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July 21, 2010

Via Email and US Mail

Vikie Bailey-Goggins
Oregon Public Utility Commission
Administrator
550 Capitol Street, N.E., Ste 215
Salem, OR 97301-2551

RE: UE 215 Revision of Exhibit 1800

Ms. Bailey-Goggins:

Enclosed please find an original and five copies of PGE's Revised Exhibit 1800. PGE is filing this revision to correct errors made during our formatting of PGE Exhibit 1800, Mr. Fetter's rebuttal testimony. PGE requests that this Revised PGE Exhibit 1800 be substituted for the PGE Exhibit 1800 filed July 19, 2010.

The Revised PGE Exhibit 1800 makes the following changes:

- Page 1, line 4, change the capitalized, "Whose" to lower case "whose."
- Page 5, line 17, change the capitalized words, "National or State-owned" to lower case "national or state-owned."
- Page 5, line 18, change the capitalized words, "Cooperatives," "Municipal Utilities," and "Federal Agencies" to lower case, "cooperatives," "municipal utilities," and "federal agencies."
- Page 5, line 19, change the capitalized word, "He" to lower case "he."
- Page 6, line 11, change the capitalized word, "Proposing" to lower case "proposing."
- Page 7, line 8, change the capitalized word, "It" to lower case "it."
- Page 7, line 19, change the capitalized word, "Makes" to "makes."
- Page 8, line 7, change the following capitalized words, "Rating Agencies" to lower case "rating agencies."
- Page 9, line 5, change the lower case word, "new" to capitalized lower case "New."

- Page 10, line 13, correct spelling of “Does.”
- Page 10, line 13, change the capitalized words, “Rebuttal Testimony” to lower case “rebuttal testimony.”

If you have any questions or require further information, please contact me at (503) 464-7002.
Please direct all formal correspondence and requests to the following email address
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Sincerely,



Jay Tinker
Project Manager, Regulatory Policy & Affairs

JT/jw

Encls.

BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

PCAM

PORTLAND GENERAL ELECTRIC COMPANY

Revised Rebuttal Testimony of

Steven M. Fetter

July 21, 2010

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I. Introduction

1 **Q. Please state your name, title, and business address.**

2 A. My name is Steven M. Fetter. I am President of Regulation UnFettered. My business
3 address is 1489 W. Warm Springs Rd., Suite 110, Henderson, Nevada 89014.

4 **Q. On whose behalf are you testifying?**

5 A. I am testifying on behalf of Portland General Electric Co. ("PGE" or the "Company").

6 **Q. Are you the same Steven M. Fetter who testified earlier in this proceeding?**

7 A. Yes. I am responsible for PGE Exhibit 1300 within this docket before the Oregon Public
8 Utility Commission ("OPUC" or "Commission").

II. Summary

1 Q. At the outset, do you have a general comment you wish to make?

2 A. Yes. In this testimony, I rebut the views of Randall J. Falkenberg, testifying on behalf of the
3 Industrial Customers of Northwest Utilities, Mr. Ed Durrenberger, testifying on behalf of the
4 Commission Staff, and Mr. Bob Jenks, testifying on behalf of the Citizens Utility Board. As
5 can be seen, while I disagree with the substance of the opening testimonies of Mssrs.
6 Durrenberger and Jenks, they have presented their views clearly and in a way that helps this
7 Commission to carry out the important and difficult task of weighing pros and cons to
8 determine the appropriate regulatory policy for the state generally and PGE and its
9 customers specifically.

10 The same cannot be said for Mr. Falkenberg. I disagree with both the substance of Mr.
11 Falkenberg's opening testimony as well as his assertions that I am "naïve" and favor "lax,
12 laissez-faire regulation." I have been involved in the regulatory arena for over twenty-five
13 years – as chairman and member of a commission (appointed by a Democrat and
14 reappointed by a Republican), head of a bond rating utility practice, and now as a consultant
15 to utilities, utility commissions, and consumer advocates. As a decision-maker, I have been
16 involved with some of the most contentious and difficult cases within the regulatory realm,
17 including the abandonment of the Midland nuclear plant and its reconstitution into the
18 world's largest cogeneration facility at the time.

19 In that Midland case, a joint stipulation between Consumers Power, MPSC staff, and
20 ABATE, an industrial users group, attempted to bring this rather extended litigation to a
21 conclusion. At an expedited hearing it came out that ABATE had cut a secret side deal,
22 agreeing to accept a \$7.5 million payment from Consumers Power for litigation expenses.

