

**BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON**

**DR 10 / UE 88 / UM 989
REMAND**

PORTLAND GENERAL ELECTRIC COMPANY

Phase III Surrebuttal Testimony of

*Jay Tinker
Stephen Schue
Patrick G. Hager*



Portland General Electric

June 27, 2008

I. Introduction

1 **Q. Please state your names and positions.**

2 A. My name is Jay Tinker. My position is Project Manager in the Rates and Regulatory Affairs
3 Department of PGE. My qualifications are set forth in PGE/7500.

4 My name is Stephen Schue. My position is Senior Analyst in the Rates and Regulatory
5 Affairs Department of PGE. My qualifications are set forth in PGE/7500.

6 My name is Patrick G. Hager. My position is Manager, Regulatory Affairs of PGE.
7 My qualifications are set forth in PGE/7500.

8 **Q. What is the purpose of your testimony?**

9 A. The purpose of our testimony is to discuss several errors in the rebuttal testimony of Mr. Jim
10 Lazar, URP Exhibit 510. These include:

- 11 • Application of the wrong discount rate;
- 12 • Failure to recognize the governing Commission ratemaking framework as it
13 applies to the FAS 109 asset; and
- 14 • Incorrect assumptions with respect to NEIL.

15 **Q: Mr. Lazar argues that the "net benefit analysis" is flawed because it allegedly uses the
16 wrong discount rate. He testifies that the appropriate discount rate is PGE's pre-tax
17 cost of capital. Is that the appropriate discount rate?**

18 A. No. The appropriate discount rate is PGE's authorized cost of capital, which is the rate PGE
19 and Commission staff used in the revenue requirement net benefit analysis. This is the rate
20 the Commission has historically allowed as interest on deferred balances, either owed to
21 customers or owed to a utility.

22 **Q. Does Mr. Lazar's objection apply to the asset balance net benefit analysis?**

1 A. No. The asset balance net benefit analysis compared the actual balances of the applicable
2 regulatory assets and liabilities. No discount rate was used for that net benefit test.

3 **Q. Mr. Lazar claims there is no evidence showing the amount of taxes actually paid,**
4 **suggesting that this undermines the Commission’s treatment of the FAS 109 asset. Is**
5 **that correct?**

6 A. No. At all times relevant to this proceeding -- when Trojan was included in rates and during
7 the UM 989 proceeding – the Commission applied a stand-alone approach to all utility
8 expenses, including tax expenses. According to that approach, a utility’s tax expense
9 included in rates is based solely upon the utility’s expenses and revenues on a stand-alone
10 basis. This Commission policy served to protect customers from paying rates that included
11 non-utility expenses and from paying higher tax expenses associated with non-utility
12 activities. Moreover, the stand-alone approach protected for customers the benefits of
13 accelerated depreciation by ensuring compliance with the IRS’ normalization rules. In
14 addition, Mr. Lazar fails to recognize that SB 408 was enacted into law in 2005 and applies
15 to taxes paid beginning January 1, 2006. Thus, it would be inappropriate for the
16 Commission to evaluate the impact of a 2000 settlement in light of a new regulatory
17 paradigm regarding income taxes that became effective more than five years after the
18 settlement. This approach would also run counter to the scoping order for this phase which
19 established the proper framework as reviewing “...relevant facts as they existed on or before
20 October 1, 2000.” For all these reasons, actual taxes paid by PGE are not relevant to the
21 FAS 109 asset or its treatment under the settlement.

22 **Q: Mr. Lazar claims there is no evidence that customers benefited from accelerated tax**
23 **deductions in the early years of Trojan’s service life. Is that accurate?**

1 A. No. In the early years of Trojan's service life, customers benefited from a reduction in
2 PGE's stand-alone tax expense because of the accelerated depreciation the federal tax code
3 affords. This lowered the tax expense included in rates, reducing the overall rate customers
4 paid. As those accelerated tax deductions reverse in later years, the tax deductions
5 associated with the investment are less than they otherwise would have been. On a stand-
6 alone basis, PGE's tax expense in those later years would have been higher. The FAS 109
7 asset reflects this fact.

8 **Q. Does Mr. Lazar question the accounting treatment of the FAS 109 asset?**

9 A. No. He does not attempt to rebut our prior testimony that the FAS 109 asset was required
10 under Generally Accepted Accounting Principles, audited by independent auditors on an
11 annual basis, and was part of standard cost-of-service ratemaking.

12 **Q. Mr. Lazar suggests that between rate cases customers should be entitled to the benefits**
13 **of all non-recurring events that operate in their favor. Otherwise, Mr. Lazar claims**
14 **"the utility can handsomely profit merely by arranging to overpay vendors on a**
15 **regular basis and then receive lump sum true-ups from the vendors, conveniently**
16 **scheduled between rate cases or conveniently labeled 'non-recurring items.' This is**
17 **another 'heads-I-win--tails-you-lose' technique that Staff should not be endorsing." Do**
18 **you agree with Mr. Lazar's characterization?**

19 A. No. His opinion is unsound on a number of levels. First, he appears to assume that all non-
20 recurring events will be income producing for the utility. This is not the case. Between rate
21 cases, costs and revenues vary from projected rate case levels: some are greater than
22 forecasted, some are lower than forecasted. Generally speaking, the utility bears this type of
23 risk between rate cases. Second, a utility is not free to increase artificially its costs in a rate

1 case. A utility's forecasted expenses are subject to discovery, testimony from other parties,
2 and the Commission's determination in a final order. A utility would not be permitted to
3 inflate expenses in order to facilitate a refund or rebate later. Finally, Mr. Lazar misses the
4 point about the treatment of NEIL in the net benefit analyses. Those tests accepted
5 Mr. Lazar's assumption that customers were entitled to 100% of the proceeds from NEIL
6 and still showed that the settlement provided a net overall benefit of between \$16.4 and
7 \$18.5 million.

8 **Q. Does that conclude your testimony?**

9 A. Yes.

CERTIFICATE OF SERVICE

I hereby certify that on this day I served the foregoing **PHASE III SURREBUTTAL TESTIMONY OF JAY TINKER, STEPHEN SCHUE AND PATRICK G. HAGER** by e-mail and/or mailing a copy thereof, to each party that has not waived paper service, in a sealed, first-class postage prepaid envelope, addressed to each party listed below and depositing in the US mail at Portland, Oregon.

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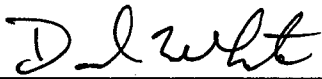
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DATED this 27th day of June, 2008.

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