

ORDER NO. 00-702
ENTERED OCT 30 2000

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 967

In the Matter of the Application of)
SIERRA PACIFIC RESOURCES to) ORDER
Acquire PORTLAND GENERAL)
ELECTRIC COMPANY.)

DISPOSITION: APPLICATION GRANTED

On January 1, 2000, Sierra Pacific Resources (Sierra Pacific or Sierra) filed an application to acquire Portland General Electric Company (PGE) from the Enron Corp. ORS 757.511 directs the Commission to investigate the application and act on it within 19 business days. Sierra waived the 19 day review requirement at the beginning of the case.

Prehearing conferences were held on January 26, 2000, July 6, 2000, and July 18, 2000, in Salem, Oregon. Public comment hearings were held in Portland, Oregon, on April 4, 2000, and Salem, Oregon, on April 11, 2000, to provide information to the public and receive comments. Transcripts of the hearings are part of the record in this case.

Approximately 20 parties intervened in this proceeding. The parties are set out in Appendix A to this order. Intervenors include representatives of PGE's residential and industrial customers, other electric and gas utilities in Oregon and the West, energy marketers, and representatives of various public interest groups. Extensive testimony was filed in this matter. The parties also conducted extensive discovery procedures. Settlement discussions were held on several occasions.

Prior to the scheduled hearing date of August 30, 2000, the parties notified the Administrative Law Judge that a settlement had been reached among the most active parties. The hearing was therefore cancelled.

On September 1, 2000, Sierra, PUC Staff, the Citizens' Utility Board (CUB) and the Industrial Customers of Northwest Utilities (ICNU), filed a Settlement Agreement resolving for those parties all the issues involved in the case. The Settlement Agreement was served on all other parties, who were provided an opportunity to offer

comments or objections. No comments or objections were received. On September 8, 2000, Sierra, PGE, and Staff filed joint testimony in support of the Settlement Agreement. In addition, Staff filed separate supporting testimony. The evidentiary record in the case was closed on September 28, 2000. The Settlement Agreement is made part of this order. It is attached to this order as Appendix B (excluding certain voluminous attachments). It is discussed in detail below.

On September 21, 2000, Sierra Pacific filed a Stipulation on behalf of itself and several other signatories setting out a voluntary settlement on certain public interest issues related to this docket. It also filed on that date an explanatory brief in support of the Stipulation and a request that the period for comment on the Stipulation be shortened from the 20 days set out in OAR 860-014-0085. The request was granted. No comments on the Stipulation were filed. The signatory parties ask that the Commission acknowledge the commitments made in the Stipulation. The Stipulation is attached to and made part of this order as Appendix C. It is discussed in detail below.

The Commission has examined the Settlement Agreement and the Stipulation and the entire record in this case. We conclude that no purpose will be served by further proceedings in this matter. For the reasons set out in this order, we conclude that the application should be granted.

Application

According to the application, Sierra is an experienced operator of regulated utilities providing electricity, gas and water services through its subsidiaries, Sierra Pacific Power Company (SPPC) and Nevada Power Company (NPC). Sierra serves about 1 million retail customers in two large metropolitan areas. Sierra also provides reliable electrical service to more than 50,000 square miles of largely rural land in Nevada and Northern California.

Sierra's application also sets out details regarding its plan for PGE and its commitments regarding its purchase of PGE, employee relations, safety, and other matters.

Opinion

Standard for Approval

ORS 757.511 requires that a transaction such as the one involved in this case be approved by the Commission. Under Subsection (3) of that statute, the Commission shall approve the application if it determines that approval will "serve the public utility's customers in the public interest...". In this case, the parties to the Settlement Agreement claim that the transaction will benefit the customers. They argue

that the benefits and protections provided by the Settlement Agreement counterbalance the risks and potential harms identified by Staff and other parties earlier in the process. Therefore, they argue, the Settlement Agreement will ensure that the acquisition is in the public interest under ORS 757.511.

Position of the Settling Parties

The settling parties (SP) argue that the central provisions of the Settlement Agreement accomplish the following:

1. Give Sierra an incentive to achieve the maximum possible integration efficiencies and resulting savings while improving customer protections relating to service quality and safety; and
2. Provide customers with rate credits to help ensure that they obtain net benefits from the transaction.

Sierra's Incentive to Achieve Savings

Under the Settlement Agreement, PGE must file its upcoming SB 1149 rate case using the assumption that Enron continues as its owner. Therefore, the 2002 test year for that case will exclude both the savings related to Sierra's acquisition of PGE and any costs incurred to achieve such savings. Second, Paragraph 2.0 of the Settlement Agreement freezes the PGE revenue requirements for distribution and for transmission services that emerge from the SB 1149 rate case until October 1, 2007. PGE or any of the other parties may seek relief from this freeze for extraordinary events.

These provisions, according to the parties, give Sierra incentives to achieve savings and also provide the benefit of greater price certainty to customers. Paragraph 2.2 of the Settlement Agreement allows parties to ask the Commission to require PGE to file a rate case for any of the three major functions (distribution, transmission and generation) such that the new rates would take effect at the end of the freeze period or up to June 30, 2008.

Acquisition Credit to Customers

Paragraph 3.0 of the Settlement Agreement calls for Sierra to provide an annual "Sierra Acquisition Credit" for the benefit of PGE's distribution customers. The amounts of the credit are set forth in the Settlement Agreement. The credit will continue through September 30, 2007. PGE will deposit the dollars associated with the rate credit at the beginning of each year and use a balancing account mechanism for accruing and passing these credits through to its customers. Interest will be calculated "consistent with current Commission practices." Paragraph 3.3 ensures that customers will not have to

pay for their credits by prohibiting inclusion of the credits in any Oregon revenue requirement presentation or in any reports of operations. Section 4 describes the distribution of the Monthly Rate Credit among the various classes of customers and the rate design to be applied. This provision gives the Commission flexibility in determining the level of the monthly credit so that a stable monthly rate credit can be provided.

SB 1149

The settling parties argue that the Settlement Agreement facilitates the implementation of SB 1149 in the following ways:

1. Paragraph 1.0 requires PGE to proceed with filing its SB 1149 rate case on October 1, 2000, as required by the Act.
2. Paragraphs 1.4 and 5.7 commit PGE to continue its support of certain key provisions of SB 1149.
3. Paragraph 2.2 allows the Commission to make revenue neutral rate spread and rate design changes during the freeze period, recognizing the evolution of SB 1149 may require this.
4. It takes into account that SB 1149's major effect will be on PGE's resources and power supply services by excluding generation and power supply from the revenue requirement freeze. It also allows for the development of a fuel and purchased power adjustment mechanism for PGE so that the company could avoid the risk of severe financial distress which would face it if these matters were contained in the temporary freeze.

Regional Transmission Organization

The Settlement Agreement anticipates RTO development in two ways:

1. Paragraph 2.3 allows for adjustment of PGE's unbundled transmission rates pursuant to FERC-approved changes in such rates, including those related to RTO formation.
2. Paragraph 2.4 identifies a possible major reclassification of PGE's assets between transmission and distribution as one of the possible extraordinary events justifying relief from the rate freeze.

Other Conditions

The Settlement Agreement contains additional conditions relating to the following:

1. Commission access to information.
2. Maintaining PGE's financial strength and regulating its financial transactions.
3. The regulatory treatment of Sierra's acquisition costs.
4. Maintaining or improving PGE's service quality.
5. Prevention of most co-mingling of PGE and Sierra assets.
6. Prevention of cross-subsidization and preferential treatment of affiliates.
7. Issues relating to registered holding companies.
8. Hold harmless assurances and certain prior ENRON conditions.
9. Specification of procedures for penalties in the event of non-compliance.

Additional Testimony by Staff Relating to Goodwill

Staff provided additional testimony relating to the treatment of goodwill in the Settlement Agreement. In keeping with past Commission practice, the Settlement Agreement does not allow recognition of goodwill for rate making purposes. It does, however, include a provision that will allow Sierra Pacific to request that goodwill be recognized for rate making purposes after the rate freeze period. Staff points out that its agreement to include that provision in the Settlement Agreement does not indicate a change in Staff's position on the issue: that goodwill associated with the transaction should not be recognized for rate making in the future.

Commission Disposition

The Commission has reviewed the Settlement Agreement, the accompanying testimony and the remainder of the record in this case. We find that the acquisition as conditioned by the Settlement Agreement will not harm PGE's customers, will not result in the degradations of PGE's services, will not result in higher rates to

PGE customers, will not weaken PGE's financial structure and will not diminish PGE's utility assets. We find that approval of the acquisition will provide benefits to PGE's customers and will serve PGE's customers in the public interest. We conclude that the acquisition of PGE by Sierra Pacific should be approved.

Stipulation

The following parties entered into a Stipulation: Sierra Pacific, PGE, CUB, Renewable Northwest Project, City of Portland, Natural Resources Defense Council, Oregon HEAT, Community Action Directors of Oregon, Oregon Energy Coordinators Association and Northwest Energy Coalition.

The Stipulation resolves issues in this docket relating to the effect of the acquisition on various public interest matters. The parties to the Stipulation agree to support, or not oppose, the September 1, 2000, Settlement Agreement among PGE, Sierra, Staff, ICNU and CUB. The Stipulation also provides a transition procedure as to certain matters covered by the Memorandum of Understanding (MOU) in Docket UM 814, acknowledged by the Commission in Order No. 97-196 (Enron purchase of PGE). The acknowledgement requested by Sierra is, according to the signatories, consistent with the Commission's treatment of the MOU in Docket UM 814. The stipulating parties ask the Commission to acknowledge in this order the commitments made in the Stipulation.

The agreement set out in the Stipulation may be summarized as follows:

Renewable Resources. The Stipulation obligates PGE and Sierra to continue to support renewable resource initiatives begun under the MOU. Pursuant to PGE's 1993 Integrated Resource Plan and the MOU, PGE has acquired two wind resources totaling about 12 MWa. One of these is known as Vansycle Ridge. The other is a yet to be constructed wind resource for which PGE has a 10 year contract from the Bonneville Power Administration to purchase the output. The parties agree that, so long as PGE meets its commitments under these contracts, these contracts will fulfill PGE's and Enron's obligations under the MOU for the acquisition of wind power. The parties agree to support PGE's request for recovery of the costs of the Vansycle Ridge contract.

The parties also agree that PGE's efforts relating to a geothermal resource project at the Newberry Crater in Oregon have fulfilled the responsibilities of PGE and Enron under the MOU and that decisions regarding geothermal development in Oregon to be funded by a Systems Benefit Charge (SBC) now rest solely with the Commission.

System Benefits Charge. In the MOU, PGE agreed to file and support an SBC at or above the funding levels and for the purposes outlined in the final report of the Comprehensive Review. PGE made such a filing in 1998. In 1999, the Oregon

Legislative Assembly passed, with PGE's support, SB 1149, which includes an SBC that substantially meets the criteria specified in the MOU. The parties agree that the implementation of SB 1149 substantially as adopted fulfills PGE's and Enron's obligations under the MOU. PGE and Sierra agree to continue to actively support the SBC throughout the implementation of SB 1149.