1 The MPSC Staff, a signatory to the joint stipulation, knew nothing about that arrangement.
2 The MPSC rejected the settlement. As I recall, with the failure of the joint stipulation,
3 Consumers Power's stock price declined approximately 25% the next day, and litigation
4 continued for over a year. These were hardly the actions of someone naïve as to regulatory
5 process and policy and a lax, laissez-faire regulator.

6 Mr. Falkenberg talks about many things in his testimony – affiliate transactions, debt
7 versus equity costs, renegade third-party plant operators -- but nowhere does he explain why
8 PGE should not recover from its customers the actual costs of prudently-incurred fuel and
9 purchased power expenditures, as is allowed in most states across the country.

10 Both Mr. Durrenberger and Mr. Jenks primarily offer views in support of the PCAM as
11 it currently operates. While I address certain aspects of their comments, my rebuttal
12 testimony directed toward Mr. Falkenberg's testimony should be viewed as also responding
13 to their positions.

III. Discussion

1 **Q. Can you sum up your disagreement with the witnesses listed above?**

2 A. Yes, simply stated, I firmly believe that a regulated utility, operating prudently with regard
3 to fuel and purchased power expenditures, deserves full recovery of those costs. This is the
4 mainstream position across the U.S.

5 Contrary to the witnesses' claims that the OPUC Staff is not up to the challenge of
6 carrying out post-hoc prudence reviews, based upon my personal experience at the Michigan
7 Public Service Commission ("MPSC"), I have much greater faith in the ability of a
8 regulatory staff when assigned a key role in the process. Indeed, Mr. Falkenberg lists
9 several instances where findings of imprudent utility behavior (and related cost
10 disallowances) have been found, illustrating that it can be done! I note that a majority of
11 commissions across the country set their internal staff structures to be able to carry out
12 prudence reviews of fuel and purchased power expenditures to ensure that customers pay no
13 more than they should, and that companies recover only what they are entitled to receive.

14 **Q. Mr. Falkenberg testifies that PCAM issues should be treated as all other ratemaking
15 issues with a utility merely having an opportunity to recover its costs. Do you agree?**

16 A. No. Fuel and power costs are not items upon which PGE receives a return. Any utility
17 should receive dollar-for-dollar recovery for prudently-incurred fuel and power costs, or as
18 close to it as the regulatory process can provide. Mr. Falkenberg muddies the discussion
19 through his voluminous discussion of the ratemaking process and how it only provides a
20 regulated utility an "opportunity" to recover its costs and earn an appropriate return. When
21 we are addressing the PCAM, we are not talking about determining an appropriate return on
22 investment. I analogize the PCAM to when a neighbor asks you to pick up a gallon of milk

1 for them at the store. Yesterday the gallon was \$2.25, today it's \$2.35, and tomorrow it may
2 be \$2.15. No one would ever argue that you should not receive from the neighbor the \$2.35
3 you actually paid for the milk. That is what is happening when PGE procures fuel and
4 purchased power on behalf of its customers, without a return on the funds expended.
5 Indeed, I find it somewhat incredible that one of the arguments Mr. Falkenberg uses to
6 support continuation of the current PCAM is that PGE has over-recovered its fuel and
7 purchased power costs during the past two years.

8 **Q. As Mr. Falkenberg notes, doesn't the fact that the last two PCAM proceedings resulted**
9 **in settlements reflect that PGE views the PCAM structure as "well-defined, and the**
10 **process lacking in controversy" (Falkenberg/2)?**

11 A. Not at all. Whether PGE agrees with the policy underlying the current PCAM or not, the
12 Company is required to follow its strictures unless and until they are modified. Those
13 settlements merely reflect that the parties were able to agree to the mathematical calculations
14 within the PCAM.

15 **Q. In arguing against full recovery of fuel and purchased power costs, Mr. Falkenberg**
16 **notes that there are many utilities that deal with their internal costs without any**
17 **conventional regulatory oversight, such as national or state-owned utilities, many**
18 **cooperatives and municipal utilities, as well as federal agencies (Falkenberg/4). Does**
19 **he have a point there?**

20 A. No. From my experience, most if not all of those governmental or nonprofit entities finance
21 their operations with tax-exempt debt. That debt has bond indentures and strict covenants
22 that limit the ratemaking flexibility of those self-regulating entities, so as to provide
23 adequate cash flow from rates to ensure that principal and interest are paid on a timely basis,

