered by their opponent. Moreover, in arguments presented here and to the Court of Appeals, URP and PGE agree that the Marion County Circuit Court was without authority to order the PUC to order refunds for amounts unlawfully collected by PGE during the 1995 to 2000 time period.

Given these uncertainties and the potential impact of a decision in this matter, the resolution of these remand proceedings requires extensive analysis and thoughtful deliberation. This matter has been taken under advisement since the parties presented oral argument on August 9, 2007. Our goal is to issue a final order in response to the judicial remands within the next few weeks.

  
Lee Beyer  
Chairman

  
John Savage  
Commissioner

  
Ray Baum  
Commissioner