In the event SB 1149 is not implemented substantially as adopted, PGE will continue to invest in such demand-side measures and renewable resources as the Commission acknowledges in PGE's least cost plans. PGE will continue to support the major provisions of SB 1149, including direct access for non-residential customers and an SBC at least at the funding levels allocated for the purposes outlined in the final report of the Comprehensive Review, through a non-bypassable charge with self-direction for customers with large loads.

Evaluation of Marginal Cost. In the MOU, PGE and Enron made a commitment to sponsor or participate in a generic proceeding on marginal costs and to provide certain funding to public interest parties for purposes of their participation in such docket. The parties to the Stipulation agree that this portion of the MOU is fulfilled.

Separation of Generation and Distribution. The MOU obligated PGE and Enron to develop a legal and regulatory separation of the distribution business from PGE's fossil resources. The stipulating parties agree that SB 1149 has superceded this commitment.

Decoupling. The MOU obligated PGE to develop a distribution pricing structure that severs the link between retail electricity throughput and the recovery of fixed transmission and distribution costs. PGE and Sierra agree that, in the rate case required to be filed on or about October 1, 2000, to implement the provisions of SB 1149, PGE will file one or more rate making alternatives for distribution services under which the revenues and net income of PGE are not tied to or derived from kilowatt-hour sales. The Stipulation provides additional detail as to the commitment of PGE and Sierra on this matter.

Low Income. PGE will continue its current in-kind contributions to Oregon HEAT and match customer contributions to Oregon HEAT with shareholder funds up to \$100,000 per year for a period of five years after the close of the transaction. PGE also agrees to provide shareholder funds to increase the funding under PGE's low income weatherization program from 50% of eligible measures to 100% of eligible measures, subject to a cap of \$200,000 annually. PGE agrees to make the year 2000 allocation available upon the filing of the Stipulation.

PGE also agrees to support legislation to clarify that the low income funding provided under SB 1149 is an annual amount of \$10 million.

Fish and Wildlife Support in Hydroelectric Generation. The MOU committed PGE and Enron to a number of activities related to preserving and enhancing the role PGE has developed with respect to fish and wildlife issues in Oregon and maintaining its approach to the re-licensing of the hydroelectric projects. PGE and Sierra affirm their support for the fish and wildlife actions in the MOU.

City of Portland. PGE and Sierra commit to make all reasonable efforts to develop and obtain approval of a modern utility franchise with the City of Portland within two years following the completion of the merger.

CONCLUSIONS

The Commission concludes that:

1. Sierra Pacific resources, as a result of its acquisition of Portland General Electric, will exercise influence over Portland General Electric Company.
2. Portland General Electric Company is a public utility subject to the jurisdiction of the Oregon Public Utility Commission.
3. After completion of the acquisition, an affiliated interest relationship will exist between Portland General Electric and Sierra Pacific.
4. Approval of the acquisition will serve PGE's customers in the public interest.
5. Acknowledgement of the commitments contained in the Stipulation is in the public interest.

ORDER

IT IS ORDERED:

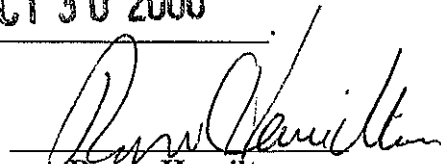
1. The Settlement Agreement dated September 1, 2000, is adopted by the Commission and incorporated by reference in this order.
2. Sierra Pacific's application to acquire the power to exercise influence over PGE is granted.

3. The Stipulation filed September 21, 2000, is incorporated by reference in this order.
4. The commitments contained in the Stipulation filed September 21, 2000, are acknowledged.


Made, entered, and effective OCT 30 2000.



Ron Eachus
Chairman



Roger Hamilton
Commissioner



Joan H. Smith
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission with 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

List: **UM 967**

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APPENDIX **A**
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APPENDIX ^A
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UM 967
00-702

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

RECEIVED

SEP 01 2000

Public Utility Commission of Oregon
Administrative Hearings Unit Division

UM 967

In the Matter of the Application of Sierra)
Pacific Resources to Acquire Portland) SETTLEMENT AGREEMENT
General Electric Company)

On or about January 18, 2000, Sierra Pacific Resources filed an Application to Acquire Portland General Electric Company (hereinafter "the Application"). Settlement conferences regarding the Application were duly noticed and conducted on April 21, April 27, June 7, June 21, July 19 and July 20, August 9, August 22 and August 23, 2000. Based on the terms of this Settlement Agreement, Staff of the Public Utility Commission of Oregon ("Staff"), Portland General Electric Company ("PGE"), the Citizens' Utility Board ("CUB"), the Industrial Customers of Northwest Utilities ("ICNU"), and Sierra Pacific Resources ("Sierra") collectively referred to as the "Parties", agree that as conditioned below, the acquisition by Sierra of PGE provides net benefits to customers, is in the public interest, and should be approved by the Public Utility Commission of Oregon ("OPUC" or "Commission").

Section 1. 1149 Case

1.0 PGE will file a general rate case to establish a new revenue requirement and satisfy the requirements of SB 1149 ("1149 Case") on or before October 1, 2000, using a 2002 test year that complies with proposed OAR 860-038-0200(6). To facilitate

direct access pursuant to ORS 757.600 to 757.687, PGE agrees that its filing in the 1149 Case shall propose unbundled rates for the products and services that proposed OAR 860-038-0020 requires PGE to unbundle and that, except as provided for in paragraph 1.1 below, the rates for each such product or service offered by PGE shall be based on the unbundled costs of providing such product or service to each class of customer.

1.1 The parties agree that PGE's 1149 Case and the rates implemented as a result of the 1149 Case will assume that PGE continues to be owned by Enron and that neither the costs nor savings attributable to Sierra's acquisition of PGE will be reflected in PGE's revenue requirement.

1.2 PGE will propose in its 1149 Case, and the Commission will establish, appropriate period(s) over which PGE may amortize Acquisition Transition Costs (defined as prudent costs incurred to achieve acquisition savings). PGE will begin amortizing such Acquisition Transition Costs as they are incurred, using the Commission-authorized amortization period(s). Prior to October 1, 2007, PGE will not include Acquisition Transition Costs in its distribution or transmission rates. PGE may seek to include the unamortized balance of such Acquisition Transition Costs in its post September 30, 2007, distribution or transmission rates.

1.3 In its 1149 Case, PGE will propose a mechanism for implementation by October 1, 2001, that adjusts its ongoing fuel and purchased power rates to reflect changes in its prudently incurred costs of providing cost-of-service power supply services consistent with draft rules currently pending before the Commission. Such mechanism will include the following features:

- (a) Incentives to minimize power costs.

- (b) Termination upon the earlier of implementation of PGE's 1149 Resource Plan, or December 31, 2003.

The Parties agree to support the development of an 1149 Case power-cost adjustment mechanism and will work in good faith with each other to reach consensus regarding its design and structure.

1.4 PGE agrees to file a resource plan ("Resource Plan") on or before November 1, 2000, that complies with the requirements of proposed OAR 860-038-0080. PGE agrees that its Resource Plan will provide for the one-time valuation (through auction or administrative valuation) of the large non-residential share of all of PGE's generating resources as expeditiously as possible. PGE agrees to support the payment or recovery of all transition costs and transition credits over a period of no longer than 10 years, as provided in proposed OAR 860-038-0160(7).

1.5 Subsequent to the Commission's final order from the 1149 Case, any Party may seek modifications to the power-cost adjustment mechanism that are consistent with Paragraph 1.3.

1.6 All references in this Settlement Agreement to proposed OARs are to the draft rules dated August 22, 2000, and appended as Attachment "A."

Section 2. Rate Freeze

2.0 Except as provided in paragraph 2.3, once rates are established in PGE's 1149 Case, the Parties will not seek adjustments that would have an effective date sooner than October 1, 2007, to PGE's jurisdictional revenue requirement for distribution (including customer service functions) and transmission services.

2.1 From July 1, 2006, to June 30, 2008, any Party may petition the Commission to direct PGE to make a filing pursuant to ORS 757.210(1) to reset its jurisdictional revenue requirement for any one or any combination of unbundled services. If so directed by the Commission, PGE agrees to make one such filing for each unbundled service per request. The Commission may make only one request per unbundled service. PGE will make such filing(s) within six months of an Order by the Commission. The filing(s) will use a future test period and will seek changes in rates effective no sooner than October 1, 2007.

2.2 The freeze in jurisdictional unbundled revenue requirements described in paragraph 2.0 above will not preclude revenue-neutral rate changes to adjust the distribution of revenue requirement between rate classes or between rate elements within any unbundled product or service.

2.3 Notwithstanding paragraph 2.0, unbundled transmission rates may be adjusted to the extent that the Federal Energy Regulatory Commission ("FERC") approves changes, including changes in revenue requirement caused by implementation of a Regional Transmission Organization.

2.4 Notwithstanding paragraph 2.0, any Party to this Settlement Agreement may petition the Commission for rate relief that may become effective sooner than

October 1, 2007, if warranted by extraordinary circumstances or events beyond PGE's or any other petitioner's control. For this purpose, extraordinary events include changes in corporate tax rates, changes in environmental or land use law or regulations, natural disasters (fire, flood, earthquakes), action by a federal or state legislature, restraint by court order, or any action or inaction on behalf of a public authority. In addition, extraordinary events may include reclassification of facilities as directed by the FERC. Any party may assert a claim that an extraordinary event has occurred that justifies a change in rates by filing with the Commission. If the Commission agrees that such an event has occurred and concludes that a rate adjustment is warranted, the Commission, after a public hearings process, will adjust rates to recognize only the relevant cost effect of the extraordinary event.

Section 3. Sierra Acquisition Credit.

3.0 Sierra agrees to provide for the benefit of PGE distribution customers, the annual Sierra Acquisition Credit set forth in Table 1. Within thirty (30) calendar days of the financial close (the date upon which PGE stock is exchanged for the purchase price) of Sierra's acquisition of PGE, PGE shall establish a balancing account and credit that account with the annual Sierra Acquisition Credit, the first of which shall be prorated to reflect the number of months between the financial close and October 1, 2001. On October 1, 2001, and every October 1st thereafter through October 1, 2006, PGE shall credit the balancing account with the annual Sierra Acquisition Credit set forth in Table 1. Adjustments to the balancing account will be made pursuant to paragraph 3.4.

Table 1: Annual Sierra Acquisition Credit

Prior to 10/1/2001	10/1/2001- 9/30/2002	10/1/2002- 9/30/2003	10/1/2003- 9/30/2004	10/1/2004- 9/30/2005	10/1/2005- 9/30/2006	10/1/2006- 9/30/2007
9.0 MM	18.0 MM	14.0 MM	14.0 MM	14.0 MM	14.0 MM	14.0 MM

3.1 The Sierra Acquisition Credit balancing account will accrue interest, compounded monthly, consistent with current Commission practices, on the unamortized balance at PGE’s most recently authorized rate of return. The Monthly Rate Credit described in Section 4 will reduce the amounts available for distribution in the annual Sierra Acquisition Credit balancing account.

