

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

DR 10, UE 88, UM 989

In the Matters of

The Application of Portland General Electric Company for an Investigation into least Cost Plan Plant Retirement, (DR 10)

Revised Tariffs Schedules for Electric Service in Oregon Filed by Portland General Electric Company, (UE 88)

Portland General Electric Company's Application for an Accounting Order and for Order Approving Tariff Sheets Implementing Rate Reduction. (UM 989)

OPENING MEMORANDUM OF
PORTLAND GENERAL ELECTRIC
COMPANY

Pursuant to the Consolidated Procedural Conference Memorandum dated April 1, 2004, Portland General Electric Company ("PGE") hereby files this Opening Memorandum. The Conference Memorandum asked that parties address three topics: (1) the scope of issues to be addressed in this consolidated proceeding, (2) the nature and schedule for subsequent procedural steps, and (3) the petition to intervene of Frank Gearhart, Kafoury Bros., LLC, and Patricia Morgan. PGE does not oppose the petition to intervene of Frank Gearhart, Kafoury Bros., LLC, and Patricia Morgan. PGE addresses below the scope of this consolidated proceeding and the nature and schedule for the proceeding.

I. Scope of the Consolidated Docket

The Commission has reopened dockets DR 10, UE 88, and UM 989 because the courts concluded that the final orders in each docket were based on legal errors and remanded the matters to the Commission for further proceedings. The remand orders determine the scope of

this consolidated proceeding. For each of the dockets consolidated in this proceeding, the Circuit Court for Marion County remanded the matters "to the Commission for further proceedings consistent with the opinions and orders" of the courts. *See* Orders of Remand, dated November 3, 2003, remanding dockets DR 10 and UE 88, and Final Judgment, dated January 28, 2004, concerning the appeal of the final order in docket UM 989.¹

The remand orders require the Commission to determine the extent and nature of an appropriate remedy in light of the disapproved Commission orders and the courts' decisions. The Commission should consider all issues relevant to the determination of an appropriate remedy in this docket. Parties should be able to present evidence and argument relevant to that determination. Topics that are relevant to determining an appropriate remedy include but are not limited to (i) the amount of any past overcharges and (ii) what final determinations the Commission would have made in each of the consolidated dockets if it had known of the legal conclusions later reached by the courts and issued final orders consistent with the opinions and orders of the courts.

II. The Proceeding's Nature and Schedule

This docket should proceed under the Commission rules and statutes applicable to hearings before the Commission. *See* Chapter 860, Division 14 of OARs and ORS 756.518 through ORS 756.610. The parties should present written evidence into the record, conduct discovery permitted under the Commission rules, cross examine witnesses at the hearing, and present post-hearing briefs. Because of the seriousness and urgency of the issues involved, the docket should proceed on an expedited basis. PGE proposes the following schedule:

¹ The OPUC, PGE, and URP have appealed the Final Judgment entered by Judge Lipscomb in 02C114884 on January 28, 2004, to the Oregon Court of Appeals. The parties in this docket reserve the right to pursue the appeal of the Final Judgment.

ACTION	DUE DATE
Simultaneous Opening Testimony	August 1, 2004
Simultaneous Response Testimony	October 1, 2004
Simultaneous Reply Testimony	November 1, 2004
Hearing	November 22-23, 2004
Briefs	To be scheduled at hearing
Final Order	January 30, 2005

Conclusion

For the reasons stated above, PGE respectfully requests that the Commission enter an order concluding the following:

- (1) The scope of this consolidated proceeding includes all issues relevant to the determination of the nature and scope of an appropriate remedy;
- (2) The consolidated proceeding will proceed under Commission rules and statutes applicable to hearings before the Commission; and
- (3) An expedited schedule substantially similar in form to the one proposed above is adopted.

DATED: April 16, 2004

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CERTIFICATE OF SERVICE

I hereby certify that on this day I served the foregoing **PORTLAND GENERAL ELECTRIC COMPANY OPENING MEMORANDUM** by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each party listed below and depositing in the U.S. mail at Portland, Oregon.

DATED: April 16, 2004.

David F. White

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