

ORDER NO. 00-110

ENTERED FEB 22 2000

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 102

In the Matter of the Application of)	
Portland General Electric Company for)	ORDER
Approval of the Customer Choice Plan.)	

**DISPOSITION: ORDER 99-033 RECONSIDERED/ORDER NOT
MODIFIED**

On March 29, 1999, PGE filed a Petition for Reconsideration and Clarification of Order No. 99-033, the Commission's restructuring order in this case. The Petition asks for clarification and guidance with regard to many portions of the order. It also asks for reconsideration and reversal or modification of several specific rate-related conclusions in the order. The Industrial Customers of Northwest Utilities (ICNU) filed a response on April 13, 1999, and PUC Staff (Staff) filed a response on April 14, 1999.

On May 18, 1999, we issued Order No. 99-339 granting reconsideration. We noted that PGE's request for amplification and clarification was reasonable. We concluded, however, that we would delay a detailed response to the Petition until after the 1999 legislative session had ended so that we could take into account the impact of any legislation.

SB 1149 is now law. It mandates that investor-owned utilities, including PGE and PacifiCorp, make many important changes in the provision of electric service by October 1, 2001. Although the versions of restructuring approved in Order No. 99-033 and required in SB 1149 have important similarities, the differences are significant. Perhaps the most important is the fact that the legislation is mandatory, whereas our order allows PGE to decide whether to proceed with restructuring. It is clear that PGE will soon have to begin the process of meeting the requirements of the new law and will have to file a plan consistent with the legislation in time to take effect by October 1, 2001. It is unlikely that PGE could implement the restructuring plan set out in Order No. 99-033 much before October 1, 2001, the mandatory date for implementation of the restructuring required under SB 1149. Moreover, to the extent the plan we approved in Order No. 99-033 (*See Conclusion 4 on page 73 and Ordering paragraph 2 on page 74 of that order*) is

inconsistent with SB 1149, the Commission plan cannot be implemented. We also note that the new law assigns to the Commission many tasks that will significantly engage our resources during the next two years.

We conclude that it would not be useful to fully amplify and clarify Order No. 99-033. The result would only be to set out in greater detail a restructuring plan that has already been superseded by legislative mandate. We therefore conclude that Order No. 99-033 should not be amplified to clarify the broad policy directives we adopted. We also decline to reconsider the several specific rate-related factual and policy conclusions challenged by PGE in its Petition. Although they would have an impact on PGE if it were to adopt tariffs to implement the plan we approved in Order No. 99-033, that seems unlikely, as we noted above, given the requirements of SB 1149.

We want to make very clear, however, that the work that the Commission and the parties in UE 102 have accomplished has not been wasted. Many of the restructuring and ratemaking issues we will have to deal with in implementing SB 1149 were also issues in UE 102. Our conclusions on most, if not all, of those issues are still relevant and sound. They were based on an extensive record developed with the help of many parties very knowledgeable about the issues. We will use the information and the argument underlying our decisions in UE 102, where applicable, to help us in implementing SB 1149. We therefore encourage parties to carefully consider the record in UE 102 and the Commission's decisions in Order No. 99-033 when they craft their positions and arguments in the proceedings necessary to implement SB 1149.

In some instances, on the other hand, we have issued orders subsequent to UE 102 which take significantly different views of an issue than does Order No. 99-033. To the extent they differ from our expressions in UE 102, those later policy expressions should be taken as our present views on the subject. In particular, we refer parties to our treatment of cost of equity issues in Order No. 99-697 in UG 132. The analysis we adopted there differs in several ways from the tentative treatment we set out in UE 102 (Order No. 99-033 at 70-73). It should be considered our current view. Of course, our decisions in any rate case are made in the context of the particular facts of the matter.¹

CONCLUSION

For the reasons set out above, the Commission concludes that Order No. 99-033 should not be amended or amplified.

¹ We noted in UE 102 that we "reserve the right to review this matter [cost of equity] if PGE, because of legislative or other cause, ultimately adopts a restructuring plan different from the one described in this order." (at 72).

ORDER

IT IS ORDERED that Order No. 99-033 will not be amended or amplified.

Made, entered, and effective _____.

Ron Eachus
Chairman

Roger Hamilton
Commissioner

Joan H. Smith
Commissioner

A party may appeal this order to a court pursuant to ORS 756.580.

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