3.2 The Part II Adjustment Rate Schedule 110 (relating to Enron’s acquisition of PGE), shall remain in effect until the Sierra Acquisition Credit is implemented, at which time the Part II Adjustment Rate Schedule 110 will be terminated.

3.3 The Sierra Acquisition Credit shall not be included in annual and semi-annual reporting of results of operations or any Oregon revenue requirement presentation.

3.4 During the period between October 1, 2001 and September 30, 2007, PGE shall subscribe to Moody’s Investor Services (“Moody’s”), or its successor and to Standard and Poor’s (“S&P”), or its successor.

- (a) If PGE's senior secured debt rating by Moody's is downgraded on or before September 30, 2007, then the Sierra Acquisition Credit in Table 1 shall increase by the Annual Rate Credit Adjustment in Table 2a multiplied by the proportion of the year for which PGE

suffered the debt rating decrease. A debt rating decrease is defined as a decrease in PGE's senior secured debt rating by Moody's.

Table 2a: Annualized Year-by-Year Adjustments to the Acquisition Credit Adjustments due to a downgrade from Moody's

PGE's Senior Secured Debt Rating by Moody's	A2 or Higher	A3	Baa1 or Below
Rate Credit Adjustment	\$0.0M	\$1.0M	\$2.0M

As changes are made to PGE's senior debt rating, the Sierra Acquisition Credit balancing account shall be adjusted pursuant to Table 2a, effective upon the date of those changes. PGE or Sierra may request that the Commission suspend the application of the adjustments in Table 2a for a particular rating downgrade. The Commission shall grant the motion if it finds that the actions or inactions by, or circumstances related to, Sierra and/or its affiliates did not materially contribute to the downgrade. In making such a request, the Company shall have both the burden of persuasion and the burden of going forward with evidence.

- (b) If PGE's senior secured debt rating by S&P is downgraded on or before September 30, 2007, then the Sierra Acquisition Credit in Table 1 shall increase by the Annual Rate Credit Adjustment in Table 2b multiplied by the proportion of the year for which PGE suffered the debt rating decrease. A debt rating decrease is defined as a decrease in PGE's senior secured debt rating by S&P.

Table 2b: Annualized Year-by-Year Adjustments to the Acquisition Credit Adjustments due to a downgrade from S&P

PGE's Senior Secured Debt Rating by S&P	A or Higher	A-	BBB+ or Below
Rate Credit Adjustment	\$0.0M	\$1.0M	\$2.0M

As changes are made to PGE's senior debt rating, the Sierra Acquisition Credit balancing account shall be adjusted pursuant to Table 2b, effective upon the date of those changes. PGE or Sierra may request that the Commission suspend the application of the adjustments in Table 2b for a particular rating downgrade. The Commission shall grant the motion if it finds that the actions or inactions by, or circumstances related to, Sierra and/or its affiliates did not materially contribute to the downgrade. In making such a request, the Company shall have both the burden of persuasion and the burden of going forward with evidence.

Section 4. Monthly Rate Credit.

4.0 Except as provided in 4.1, the Commission shall authorize distribution, at its discretion, of the Monthly Rate Credit (defined as the monthly distribution of the monies in the Sierra Acquisition Credit balancing account), as is necessary to achieve rate stability relative to this credit.

4.1 Customers shall receive a Monthly Rate Credit calculated as an equal percent decrease by customer class based upon base rates, without adjustments, in effect

on August 21, 2000, and converted to a credit per kWh. Special contract customers will not receive a Monthly Rate Credit unless the special contract provides for such. PGE will separately itemize the Monthly Rate Credit on customers' bills.

Section 5. Other Conditions

- 5.0 In addition to the mutual covenants and obligations set forth above, Sierra and PGE agree to abide by the following conditions:
- 5.1 PGE's accounting records shall be (a) maintained separately from those of Sierra and other Sierra affiliates, and (b) readily available to the OPUC in Portland, Oregon.
- 5.2 Sierra and PGE shall exclude all costs of completing the acquisition (transaction costs) from PGE's utility accounts. Within 90 days following the acquisition completion, Sierra will provide a preliminary accounting of these costs. Further, Sierra agrees to provide the OPUC a final accounting of these costs within 30 days following the accounting close of the acquisition.
- 5.3 PGE shall maintain separate ratings for its debt, and for its preferred stock if more than \$5 million is outstanding.
- 5.4 PGE shall not make any distributions to Sierra that will reduce PGE's common equity capital below 48% of PGE's total capital, without OPUC approval. PGE's total capital is defined as common equity, preferred equity and long-term debt. Long-term debt is defined as debt with a term of more than one year. Staff and PGE may re-examine this minimum common equity percentage as financial conditions change, and may request that it be adjusted.
- 5.5 Sierra and PGE agree that PGE's allowed return on common equity and other costs of capital shall not rise as a result of the acquisition. These capital costs refer to the costs of capital used for purposes of rate setting, avoided cost calculations, affiliated interest transactions, least cost planning, and other regulatory purposes.
- 5.6 Unless such a disclosure is unlawful, Sierra shall notify the OPUC of:
- (a) Its intention to transfer more than 5 percent of PGE's retained earnings to Sierra over a six-month period, at least 60 days before such a transfer begins.

- (b) Its intention to declare a special cash dividend from PGE, at least 30 days before declaring each such dividend.
 - (c) Its most recent quarterly common stock cash dividend payment from PGE within 30 days after declaring each such dividend.
- 5.7 Sierra guarantees that the customers of PGE shall be held harmless if the acquisition of PGE by Sierra results in higher revenue requirements for PGE than if the acquisition had not occurred.
- 5.8 Sierra and PGE shall comply with OPUC Order No. 97-196, condition 20, imposed on Enron and PGE.
- 5.9 The OPUC or its agents may audit the accounts of Sierra and its unregulated subsidiaries which are the bases for charges to PGE. Sierra agrees to cooperate fully with such OPUC audits, to determine the reasonableness of allocation factors used by Sierra to assign costs to PGE and amounts subject to allocation or direct charges.
- 5.10 Subsequent to its purchase by Sierra, PGE shall continue to perform under the Service Quality Measure (SQM) as first described in UM 814 and adopted in Order 97-196, as revised by OPUC Orders, and updated and revised in UM 967. The stipulated agreement to be included in the OPUC Order in UM 967 is OPUC Staff's "Stipulations for PGE Service Quality Measures UM 814/UM 967", dated March 15, 2000. The purpose of the SQM is to ensure that PGE maintains or improves current levels of service.
- 5.11 Sierra shall not subsidize its activities by allocating to or directly charging PGE expenses not authorized by the OPUC to be so allocated or directly charged.
- 5.12 PGE shall not give its affiliates preferential access, through any formal or informal agreement, to its excess pipeline capacity and related capacity assets. PGE will post its pipeline capacity releases on the appropriate interstate pipeline electronic bulletin board (EBB). PGE shall not give its affiliates preferential access, through any formal or informal agreement, to PGE's electricity or natural gas assets. If PGE and an affiliate engage in a blind (that is, arm's length) exchange transaction (for example, the New York Mercantile Exchange (NYME), the California Power Exchange, and similar exchanges) at market prices, the OPUC will presume that the transactions meet the OPUC's affiliated interest transfer pricing policy requirements.
- 5.13 Sierra bears any risk (a) resulting from less than full system cost recovery if inter-company allocation methods differ among the various jurisdictions served by Sierra; and (b) of adverse rate treatment by other state regulatory commissions that are inconsistent with the Oregon PUC adopted conditions in this docket.

- 5.14 Within 45 days of the end of each calendar six-month period for the three full years after approval, beginning with the first six months after closing the Sale, PGE shall file detailed semi-annual reports with the OPUC regarding gas commodity sales, pipeline capacity releases, electric power exchanges and sales, and competitive ancillary electric services sales between PGE and any other Sierra company.
- 5.15 The costs and benefits of pre-acquisition generation facilities of Sierra Pacific Power Company, Nevada Power Company and PGE will remain assigned to the three companies, respectively. PGE will retain for the benefit of its customers all benefits of its low cost resources, including but not limited to its Mid-Columbia resources, and federal system benefits as available under the Pacific Northwest Electric Power Planning and Conservation Act and any subsequent amending legislation.
- 5.16 The costs and benefits of PGE's pre-acquisition electricity, fuel and pipeline assets and contracts will remain with, and will be assigned to, PGE after the acquisition.
- 5.17 If Sierra, either directly or through an affiliate, intends to market electricity or ancillary services at retail to consumers within PGE's Oregon service territory in competition with other retail providers of such services, PGE shall notify the OPUC prior to marketing such services for the purpose for establishing conditions to preclude anti-competitive behavior with respect to such services. Such conditions shall be similar to those set forth in Order No. 97-196, except as modified by the OPUC, and shall apply until superseded by the final rules concerning codes of conduct for affiliates adopted in AR 390.
- 5.18 Unless ordered otherwise by the OPUC, pre-acquisition, non-generation Sierra Pacific Power Company and Nevada Power Company rate base assets shall be excluded from calculations of PGE's rate base assets devoted to serve Oregon customers.
- 5.19 Sierra and PGE agree to the following provisions with respect to information requests and resolution of disputes related to information requests:
- (a) Sierra and PGE shall provide Staff, upon request, access to books and records of Sierra and PGE and of any of their affiliated interests, that are reasonably calculated to lead to information relating to PGE, including without limitation, Board of Directors' Minutes and reports provided to and presentations made to common stock, bond, or bond-rating analysts. For purposes of this condition, "written information" includes, but is not limited to, any written or printed material, audio and video tapes, computer disks,

and electronically-stored information. Nothing in this condition shall be deemed a waiver either of Sierra's or PGE's right to seek protection of the information pursuant to a protective order issued by the OPUC, or a waiver of Sierra's or PGE's right to object to production of information on the grounds that the request is overly broad, unduly burdensome or outside the scope of the OPUC's regulatory jurisdiction.

- (b) In the event of a dispute between Staff and Sierra regarding a Staff request for books and records or minutes, the parties agree that an Administrative Law Judge (ALJ) of the OPUC shall resolve the dispute. The ALJ shall review the requested documents in camera and shall hear the arguments of Staff and Sierra regarding the obligation to provide access. In resolving the dispute, the ALJ shall decide whether the requested documents are reasonably calculated to lead to the discovery of admissible evidence. The ALJ shall use this standard whether or not Staff is making the request in connection with an open docket. When Sierra submits any documents for an in camera inspection, it may request that the OPUC treat the document as exempt from disclosure under Oregon Public Record's Law. If Sierra makes such a request, it shall specify to the ALJ the provisions of the Public Records Law that apply. If the ALJ, on behalf of the OPUC, determines that the documents are exempt from disclosure, then the OPUC shall, in the event it receives a request for documents under the Public Records Law, assert the appropriate provision(s) as a basis for not disclosing the documents.