1 with a small reserve fund set aside to deal with unforeseen occurrences. Basically, that
2 structure is predicated on delivering a precise amount of funds through the ratemaking
3 process – *it is a cost-based system*. As such, even though those entities are self-regulating, it
4 is incumbent upon them to move rates up and down to reflect variability in power supply
5 costs and other O&M expenditures that might not be covered by the small reserve fund.¹
6 Thus, those systems bear a much closer resemblance to my call for a PCAM that aims
7 directly at recovery of actual prudent fuel costs than it does to traditional rate of return
8 ratemaking, which by its very name is inconsistent with what a PCAM aims to do – that is,
9 to provide fuel and purchased power cost recovery without an equity return.

10 **Q. Mr. Falkenberg says you have a “rather naive view of the efficiency of regulation in**
11 **identifying and disallowing imprudent costs” and that you are “proposing a rather lax,**
12 **laissez-faire form of regulation.” Would you agree with his assessment?**

13 A. If believing that utility regulation can be carried out efficiently with fair results for all
14 stakeholders is a fanciful aspiration, call me naïve. At the MPSC, I led a commission that
15 carried out a plan and reconciliation process for all of the state’s electric and natural gas
16 utilities on an annual cycle. Contrary to Mr. Falkenberg’s statement that I am trying to play
17 it both ways with future versus historical test years, an annual plan and reconciliation
18 process, by its very nature, can only work that way: through use of forecasted data going in
19 and historical data coming out.

20 I also must reject the “lax, laissez-faire regulation” label Mr. Falkenberg attempts to pin
21 on me. I don’t understand how advocating for a regulatory process that seeks to match up

¹ See, for example, S&P Research: “Tacoma, Washington; Retail Electric,” September 9, 2009 (“Rate-setting, issuing debt, and other matters require formal city council approval. ... We believe the city has generally demonstrated a commitment to sound financial performance, by quickly increasing rates when rising costs indicate that it is necessary to do so. This was particularly evident during 2000 and 2001, when Tacoma adopted a temporary 50% rate surcharge in response to rising purchase-power costs to preserve its financial position.”)

1 prudent actual costs with timely recovery would fall into that category. Rather, I would
2 think that a process under which a utility over-recovers for two years in a row – and
3 potentially could under-recover when hydro conditions turn negative in the future -- would
4 more appropriately bear that description.

5 **Q. Mr. Jenks testifies that, under a modified PCAM, “PGE will no longer have an**
6 **incentive to control its costs.” (Jenks/4) Do you agree?**

7 A. No I do not. Under the PCAM modifications proposed by PGE, the Company will face one
8 of two fates. At best, it will either recover almost all of its actual costs (limited due to 90-10
9 and deadband effects); at worst it will undertake fuel and purchased power procurement
10 activities, for which it does not receive a return, and be found to have acted imprudently
11 with a portion of its actual expenditures disallowed. I have looked at this situation every
12 which way, today as well as when I was a utility regulator, and I cannot for the life of me
13 see why PGE or any other utility would not try to carry out these activities appropriately.
14 The Company cannot gain by acting without due care, but it can lose if found to have acted
15 imprudently. I just don’t understand what would motivate a utility to act in an inappropriate
16 or imprudent manner, when there is nothing to be gained by doing so. None of the witnesses
17 opposing PGE’s proposed modifications have explained where such a motivation would
18 come from, and, more so, what could be gained by such an approach.

19 **Q. Mr. Jenks states that your testimony “makes clear that the purpose of the changes that**
20 **PGE is proposing in the PCAM is to reduce the chance of the company earning less**
21 **than its authorized amount.” (Jenks/5) Do you agree?**

22 A. No. I don’t know how he can say that, since I do not believe that earnings should enter into
23 the fuel cost recovery equation either as a positive or negative driver. Indeed, as I noted in

1 my direct testimony, of all the commissions using a PCAM, only Indiana makes an earnings
2 analysis within its PCAM, and then only in a much more attenuated fashion than what
3 currently exists here. Perhaps Mr. Jenks was reading my quote from S&P in which the
4 agency mentioned two negative rating factors: “a weak power cost mechanism and chronic
5 under-earning of authorized returns.”² I view those as two distinct negative items affecting
6 PGE’s financial health and credit ratings.