- 5.20 Pre-acquisition transmission facilities of Sierra Pacific Power Company, Nevada Power Company and PGE shall be assigned to the separate operating companies, respectively, unless otherwise required by the OPUC or as required by law or in connection with the formation of a RTO.
- 5.21 PGE and Sierra agree to comply with all OPUC requirements regarding affiliated interest (AI) transactions, including timely filing of applications and reports. Beginning with the first full six months after closing the Sale, PGE will file semi-annual AI reports, as otherwise required by OAR 860-027-0100, with the OPUC. Also, these AI reports shall include employee transfers, permanent and temporary, between PGE and Sierra and consulting and training activities conducted by both PGE and Sierra personnel for the other entity. For the six-month period ending at the end of the calendar year, such reports are due June 1. For the six-month period ending June 30th, such reports are due October 1.

- 5.22 Post-acquisition additions related to existing generation and transmission plant and related system facilities shall be assigned to the respective operating company based on pre-acquisition investment, unless otherwise required by the OPUC, or as required by law or in connection with the formation of an RTO.
- 5.23 Post-acquisition power production costs shall be directly assigned to each operating company to the extent possible. Post-acquisition power production costs that cannot be directly assigned shall be pooled and allocated on an equitable, cost-causative basis.
- 5.24 Acquisition Transition Costs shall be directly assigned to the extent possible. Acquisition Transition Costs that cannot be directly assigned shall be consolidated at the service-company level and allocated to the companies on an equitable, and to the extent possible, cost-causative basis.
- 5.25 If the OPUC believes that Sierra and/or PGE have violated any of the conditions set forth herein, any conditions contained in other stipulations signed by Sierra and PGE or any conditions imposed by the OPUC in its final order approving the Application (collectively, "the Conditions"), then the OPUC shall give Sierra and PGE written notice of the violation:
- (a) If the violation is for failure to file any notice or report required by the Conditions, and if Sierra and/or PGE provide the notice or report to the OPUC within ten business days of the receipt of the written notice, then the OPUC shall take no action. Sierra or PGE may request, for cause, permission for extension of the ten-day period. For any other violation of the Conditions, the OPUC must give Sierra and PGE written notice of the violation. If such failure is corrected within five business days of the written notice, then the OPUC shall take no action. Sierra or PGE may request, for cause, permission for extension of the five-day period.
 - (b) If Sierra and/or PGE fail to file a notice or written report within the time permitted in a) above, or if Sierra and/or PGE fail to cure, within the time permitted above, a violation that does not relate to the filing of a notice or report, then the OPUC may open an investigation to determine the number of and seriousness of the violations. If the OPUC determines that Sierra and/or PGE violated one or more of the Conditions, then the OPUC shall state the level of penalty it will seek under ORS 756.990 in an action filed in circuit court. If the OPUC issues an order that recommends an ORS 756.990 penalty against Sierra and/or PGE, then Sierra and/or PGE may appeal such an order under ORS 756.580. If the OPUC's order is upheld on appeal, then the OPUC may file a complaint in circuit court seeking penalties under ORS 756.990, and Sierra and/or PGE

shall file a responsive pleading agreeing to pay the penalties. The OPUC shall seek a penalty on only one of Sierra or PGE for the same violation.

- 5.26 Sierra and PGE (a) agree not to assert in any future proceedings that the provisions of the Public Utility Holding Company Act of 1935 and/or *Ohio v. FERC*, 954 F.2d 779 (D.C. Cir.), cert. denied, 506 U.S. 981, 113 S. Ct. 483 (1992) shall preempt the Commission's jurisdiction over affiliated interest transactions, and (b) explicitly waive any such defense in any proceeding. Sierra and PGE (a) agree not to assert in any future proceedings that the provisions of the Federal Power Act of 1935 and/or *Mississippi Power and Light Company v. Mississippi, et al.*, 487 U.S. 354 (1988), shall preempt the Commission's jurisdiction over Sierra's common system cost allocations, and (b) explicitly waive any such defense in any proceeding.
- 5.27 Sierra and PGE agree to support the timely implementation of S.B. 1149 and to support the 30 kW definition for small non-residential customers.
- 5.28 PGE agrees to implement the "Customer Guarantees" described in Exhibit A to this Settlement Agreement if:

- (a) PGE's at-fault customer complaints, as measured under the C1 Service Quality Measure (as revised in UM 967) exceed 0.05 complaints per 1000 customers; or
- (b) On or before January 1, 2003, the Commission requests PGE to do so, and PGE has in place computer systems that will permit such implementation at a minor incremental cost.

PGE will file tariffs to implement the Customer Guarantees within 30 days of notice by the Commission under subparagraph (a) or within 120 days of notice by the Commission under subparagraph (b).

PGE will record any payments to customers under the Customer Guarantees in accounts not recognized for purposes of PGE's results of operation reporting or revenue requirement presentation.

- 5.29 For the period of the rate freeze described in Section 2.0, and continuing thereafter unless and until modified by the Commission, Sierra and PGE shall exclude from PGE's results of operations and customer rates all goodwill resulting from this acquisition.
- 5.30 Sierra agrees to submit a proposed Master Services Agreement ("MSA") for Staff review by August 31, 2000. Staff's recommendation for approval of this transaction is conditioned on the Parties' stipulating to a mutually agreeable MSA

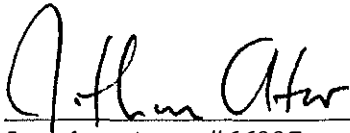
on or before September 15, 2000. Staff agrees to negotiate the terms of the MSA in good faith, and to not unreasonably withhold its agreement of any terms proposed by Sierra.

General Provisions.

- 6.0 The Parties agree that this Settlement Agreement represents a compromise in the positions of the Parties.
- 6.1 The Parties agree that with respect to the issues covered herein, this Settlement Agreement is in the public interest and all of its terms and conditions are fair, just and reasonable.
- 6.2 This Settlement Agreement will be entered into the record as evidence pursuant to OAR 860-014-0085. The Parties shall cooperate in this submission and shall support adoption of the Settlement Agreement in testimony and argument submitted in this proceeding and any appeal. Staff, Sierra, and PGE shall make available a witness in support of this Settlement Agreement. The Parties agree to waive cross-examination of one another at the hearing on conditions contained in this Settlement Agreement.
- 6.3 Execution of this Settlement Agreement shall not constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of regulation, and no Party shall be deemed to have agreed that any method, theory or principle of regulation employed in arriving at this Settlement Agreement is appropriate for resolving any issue in any other proceeding. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Settlement Agreement.

- 6.4 The Parties recommend that the Commission adopt this Settlement Agreement in its entirety.
- 6.5 The Parties agree that the conditions set forth in this Settlement Agreement, should be incorporated in a final OPUC Order approving the Application.
- 6.6 The Parties have negotiated this Settlement Agreement as an integrated document. If the OPUC rejects all or any material part of this Settlement Agreement or imposes additional material conditions in approving the Application, any Party disadvantaged by such action shall have the right, upon written notice to the OPUC and all Parties to the proceeding within 15 business days of the OPUC's Order, to withdraw from this Settlement Agreement. If any Party withdraws from this Settlement Agreement on this basis, any other Party may withdraw by giving written notice to the OPUC and all Parties within 5 business days of the first Party's notice of withdrawal. No withdrawing Party shall be bound by the terms of this Settlement Agreement and each withdrawing Party shall be entitled to seek reconsideration of the OPUC Order, file any testimony it chooses, cross-examine witnesses and in general to put on such case as it deems appropriate.
- 6.7 This Settlement Agreement may be executed in counterparts and each signed counterpart shall constitute an original document.
- 6.8 The obligations of Sierra and PGE under Section 4. Conditions, are subject to the OPUC's approval of the Application in this case on terms and conditions acceptable to Sierra and PGE and the closing of the transaction.
- 6.9 Except as specifically noted herein, the Parties agree that this Settlement Agreement supercedes all prior agreements and stipulations that are inconsistent

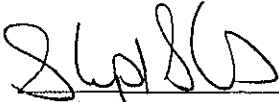
with this Settlement Agreement.



Jonathan Ater #66007
Ater Wynne LLP
Of Attorneys for Applicant
Sierra Pacific Resources

9/1/00

Date



Stephanie S. Andrus #92512
Assistant Attorney General
Regulated Utility and Business Section
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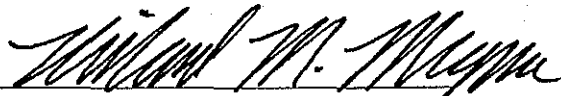
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Brad Van Cleve #86306
Davison Van Cleve, PC
Of Attorneys for Industrial Customers of
Northwest Utilities

9/1/00

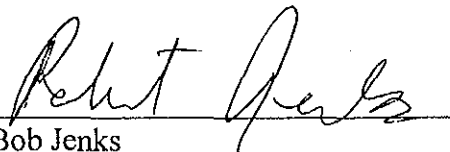
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Mike Morgan #72173
~~Tenkon Corp~~ **TONKON, CORP**
Of Attorneys for Portland General Electric

9/1/00

Date



Bob Jenks
Executive Director
Citizens' Utility Board

9/1/00

Date

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 967

Public Utility Commission of Oregon
Administrative Hearings Unit Division

In the Matter of the Application of)
SIERRA PACIFIC RESOURCES) STIPULATION
To Acquire PORTLAND GENERAL)
ELECTRIC)

This Stipulation is entered into among Sierra Pacific Resources (Sierra), Portland General Electric Company (PGE), and the other parties to this docket whose signatures appear at the end of this Stipulation. Sierra, PGE and the signing parties are together referred to as the "Parties."

The purpose of this Stipulation is to resolve issues in this Docket relating to the impact of Sierra's acquisition of PGE on various public interest matters.

1. Terms of Stipulation

The terms and conditions of this Stipulation are set forth below. The Parties agree that the commitments in this stipulation are beneficial to PGE's customers. The Parties will support this Stipulation throughout this Docket. The Parties further agree either to support, or not oppose, the Settlement Agreement dated September 1, 2000 between OPUC, Sierra, PGE, CUB, and ICNU.

2. Renewable Resources

Pursuant to PGE's 1993 Integrated Resource Plan and the Memorandum of Understanding entered into by and among PGE, Enron Corp. (Enron), and various parties to Docket UM 814 (MOU), PGE has acquired two wind resources, totaling about 12 MWa. One of these resources is the wind project known as Vansycle Ridge, for which PGE has a long-term contract to purchase the output. The other resource is a yet-to-be-

constructed wind resource, for which PGE has a ten-year contract to purchase the output from the Bonneville Power Administration (BPA). The Parties agree that, so long as PGE meets its commitments under these contracts, these contracts fulfill PGE's and Enron's obligations for the acquisition of wind power under the MOU. The Parties agree to support PGE's request for recovery of the costs of the Vansycle Ridge contract.

Pursuant to PGE's 1993 IRP and the MOU, PGE also prepared and published a request for proposals for the purpose of selecting a geothermal resource project of at least 19 MW, the above-market costs of which were to be funded from a systems benefit charge (SBC). PGE selected a project at the Newberry Crater in Oregon and has subsequently sought through various means to obtain approval for its owners to receive funding through a SBC. Most recently, the Oregon Public Utility Commission (OPUC or Commission) rejected a request for an early declaration that the Newberry Crater Project could receive SBC funds that will become available after October 1, 2001. The Parties agree that PGE's efforts have fulfilled the responsibilities of PGE and Enron under the MOU and that decisions regarding geothermal development in Oregon, funded by an SBC, now rest solely with the Commission.

3. System Benefits Charge

In the MOU, PGE agreed to file and support a SBC at or above the funding levels and for the purposes outlined in the final report of the Comprehensive Review. PGE made such filing in 1998. In July 1999, the Oregon Legislature passed, with PGE's support, SB 1149 (now ORS 757.600 et seq.), which includes an SBC that substantially meets the criteria specified in the MOU. PGE is currently in the process of implementing the provisions of SB 1149, under the guidance of the Commission. The Parties agree that

the implementation of SB 1149 substantially as adopted fulfills PGE's and Enron's obligations under the MOU. PGE and Sierra agree actively to continue to support the SBC throughout the implementation of SB 1149. PGE and Sierra also agree to perform an updated assessment of energy efficiency potential in PGE's service territory within six months of the close of the transaction. PGE and Sierra may coordinate this effort with Pacific Power.

In the event SB 1149 is not implemented, substantially as adopted, PGE will continue to invest in such demand-side measures and renewable resources as the Commission acknowledges in PGE's least cost plans. PGE will continue to support as sound public policy, and make proposals to achieve, the major provisions of SB 1149, including direct access for non-residential customers and an SBC at least at the funding levels and allocated for the purposes outlined in the final report of the Comprehensive Review, through a non-bypassable charge, with self-direction for customers with large loads.

4. Evaluation of Marginal Cost

In the MOU, PGE and Enron committed sponsor or participate in a generic proceeding on marginal cost and provide certain funding to public interest parties for purposes of their participation in such docket. The undersigned parties agree that the generic investigation occurred and that PGE and Enron provided the requested funding and that this MOU obligation is fulfilled.

5. Separation of Generation and Distribution

The MOU obligated PGE and Enron to develop and implement a legal and regulatory separation of the distribution business from PGE's fossil resource. The undersigned parties agree that SB 1149 has superceded this commitment.

6. Decoupling

The MOU obligated PGE to develop a distribution pricing structure that severs the link between retail electricity throughput and the recovery of fixed transmission and distribution costs. PGE and Sierra agree that, in the rate case filed on or about October 1, 2000, to implement the provisions of SB 1149, PGE will file one or more ratemaking alternatives for distribution services under which the revenues and net income of PGE is not tied to or derived from kilowatt-hour sales. Potential measures which meet this test include a revenue cap, such as that in the "distribution contract" PGE is presently developing. PGE and Sierra agree not to propose, for residential customers, that the Commission recover distribution costs in fixed rate charges (e.g. \$__ per month) as a means of achieving the separation from kilowatt-hour sales. The rate case filing will include provision for: (1) regularly update system-wide evaluation of opportunities to reduce distribution and transmission costs by integrating distributed resources into distribution and transmission planning and investment, including but not limited to targeted energy efficiency improvements and distributed renewable resources; and (2) based on such an evaluation, appropriate coordination of the company's distribution and transmission capital investments with energy efficiency investments by the nonprofit administrator of the system benefits charge, with the goal of reducing the life-cycle cost of reliable distribution services.

7. Low Income

PGE will continue its current in-kind contributions to Oregon Heat and match customer contributions to Oregon heat with shareholder funds up to \$100,000 per year for a period of five (5) years after the close of this transaction.

In addition, PGE agrees to provide shareholder funds to increase the funding under PGE's low income weatherization program from 50% of eligible measures to 100% of eligible measures, subject to a cap of \$200,000 annually, through the earlier of the implementation of the direct access and SBC provisions of SB 1149 or December 31, 2003. PGE agrees to make the 2000 allocation of this available upon the filing of this signed Stipulation.

Finally, PGE agrees to support legislation to clarify that the low income funding provided under SB 1149 is an annual amount of \$10 million.

8. Fish and Wildlife Support and Hydroelectric Generation

The MOU committed PGE and Enron to a number of activities related to preserving and enhancing the role PGE had developed with respect to fish and wildlife issues in Oregon and maintaining its approach to the re-licensing of its hydroelectric projects. PGE and Sierra affirm their support for the fish and wildlife actions in the PGE/Enron MOU.

9. City of Portland

PGE and Sierra commit to make all reasonable efforts to develop and obtain approval of a modern utility franchise with the City of Portland within two years following the completion of the merger.

10. General Terms and Conditions

a. The Parties have negotiated this Stipulation as an integrated document.

The Parties recommend that the Commission acknowledge the Stipulation in its entirety.

b. The Parties agree that this Stipulation is in the public interest with respect to the issues covered by it and that all of its terms and conditions are fair, just and reasonable.

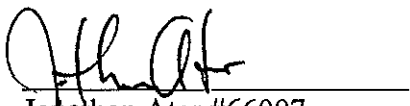
11. Commission Approval of Application/Closing of Transaction

The obligations of PGE and Sierra under this Stipulation are subject to the Commission's approval of the Application in this Docket, on terms and conditions acceptable to PGE and Sierra, in their sole discretion, and the closing of the transaction between Sierra and PGE.

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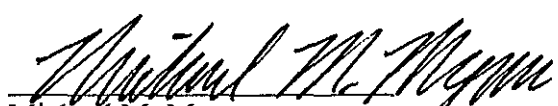
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Public Utility Commission of Oregon
Administrative Hearings Unit Division



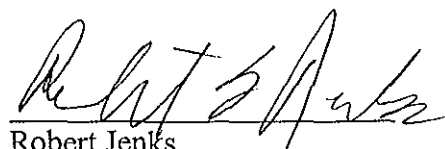
Jonathan Ater #66007
Ater Wynne LLP
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Sierra Pacific Resources

9/19/00
Date



Michael M. Morgan
Tonkon, Torp LLP
Of Attorneys for Portland General Electric

9/14/00
Date



Robert Jenks
Executive Director
Citizens' Utility Board

9/14/00
Date

APPENDIX C
PAGE 6 OF 8

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Public Utility Commission of Oregon
Administrative Hearings Unit Division

Susan Anderson
City of Portland Energy Office

Date

Ralph Cavanaugh
Senior Attorney
Natural Resources Defense Council

Date

Rachel Shimshak

Rachel Shimshak
Project Director
Renewable Northwest Project

9/15/00

Date

Jay D. Formick
Executive Director
Oregon HEAT

Date

Bonnie Davidson
Executive Director
Community Action Directors of Oregon

Date

Joan Cote
President
Oregon Energy Coordinator's Association

Date

Steve Weiss
Northwest Energy Coalition

Date

APPENDIX ^C
PAGE 7 OF 8

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Benjamin Walters
Susan Anderson

Susan Anderson
City of Portland Energy Office

9-18-00
Date

Public Utility Commission of Oregon
Administrative Hearings Unit Division

Ralph Cavanaugh

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Senior Attorney
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Executive Director
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Bonnie Davidson

Bonnie Davidson
Executive Director
Community Action Directors of Oregon

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Joan E. Cote

Joan Cote
President
Oregon Energy Coordinator's Association

9-14-00
Date

Steve Weiss

Steve Weiss
Northwest Energy Coalition

9/15/00
Date

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

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Public Utility Commission of Oregon
Administrative Hearings Unit Division

UM 967

In the Matter of the Application of Sierra)
Pacific Resources to Acquire Portland) SETTLEMENT AGREEMENT
General Electric Company)

On or about January 18, 2000, Sierra Pacific Resources filed an Application to Acquire Portland General Electric Company (hereinafter "the Application"). Settlement conferences regarding the Application were duly noticed and conducted on April 21, April 27, June 7, June 21, July 19 and July 20, August 9, August 22 and August 23, 2000. Based on the terms of this Settlement Agreement, Staff of the Public Utility Commission of Oregon ("Staff"), Portland General Electric Company ("PGE"), the Citizens' Utility Board ("CUB"), the Industrial Customers of Northwest Utilities ("ICNU"), and Sierra Pacific Resources ("Sierra") collectively referred to as the "Parties", agree that as conditioned below, the acquisition by Sierra of PGE provides net benefits to customers, is in the public interest, and should be approved by the Public Utility Commission of Oregon ("OPUC" or "Commission").

Section 1. 1149 Case

1.0 PGE will file a general rate case to establish a new revenue requirement and satisfy the requirements of SB 1149 ("1149 Case") on or before October 1, 2000, using a 2002 test year that complies with proposed OAR 860-038-0200(6). To facilitate

direct access pursuant to ORS 757.600 to 757.687, PGE agrees that its filing in the 1149 Case shall propose unbundled rates for the products and services that proposed OAR 860-038-0020 requires PGE to unbundle and that, except as provided for in paragraph 1.1 below, the rates for each such product or service offered by PGE shall be based on the unbundled costs of providing such product or service to each class of customer.

1.1 The parties agree that PGE's 1149 Case and the rates implemented as a result of the 1149 Case will assume that PGE continues to be owned by Enron and that neither the costs nor savings attributable to Sierra's acquisition of PGE will be reflected in PGE's revenue requirement.

1.2 PGE will propose in its 1149 Case, and the Commission will establish, appropriate period(s) over which PGE may amortize Acquisition Transition Costs (defined as prudent costs incurred to achieve acquisition savings). PGE will begin amortizing such Acquisition Transition Costs as they are incurred, using the Commission-authorized amortization period(s). Prior to October 1, 2007, PGE will not include Acquisition Transition Costs in its distribution or transmission rates. PGE may seek to include the unamortized balance of such Acquisition Transition Costs in its post September 30, 2007, distribution or transmission rates.

1.3 In its 1149 Case, PGE will propose a mechanism for implementation by October 1, 2001, that adjusts its ongoing fuel and purchased power rates to reflect changes in its prudently incurred costs of providing cost-of-service power supply services consistent with draft rules currently pending before the Commission. Such mechanism will include the following features:

- (a) Incentives to minimize power costs.

- (b) Termination upon the earlier of implementation of PGE's 1149 Resource Plan, or December 31, 2003.

The Parties agree to support the development of an 1149 Case power-cost adjustment mechanism and will work in good faith with each other to reach consensus regarding its design and structure.

1.4 PGE agrees to file a resource plan ("Resource Plan") on or before November 1, 2000, that complies with the requirements of proposed OAR 860-038-0080. PGE agrees that its Resource Plan will provide for the one-time valuation (through auction or administrative valuation) of the large non-residential share of all of PGE's generating resources as expeditiously as possible. PGE agrees to support the payment or recovery of all transition costs and transition credits over a period of no longer than 10 years, as provided in proposed OAR 860-038-0160(7).

1.5 Subsequent to the Commission's final order from the 1149 Case, any Party may seek modifications to the power-cost adjustment mechanism that are consistent with Paragraph 1.3.

1.6 All references in this Settlement Agreement to proposed OARs are to the draft rules dated August 22, 2000, and appended as Attachment "A."