7 **Q. Both Mr. Falkenberg and Mr. Jenks talk about evil doings at the rating agencies, and**
8 **that Moody’s think the PCAM is fine just the way it is. (Falkenberg/13-14;**
9 **Jenks/17-18) Do you have thoughts on their comments?**

10 A. Yes. The track record of the rating agencies over the past ten years has been less than
11 perfect. I believe negative occurrences at the rating agencies have resulted in much stricter
12 behavior internally within the agencies and closer scrutiny externally by the government and
13 the financial community. The agencies remain a key cog within the operations of the
14 financial system. Ironically, I believe the manner in which the agencies are run today
15 following those mistakes is more transparent and careful than they have ever operated
16 before, and that continued reliance on their ratings and published statements is totally
17 appropriate.

18 With regard to Moody’s and PCAMs, I am sure Moody’s views the current PCAM
19 more positively than no PCAM at all. I am also confident that Moody’s would view a
20 PCAM with PGE’s proposed modifications even more positively, since it would more
21 closely track Moody’s view that:

² S&P Research: “Portland General Electric Co. Corporate Credit Rating Lowered to ‘BBB’ on Weak Economy; Outlook Revised to Stable,” January 29, 2010.

1 “The ability to recover prudently incurred costs in a timely manner
2 is perhaps the single most important credit consideration for
3 regulated utilities as the lack of timely recovery of such costs has
4 caused financial stress for utilities on several occasions.”³

5 **Q. In conclusion, I can’t help but ask: how do you view Mr. Falkenberg’s New Coke**
6 **example?**

7 A. Somehow Mr. Falkenberg attempts to undercut my prudence discussion by pointing to New
8 Coke as “arguably a prudent decision,” but one that “did not result in Coca Cola Company
9 making a profit on the product.” (Falkenberg/ 5) Interestingly, from the time of Coca Cola’s
10 introduction of New Coke on April 23, 1985 until the day before it was discontinued 79 days
11 later on July 10, 1985, Coca Cola’s common stock price actually rose. So I’m not sure how
12 anyone can opine conclusively whether New Coke was a failure from a marketing
13 perspective, or that it represented success in that Coca Cola undertook a huge risk, failed,
14 but maintained and indeed improved its market capitalization. Thankfully, that question
15 doesn’t have to be answered here as it is irrelevant to the Commission’s task at hand.

16 I do, however, see other relevance to the New Coke example. Coca Cola was able to
17 attempt a new market strategy with New Coke, assess that the product was not working, and
18 shortly thereafter abandon distribution and sale of the product. PGE is legally barred from
19 acting in a similar fashion. Even if a particular part of the Company’s system is not meeting
20 its cost of service or is proving to be problematic in other ways, PGE has an obligation to
21 serve and thus cannot abandon that portion of its service territory. Moreover, even if PGE
22 disagrees with the PCAM ordered by this Commission because it does not provide recovery

³ Moody’s Research: “Rating Methodology: Regulated Electric and Gas Utilities,” August 2009.

1 of 100% of its prudently-incurred fuel and purchased power costs (unfortunately, a
2 characteristic of both the current and proposed PCAMs), the Company is not allowed to
3 unilaterally decide that, for business reasons, it will no longer procure power supply on
4 behalf of its customers. Clearly, PGE operates within a totally different business landscape
5 than does Coca Cola and other competitively-based corporations.

6 **Q. Do you have concluding thoughts?**

7 A. Yes I do. Timely recovery of prudently-incurred expenditures made by a regulated utility on
8 behalf of its customers is important, both in a business sense as well as to investors, those
9 who provide the capital needed to enhance and maintain system infrastructure. I
10 respectfully suggest that PGE should be allowed to receive full (or here, closer to full)
11 recovery for prudently meeting the fuel and purchased power obligations it has been
12 assigned under the “regulatory compact.”

13 **Q. Does this conclude your rebuttal testimony?**

14 A. Yes it does.

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **PGE's UE 215 Revision of Exhibit 1800** to be served by electronic mail to those parties whose email addresses appear on the attached service list and by method specified, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service from OPUC Docket No. UE 215.

Dated at Portland, Oregon, this 21st day of July, 2010.


Jay Tinker

Summary Report**UE 215 PORTLAND GENERAL ELECTRIC COMPANY****Category:** Electric Rate Case**Filed By:** PORTLAND GENERAL ELECTRIC

This filing requests a general rate revision.

Filing Date: 2/16/2010 **Advice No:** 10-04**Effective Date:** 12/18/2010 **Expiration Date:** 12/17/2010 **Status:** SUSPENDED**Final Order:** **Signed:** 2/16/2010**SERVICE LIST:**

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