Section 2. Rate Freeze

2.0 Except as provided in paragraph 2.3, once rates are established in PGE's 1149 Case, the Parties will not seek adjustments that would have an effective date sooner than October 1, 2007, to PGE's jurisdictional revenue requirement for distribution (including customer service functions) and transmission services.

2.1 From July 1, 2006, to June 30, 2008, any Party may petition the Commission to direct PGE to make a filing pursuant to ORS 757.210(1) to reset its jurisdictional revenue requirement for any one or any combination of unbundled services. If so directed by the Commission, PGE agrees to make one such filing for each unbundled service per request. The Commission may make only one request per unbundled service. PGE will make such filing(s) within six months of an Order by the Commission. The filing(s) will use a future test period and will seek changes in rates effective no sooner than October 1, 2007.

2.2 The freeze in jurisdictional unbundled revenue requirements described in paragraph 2.0 above will not preclude revenue-neutral rate changes to adjust the distribution of revenue requirement between rate classes or between rate elements within any unbundled product or service.

2.3 Notwithstanding paragraph 2.0, unbundled transmission rates may be adjusted to the extent that the Federal Energy Regulatory Commission ("FERC") approves changes, including changes in revenue requirement caused by implementation of a Regional Transmission Organization.

2.4 Notwithstanding paragraph 2.0, any Party to this Settlement Agreement may petition the Commission for rate relief that may become effective sooner than

October 1, 2007, if warranted by extraordinary circumstances or events beyond PGE's or any other petitioner's control. For this purpose, extraordinary events include changes in corporate tax rates, changes in environmental or land use law or regulations, natural disasters (fire, flood, earthquakes), action by a federal or state legislature, restraint by court order, or any action or inaction on behalf of a public authority. In addition, extraordinary events may include reclassification of facilities as directed by the FERC. Any party may assert a claim that an extraordinary event has occurred that justifies a change in rates by filing with the Commission. If the Commission agrees that such an event has occurred and concludes that a rate adjustment is warranted, the Commission, after a public hearings process, will adjust rates to recognize only the relevant cost effect of the extraordinary event.

Section 3. Sierra Acquisition Credit.

3.0 Sierra agrees to provide for the benefit of PGE distribution customers, the annual Sierra Acquisition Credit set forth in Table 1. Within thirty (30) calendar days of the financial close (the date upon which PGE stock is exchanged for the purchase price) of Sierra's acquisition of PGE, PGE shall establish a balancing account and credit that account with the annual Sierra Acquisition Credit, the first of which shall be prorated to reflect the number of months between the financial close and October 1, 2001. On October 1, 2001, and every October 1st thereafter through October 1, 2006, PGE shall credit the balancing account with the annual Sierra Acquisition Credit set forth in Table 1. Adjustments to the balancing account will be made pursuant to paragraph 3.4.

Table 1: Annual Sierra Acquisition Credit

Prior to 10/1/2001	10/1/2001- 9/30/2002	10/1/2002- 9/30/2003	10/1/2003- 9/30/2004	10/1/2004- 9/30/2005	10/1/2005- 9/30/2006	10/1/2006- 9/30/2007
9.0 MM	18.0 MM	14.0 MM	14.0 MM	14.0 MM	14.0 MM	14.0 MM

3.1 The Sierra Acquisition Credit balancing account will accrue interest, compounded monthly, consistent with current Commission practices, on the unamortized balance at PGE's most recently authorized rate of return. The Monthly Rate Credit described in Section 4 will reduce the amounts available for distribution in the annual Sierra Acquisition Credit balancing account.

3.2 The Part II Adjustment Rate Schedule 110 (relating to Enron's acquisition of PGE), shall remain in effect until the Sierra Acquisition Credit is implemented, at which time the Part II Adjustment Rate Schedule 110 will be terminated.

3.3 The Sierra Acquisition Credit shall not be included in annual and semi-annual reporting of results of operations or any Oregon revenue requirement presentation.

3.4 During the period between October 1, 2001 and September 30, 2007, PGE shall subscribe to Moody's Investor Services ("Moody's"), or its successor and to Standard and Poor's ("S&P"), or its successor.

- (a) If PGE's senior secured debt rating by Moody's is downgraded on or before September 30, 2007, then the Sierra Acquisition Credit in Table 1 shall increase by the Annual Rate Credit Adjustment in Table 2a multiplied by the proportion of the year for which PGE

suffered the debt rating decrease. A debt rating decrease is defined as a decrease in PGE's senior secured debt rating by Moody's.

Table 2a: Annualized Year-by-Year Adjustments to the Acquisition Credit Adjustments due to a downgrade from Moody's

PGE's Senior Secured Debt Rating by Moody's	A2 or Higher	A3	Baa1 or Below
Rate Credit Adjustment	\$0.0M	\$1.0M	\$2.0M

As changes are made to PGE's senior debt rating, the Sierra Acquisition Credit balancing account shall be adjusted pursuant to Table 2a, effective upon the date of those changes. PGE or Sierra may request that the Commission suspend the application of the adjustments in Table 2a for a particular rating downgrade. The Commission shall grant the motion if it finds that the actions or inactions by, or circumstances related to, Sierra and/or its affiliates did not materially contribute to the downgrade. In making such a request, the Company shall have both the burden of persuasion and the burden of going forward with evidence.

- (b) If PGE's senior secured debt rating by S&P is downgraded on or before September 30, 2007, then the Sierra Acquisition Credit in Table 1 shall increase by the Annual Rate Credit Adjustment in Table 2b multiplied by the proportion of the year for which PGE suffered the debt rating decrease. A debt rating decrease is defined as a decrease in PGE's senior secured debt rating by S&P.

Table 2b: Annualized Year-by-Year Adjustments to the Acquisition Credit Adjustments due to a downgrade from S&P

PGE's Senior Secured Debt Rating by S&P	A or Higher	A-	BBB+ or Below
Rate Credit Adjustment	\$0.0M	\$1.0M	\$2.0M

As changes are made to PGE's senior debt rating, the Sierra Acquisition Credit balancing account shall be adjusted pursuant to Table 2b, effective upon the date of those changes. PGE or Sierra may request that the Commission suspend the application of the adjustments in Table 2b for a particular rating downgrade. The Commission shall grant the motion if it finds that the actions or inactions by, or circumstances related to, Sierra and/or its affiliates did not materially contribute to the downgrade. In making such a request, the Company shall have both the burden of persuasion and the burden of going forward with evidence.

Section 4. Monthly Rate Credit.

4.0 Except as provided in 4.1, the Commission shall authorize distribution, at its discretion, of the Monthly Rate Credit (defined as the monthly distribution of the monies in the Sierra Acquisition Credit balancing account), as is necessary to achieve rate stability relative to this credit.

4.1 Customers shall receive a Monthly Rate Credit calculated as an equal percent decrease by customer class based upon base rates, without adjustments, in effect

on August 21, 2000, and converted to a credit per kWh. Special contract customers will not receive a Monthly Rate Credit unless the special contract provides for such. PGE will separately itemize the Monthly Rate Credit on customers' bills.

Section 5. Other Conditions

- 5.0 In addition to the mutual covenants and obligations set forth above, Sierra and PGE agree to abide by the following conditions:
- 5.1 PGE's accounting records shall be (a) maintained separately from those of Sierra and other Sierra affiliates, and (b) readily available to the OPUC in Portland, Oregon.
- 5.2 Sierra and PGE shall exclude all costs of completing the acquisition (transaction costs) from PGE's utility accounts. Within 90 days following the acquisition completion, Sierra will provide a preliminary accounting of these costs. Further, Sierra agrees to provide the OPUC a final accounting of these costs within 30 days following the accounting close of the acquisition.
- 5.3 PGE shall maintain separate ratings for its debt, and for its preferred stock if more than \$5 million is outstanding.
- 5.4 PGE shall not make any distributions to Sierra that will reduce PGE's common equity capital below 48% of PGE's total capital, without OPUC approval. PGE's total capital is defined as common equity, preferred equity and long-term debt. Long-term debt is defined as debt with a term of more than one year. Staff and PGE may re-examine this minimum common equity percentage as financial conditions change, and may request that it be adjusted.
- 5.5 Sierra and PGE agree that PGE's allowed return on common equity and other costs of capital shall not rise as a result of the acquisition. These capital costs refer to the costs of capital used for purposes of rate setting, avoided cost calculations, affiliated interest transactions, least cost planning, and other regulatory purposes.
- 5.6 Unless such a disclosure is unlawful, Sierra shall notify the OPUC of:
- (a) Its intention to transfer more than 5 percent of PGE's retained earnings to Sierra over a six-month period, at least 60 days before such a transfer begins.

- (b) Its intention to declare a special cash dividend from PGE, at least 30 days before declaring each such dividend.
 - (c) Its most recent quarterly common stock cash dividend payment from PGE within 30 days after declaring each such dividend.
- 5.7 Sierra guarantees that the customers of PGE shall be held harmless if the acquisition of PGE by Sierra results in higher revenue requirements for PGE than if the acquisition had not occurred.
- 5.8 Sierra and PGE shall comply with OPUC Order No. 97-196, condition 20, imposed on Enron and PGE.
- 5.9 The OPUC or its agents may audit the accounts of Sierra and its unregulated subsidiaries which are the bases for charges to PGE. Sierra agrees to cooperate fully with such OPUC audits, to determine the reasonableness of allocation factors used by Sierra to assign costs to PGE and amounts subject to allocation or direct charges.
- 5.10 Subsequent to its purchase by Sierra, PGE shall continue to perform under the Service Quality Measure (SQM) as first described in UM 814 and adopted in Order 97-196, as revised by OPUC Orders, and updated and revised in UM 967. The stipulated agreement to be included in the OPUC Order in UM 967 is OPUC Staff's "Stipulations for PGE Service Quality Measures UM 814/UM 967", dated March 15, 2000. The purpose of the SQM is to ensure that PGE maintains or improves current levels of service.
- 5.11 Sierra shall not subsidize its activities by allocating to or directly charging PGE expenses not authorized by the OPUC to be so allocated or directly charged.
- 5.12 PGE shall not give its affiliates preferential access, through any formal or informal agreement, to its excess pipeline capacity and related capacity assets. PGE will post its pipeline capacity releases on the appropriate interstate pipeline electronic bulletin board (EBB). PGE shall not give its affiliates preferential access, through any formal or informal agreement, to PGE's electricity or natural gas assets. If PGE and an affiliate engage in a blind (that is, arm's length) exchange transaction (for example, the New York Mercantile Exchange (NYME), the California Power Exchange, and similar exchanges) at market prices, the OPUC will presume that the transactions meet the OPUC's affiliated interest transfer pricing policy requirements.
- 5.13 Sierra bears any risk (a) resulting from less than full system cost recovery if inter-company allocation methods differ among the various jurisdictions served by Sierra; and (b) of adverse rate treatment by other state regulatory commissions that are inconsistent with the Oregon PUC adopted conditions in this docket.

- 5.14 Within 45 days of the end of each calendar six-month period for the three full years after approval, beginning with the first six months after closing the Sale, PGE shall file detailed semi-annual reports with the OPUC regarding gas commodity sales, pipeline capacity releases, electric power exchanges and sales, and competitive ancillary electric services sales between PGE and any other Sierra company.
- 5.15 The costs and benefits of pre-acquisition generation facilities of Sierra Pacific Power Company, Nevada Power Company and PGE will remain assigned to the three companies, respectively. PGE will retain for the benefit of its customers all benefits of its low cost resources, including but not limited to its Mid-Columbia resources, and federal system benefits as available under the Pacific Northwest Electric Power Planning and Conservation Act and any subsequent amending legislation.
- 5.16 The costs and benefits of PGE's pre-acquisition electricity, fuel and pipeline assets and contracts will remain with, and will be assigned to, PGE after the acquisition.
- 5.17 If Sierra, either directly or through an affiliate, intends to market electricity or ancillary services at retail to consumers within PGE's Oregon service territory in competition with other retail providers of such services, PGE shall notify the OPUC prior to marketing such services for the purpose for establishing conditions to preclude anti-competitive behavior with respect to such services. Such conditions shall be similar to those set forth in Order No. 97-196, except as modified by the OPUC, and shall apply until superseded by the final rules concerning codes of conduct for affiliates adopted in AR 390.
- 5.18 Unless ordered otherwise by the OPUC, pre-acquisition, non-generation Sierra Pacific Power Company and Nevada Power Company rate base assets shall be excluded from calculations of PGE's rate base assets devoted to serve Oregon customers.
- 5.19 Sierra and PGE agree to the following provisions with respect to information requests and resolution of disputes related to information requests:
- (a) Sierra and PGE shall provide Staff, upon request, access to books and records of Sierra and PGE and of any of their affiliated interests, that are reasonably calculated to lead to information relating to PGE, including without limitation, Board of Directors' Minutes and reports provided to and presentations made to common stock, bond, or bond-rating analysts. For purposes of this condition, "written information" includes, but is not limited to, any written or printed material, audio and video tapes, computer disks,

and electronically-stored information. Nothing in this condition shall be deemed a waiver either of Sierra's or PGE's right to seek protection of the information pursuant to a protective order issued by the OPUC, or a waiver of Sierra's or PGE's right to object to production of information on the grounds that the request is overly broad, unduly burdensome or outside the scope of the OPUC's regulatory jurisdiction.

- (b) In the event of a dispute between Staff and Sierra regarding a Staff request for books and records or minutes, the parties agree that an Administrative Law Judge (ALJ) of the OPUC shall resolve the dispute. The ALJ shall review the requested documents in camera and shall hear the arguments of Staff and Sierra regarding the obligation to provide access. In resolving the dispute, the ALJ shall decide whether the requested documents are reasonably calculated to lead to the discovery of admissible evidence. The ALJ shall use this standard whether or not Staff is making the request in connection with an open docket. When Sierra submits any documents for an in camera inspection, it may request that the OPUC treat the document as exempt from disclosure under Oregon Public Record's Law. If Sierra makes such a request, it shall specify to the ALJ the provisions of the Public Records Law that apply. If the ALJ, on behalf of the OPUC, determines that the documents are exempt from disclosure, then the OPUC shall, in the event it receives a request for documents under the Public Records Law, assert the appropriate provision(s) as a basis for not disclosing the documents.

- 5.20 Pre-acquisition transmission facilities of Sierra Pacific Power Company, Nevada Power Company and PGE shall be assigned to the separate operating companies, respectively, unless otherwise required by the OPUC or as required by law or in connection with the formation of a RTO.
- 5.21 PGE and Sierra agree to comply with all OPUC requirements regarding affiliated interest (AI) transactions, including timely filing of applications and reports. Beginning with the first full six months after closing the Sale, PGE will file semi-annual AI reports, as otherwise required by OAR 860-027-0100, with the OPUC. Also, these AI reports shall include employee transfers, permanent and temporary, between PGE and Sierra and consulting and training activities conducted by both PGE and Sierra personnel for the other entity. For the six-month period ending at the end of the calendar year, such reports are due June 1. For the six-month period ending June 30th, such reports are due October 1.

- 5.22 Post-acquisition additions related to existing generation and transmission plant and related system facilities shall be assigned to the respective operating company based on pre-acquisition investment, unless otherwise required by the OPUC, or as required by law or in connection with the formation of an RTO.
- 5.23 Post-acquisition power production costs shall be directly assigned to each operating company to the extent possible. Post-acquisition power production costs that cannot be directly assigned shall be pooled and allocated on an equitable, cost-causative basis.
- 5.24 Acquisition Transition Costs shall be directly assigned to the extent possible. Acquisition Transition Costs that cannot be directly assigned shall be consolidated at the service-company level and allocated to the companies on an equitable, and to the extent possible, cost-causative basis.
- 5.25 If the OPUC believes that Sierra and/or PGE have violated any of the conditions set forth herein, any conditions contained in other stipulations signed by Sierra and PGE or any conditions imposed by the OPUC in its final order approving the Application (collectively, "the Conditions"), then the OPUC shall give Sierra and PGE written notice of the violation:
- (a) If the violation is for failure to file any notice or report required by the Conditions, and if Sierra and/or PGE provide the notice or report to the OPUC within ten business days of the receipt of the written notice, then the OPUC shall take no action. Sierra or PGE may request, for cause, permission for extension of the ten-day period. For any other violation of the Conditions, the OPUC must give Sierra and PGE written notice of the violation. If such failure is corrected within five business days of the written notice, then the OPUC shall take no action. Sierra or PGE may request, for cause, permission for extension of the five-day period.
 - (b) If Sierra and/or PGE fail to file a notice or written report within the time permitted in a) above, or if Sierra and/or PGE fail to cure, within the time permitted above, a violation that does not relate to the filing of a notice or report, then the OPUC may open an investigation to determine the number of and seriousness of the violations. If the OPUC determines that Sierra and/or PGE violated one or more of the Conditions, then the OPUC shall state the level of penalty it will seek under ORS 756.990 in an action filed in circuit court. If the OPUC issues an order that recommends an ORS 756.990 penalty against Sierra and/or PGE, then Sierra and/or PGE may appeal such an order under ORS 756.580. If the OPUC's order is upheld on appeal, then the OPUC may file a complaint in circuit court seeking penalties under ORS 756.990, and Sierra and/or PGE

shall file a responsive pleading agreeing to pay the penalties. The OPUC shall seek a penalty on only one of Sierra or PGE for the same violation.

- 5.26 Sierra and PGE (a) agree not to assert in any future proceedings that the provisions of the Public Utility Holding Company Act of 1935 and/or *Ohio v. FERC*, 954 F.2d 779 (D.C. Cir.), cert. denied, 506 U.S. 981, 113 S. Ct. 483 (1992) shall preempt the Commission's jurisdiction over affiliated interest transactions, and (b) explicitly waive any such defense in any proceeding. Sierra and PGE (a) agree not to assert in any future proceedings that the provisions of the Federal Power Act of 1935 and/or *Mississippi Power and Light Company v. Mississippi, et al.*, 487 U.S. 354 (1988), shall preempt the Commission's jurisdiction over Sierra's common system cost allocations, and (b) explicitly waive any such defense in any proceeding.
- 5.27 Sierra and PGE agree to support the timely implementation of S.B. 1149 and to support the 30 kW definition for small non-residential customers.
- 5.28 PGE agrees to implement the "Customer Guarantees" described in Exhibit A to this Settlement Agreement if:
- (a) PGE's at-fault customer complaints, as measured under the C1 Service Quality Measure (as revised in UM 967) exceed 0.05 complaints per 1000 customers; or
 - (b) On or before January 1, 2003, the Commission requests PGE to do so, and PGE has in place computer systems that will permit such implementation at a minor incremental cost.

PGE will file tariffs to implement the Customer Guarantees within 30 days of notice by the Commission under subparagraph (a) or within 120 days of notice by the Commission under subparagraph (b).

PGE will record any payments to customers under the Customer Guarantees in accounts not recognized for purposes of PGE's results of operation reporting or revenue requirement presentation.

- 5.29 For the period of the rate freeze described in Section 2.0, and continuing thereafter unless and until modified by the Commission, Sierra and PGE shall exclude from PGE's results of operations and customer rates all goodwill resulting from this acquisition.
- 5.30 Sierra agrees to submit a proposed Master Services Agreement ("MSA") for Staff review by August 31, 2000. Staff's recommendation for approval of this transaction is conditioned on the Parties' stipulating to a mutually agreeable MSA

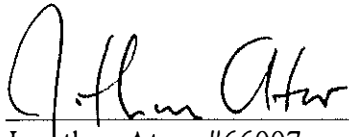
on or before September 15, 2000. Staff agrees to negotiate the terms of the MSA in good faith, and to not unreasonably withhold its agreement of any terms proposed by Sierra.

General Provisions.

- 6.0 The Parties agree that this Settlement Agreement represents a compromise in the positions of the Parties.
- 6.1 The Parties agree that with respect to the issues covered herein, this Settlement Agreement is in the public interest and all of its terms and conditions are fair, just and reasonable.
- 6.2 This Settlement Agreement will be entered into the record as evidence pursuant to OAR 860-014-0085. The Parties shall cooperate in this submission and shall support adoption of the Settlement Agreement in testimony and argument submitted in this proceeding and any appeal. Staff, Sierra, and PGE shall make available a witness in support of this Settlement Agreement. The Parties agree to waive cross-examination of one another at the hearing on conditions contained in this Settlement Agreement.
- 6.3 Execution of this Settlement Agreement shall not constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of regulation, and no Party shall be deemed to have agreed that any method, theory or principle of regulation employed in arriving at this Settlement Agreement is appropriate for resolving any issue, in any other proceeding. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Settlement Agreement.

- 6.4 The Parties recommend that the Commission adopt this Settlement Agreement in its entirety.
- 6.5 The Parties agree that the conditions set forth in this Settlement Agreement, should be incorporated in a final OPUC Order approving the Application.
- 6.6 The Parties have negotiated this Settlement Agreement as an integrated document. If the OPUC rejects all or any material part of this Settlement Agreement or imposes additional material conditions in approving the Application, any Party disadvantaged by such action shall have the right, upon written notice to the OPUC and all Parties to the proceeding within 15 business days of the OPUC's Order, to withdraw from this Settlement Agreement. If any Party withdraws from this Settlement Agreement on this basis, any other Party may withdraw by giving written notice to the OPUC and all Parties within 5 business days of the first Party's notice of withdrawal. No withdrawing Party shall be bound by the terms of this Settlement Agreement and each withdrawing Party shall be entitled to seek reconsideration of the OPUC Order, file any testimony it chooses, cross-examine witnesses and in general to put on such case as it deems appropriate.
- 6.7 This Settlement Agreement may be executed in counterparts and each signed counterpart shall constitute an original document.
- 6.8 The obligations of Sierra and PGE under Section 4. Conditions, are subject to the OPUC's approval of the Application in this case on terms and conditions acceptable to Sierra and PGE and the closing of the transaction.
- 6.9 Except as specifically noted herein, the Parties agree that this Settlement Agreement supercedes all prior agreements and stipulations that are inconsistent

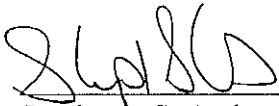
with this Settlement Agreement.



Jonathan Ater #66007
Ater Wynne LLP
Of Attorneys for Applicant
Sierra Pacific Resources

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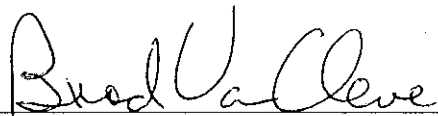
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Stephanie S. Andrus #92512
Assistant Attorney General
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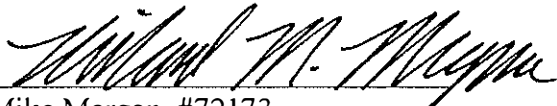
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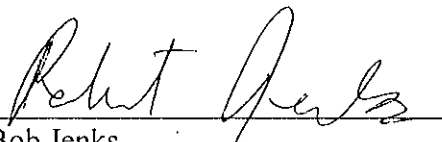
Date



Mike Morgan #72173
~~Toukon Corp~~ **TONKON, CORP**
Of Attorneys for Portland General Electric

9/1/00

Date



Bob Jenks
Executive Director
Citizens' Utility Board

9/1/00

Date

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 967

Public Utility Commission of Oregon
Administrative Hearings Unit Division

In the Matter of the Application of)
SIERRA PACIFIC RESOURCES) STIPULATION
To Acquire PORTLAND GENERAL)
ELECTRIC)

This Stipulation is entered into among Sierra Pacific Resources (Sierra), Portland General Electric Company (PGE), and the other parties to this docket whose signatures appear at the end of this Stipulation. Sierra, PGE and the signing parties are together referred to as the "Parties."

The purpose of this Stipulation is to resolve issues in this Docket relating to the impact of Sierra's acquisition of PGE on various public interest matters.

1. Terms of Stipulation

The terms and conditions of this Stipulation are set forth below. The Parties agree that the commitments in this stipulation are beneficial to PGE's customers. The Parties will support this Stipulation throughout this Docket. The Parties further agree either to support, or not oppose, the Settlement Agreement dated September 1, 2000 between OPUC, Sierra, PGE, CUB, and ICNU.

2. Renewable Resources

Pursuant to PGE's 1993 Integrated Resource Plan and the Memorandum of Understanding entered into by and among PGE, Enron Corp. (Enron), and various parties to Docket UM 814 (MOU), PGE has acquired two wind resources, totaling about 12 MWa. One of these resources is the wind project known as Vansycle Ridge, for which PGE has a long-term contract to purchase the output. The other resource is a yet-to-be-

constructed wind resource, for which PGE has a ten-year contract to purchase the output from the Bonneville Power Administration (BPA). The Parties agree that, so long as PGE meets its commitments under these contracts, these contracts fulfill PGE's and Enron's obligations for the acquisition of wind power under the MOU. The Parties agree to support PGE's request for recovery of the costs of the Vansycle Ridge contract.

Pursuant to PGE's 1993 IRP and the MOU, PGE also prepared and published a request for proposals for the purpose of selecting a geothermal resource project of at least 19 MW, the above-market costs of which were to be funded from a systems benefit charge (SBC). PGE selected a project at the Newberry Crater in Oregon and has subsequently sought through various means to obtain approval for its owners to receive funding through a SBC. Most recently, the Oregon Public Utility Commission (OPUC or Commission) rejected a request for an early declaration that the Newberry Crater Project could receive SBC funds that will become available after October 1, 2001. The Parties agree that PGE's efforts have fulfilled the responsibilities of PGE and Enron under the MOU and that decisions regarding geothermal development in Oregon, funded by an SBC, now rest solely with the Commission.

3. System Benefits Charge

In the MOU, PGE agreed to file and support a SBC at or above the funding levels and for the purposes outlined in the final report of the Comprehensive Review. PGE made such filing in 1998. In July 1999, the Oregon Legislature passed, with PGE's support, SB 1149 (now ORS 757.600 et seq.), which includes an SBC that substantially meets the criteria specified in the MOU. PGE is currently in the process of implementing the provisions of SB 1149, under the guidance of the Commission. The Parties agree that

the implementation of SB 1149 substantially as adopted fulfills PGE's and Enron's obligations under the MOU. PGE and Sierra agree actively to continue to support the SBC throughout the implementation of SB 1149. PGE and Sierra also agree to perform an updated assessment of energy efficiency potential in PGE's service territory within six months of the close of the transaction. PGE and Sierra may coordinate this effort with Pacific Power.

In the event SB 1149 is not implemented, substantially as adopted, PGE will continue to invest in such demand-side measures and renewable resources as the Commission acknowledges in PGE's least cost plans. PGE will continue to support as sound public policy, and make proposals to achieve, the major provisions of SB 1149, including direct access for non-residential customers and an SBC at least at the funding levels and allocated for the purposes outlined in the final report of the Comprehensive Review, through a non-bypassable charge, with self-direction for customers with large loads.

4. Evaluation of Marginal Cost

In the MOU, PGE and Enron committed sponsor or participate in a generic proceeding on marginal cost and provide certain funding to public interest parties for purposes of their participation in such docket. The undersigned parties agree that the generic investigation occurred and that PGE and Enron provided the requested funding and that this MOU obligation is fulfilled.

5. Separation of Generation and Distribution

The MOU obligated PGE and Enron to develop and implement a legal and regulatory separation of the distribution business from PGE's fossil resource. The undersigned parties agree that SB 1149 has superceded this commitment.

6. Decoupling

The MOU obligated PGE to develop a distribution pricing structure that severs the link between retail electricity throughput and the recovery of fixed transmission and distribution costs. PGE and Sierra agree that, in the rate case filed on or about October 1, 2000, to implement the provisions of SB 1149, PGE will file one or more ratemaking alternatives for distribution services under which the revenues and net income of PGE is not tied to or derived from kilowatt-hour sales. Potential measures which meet this test include a revenue cap, such as that in the "distribution contract" PGE is presently developing. PGE and Sierra agree not to propose, for residential customers, that the Commission recover distribution costs in fixed rate charges (e.g. \$__ per month) as a means of achieving the separation from kilowatt-hour sales. The rate case filing will include provision for: (1) regularly update system-wide evaluation of opportunities to reduce distribution and transmission costs by integrating distributed resources into distribution and transmission planning and investment, including but not limited to targeted energy efficiency improvements and distributed renewable resources; and (2) based on such an evaluation, appropriate coordination of the company's distribution and transmission capital investments with energy efficiency investments by the nonprofit administrator of the system benefits charge, with the goal of reducing the life-cycle cost of reliable distribution services.

7. Low Income

PGE will continue its current in-kind contributions to Oregon Heat and match customer contributions to Oregon heat with shareholder funds up to \$100,000 per year for a period of five (5) years after the close of this transaction.

In addition, PGE agrees to provide shareholder funds to increase the funding under PGE's low income weatherization program from 50% of eligible measures to 100% of eligible measures, subject to a cap of \$200,000 annually, through the earlier of the implementation of the direct access and SBC provisions of SB 1149 or December 31, 2003. PGE agrees to make the 2000 allocation of this available upon the filing of this signed Stipulation.

Finally, PGE agrees to support legislation to clarify that the low income funding provided under SB 1149 is an annual amount of \$10 million.

8. Fish and Wildlife Support and Hydroelectric Generation

The MOU committed PGE and Enron to a number of activities related to preserving and enhancing the role PGE had developed with respect to fish and wildlife issues in Oregon and maintaining its approach to the re-licensing of its hydroelectric projects. PGE and Sierra affirm their support for the fish and wildlife actions in the PGE/Enron MOU.

9. City of Portland

PGE and Sierra commit to make all reasonable efforts to develop and obtain approval of a modern utility franchise with the City of Portland within two years following the completion of the merger.

10. General Terms and Conditions

a. The Parties have negotiated this Stipulation as an integrated document.

The Parties recommend that the Commission acknowledge the Stipulation in its entirety.

b. The Parties agree that this Stipulation is in the public interest with respect to the issues covered by it and that all of its terms and conditions are fair, just and reasonable.

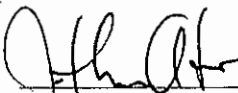
11. Commission Approval of Application/Closing of Transaction

The obligations of PGE and Sierra under this Stipulation are subject to the Commission's approval of the Application in this Docket, on terms and conditions acceptable to PGE and Sierra, in their sole discretion, and the closing of the transaction between Sierra and PGE.

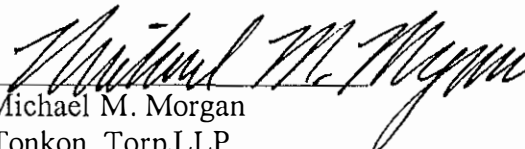
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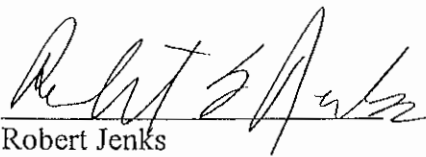
Public Utility Commission of Oregon
Administrative Hearings Unit Division


Jonathan Ater #66007
Ater Wynne LLP
Of Attorneys for Applicant
Sierra Pacific Resources

9/19/00
Date


Michael M. Morgan
Tonkon, Torp LLP
Of Attorneys for Portland General Electric

9/14/00
Date


Robert Jenks
Executive Director
Citizens' Utility Board

9/14/00
Date

APPENDIX ^C
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Public Utility Commission of Oregon
Administrative Hearings Unit Division

Susan Anderson
City of Portland Energy Office

Date

Ralph Cavanaugh
Senior Attorney
Natural Resources Defense Council

Date

Rachel Shimshak

Rachel Shimshak
Project Director
Renewable Northwest Project

Date

9/15/00

Jay D. Fornick
Executive Director
Oregon HEAT

Date

Bonnie Davidson
Executive Director
Community Action Directors of Oregon

Date

Joan Cote
President
Oregon Energy Coordinator's Association

Date

Steve Weiss
Northwest Energy Coalition

Date

APPENDIX ^C
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Benjamin Walters
Susan Anderson

Susan Anderson
City of Portland Energy Office

9-18-00
Date Public Utility Commission of Oregon
Administrative Hearings Unit Division

Ralph Cavanaugh

Ralph Cavanaugh
Senior Attorney
Natural Resources Defense Council

9/15/00
Date

Rachel Shimshak

Rachel Shimshak
Project Director
Renewable Northwest Project

9/15/00
Date

Jay D. Formick

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Executive Director
Oregon HEAT

9/18/00
Date

Bonnie Davidson

Bonnie Davidson
Executive Director
Community Action Directors of Oregon

9-18-00
Date

Joan E. Cote

Joan E. Cote
President
Oregon Energy Coordinator's Association

9-14-00
Date

Steve Weiss

Steve Weiss
Northwest Energy Coalition

9/15/00
Date