

**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)

**PORTLAND GENERAL ELECTRIC  
COMPANY'S MOTION FOR  
LEAVE TO FILE SUPPLEMENTAL  
TESTIMONY**

**I. INTRODUCTION**

On November 15, 2006 Portland General Electric Company ("PGE") asked the Commission to amend the procedural schedule to: (a) consolidate the phases of this proceeding; and, (b) re-open the record to permit the parties to submit additional testimony. PGE requested consolidation for two reasons. First, it will expedite the proceeding and lead to an earlier result. Second, consolidation will lead to a single comprehensive order that can identify any harm or injury suffered by customers during the entire relevant time period and offer complete and final relief. PGE proposed a schedule that would result in a final comprehensive order no later than July 30, 2007.

The evidentiary record for Phase I of these proceedings was closed on September 19, 2005. Briefing was completed on December 14, 2005. Just eight months later on August 31, 2006 the Oregon Supreme Court issued its decision in *Dreyer v. PGE*, a case directly related to these remand proceedings (the "Class Action Cases"). *Dreyer v. Portland General Electric Co.*, 341 Or 262, 142 P3d 1010 (2006). Importantly, the *Dreyer* court

concluded that ORS 757.225 and the common law filed rate doctrine imposed no bar to the issuance of refunds to compensate customers for amounts PGE collected under Commission approved tariffs that a court later finds unlawful. *Dreyer*, 341 Or at 278-79.

Given the *Dreyer* court's indication that ORS 757.225 is no bar to refunds, PGE believes the Commission has the legal authority under these circumstances to order refunds and customer rate credits to the extent necessary to provide full, complete and final relief to former and current PGE customers. Further the *Dreyer* decision underscores the Commission's specialized expertise in evaluating these issues. The *Dreyer* decision places squarely in the Commission's hands the responsibility to determine whether PGE customers have been injured by the previously collected rates in violation of ORS 7575.355, the extent of that injury and the appropriate relief, if any. The related Class Action Cases have been abated for a period of one year. That initial abatement is subject to review by the Circuit Court in October 2007. PGE suggests that it is in the parties' interests to resolve these ongoing Trojan questions now.

## **II. PGE'S PROPOSED SCHEDULE**

We recognize that the Commission has not yet ruled on our motion to consolidate. With this filing we ask for a ruling modifying the existing scope of these proceedings, consolidating the phases and accepting the testimony filed contemporaneously with this Motion as PGE's opening round. To implement consolidation of the phases and re-opening of the record, PGE proposes that remaining filings be made on the following schedule:

March 2, 2007	Other parties file rebuttal testimony
April 6, 2007	PGE files reply testimony
April 13, 2007	Hearing
May 4, 2007	Simultaneous opening briefs (all parties)

May 18, 2007	Simultaneous rebuttal briefs (all parties)
June 1, 2007	PGE files reply brief
July 30, 2007	Commission order

### III. PGE'S SUPPLEMENTAL TESTIMONY

In Phase I PGE presented ratemaking tools and evaluation techniques the Commission could have applied in setting rates to begin on April 1, 1995 or in determining the outstanding Trojan balance owed by customers on September 30, 2000.

With this supplemental filing we address the remaining questions the Commission must answer as well as the guidance provided by *Dreyer*. PGE's position is reflected in a new UM 989 scenario that we refer to as the Retirement of Trojan Balance scenario. We suggest that the "return on" portion of rates collected between April 1995 and September 30, 2000 which the court later found to be improper should be applied to retire the outstanding Trojan balance. In addition, we suggest use of several rate-making adjustments PGE presented in Phase I. The result of this approach is an undepreciated Trojan balance and other regulatory assets owed PGE as of September 30, 2000, of approximately \$156 million. This is approximately \$6 million less than the customer credits that were offset in UM 989.

We also discuss two alternative approaches that the Commission might use. First, we present a Five-Year Amortization scenario. This provides for collection of the Trojan balance over a five-year period beginning in April 1995, rather than the 17-year amortization period used in UE 88. With the addition of several rate-making adjustments presented in Phase I, this scenario results in asset balances owed PGE as of September 30, 2000 of approximately \$156 million.

Second, we compare PGE's preferred alternative—the Retirement of Trojan Balance scenario—to the Staff Alternative presented in Phase I. Using the Staff Alternative

approach, the summary September 30, 2000 balance owed by customers is \$159 million.

To the extent the Commission identifies any harm or injury to customers as a result of the rate decisions originally made in UE 88, we propose payment of a one time credit. The affected customers who are no longer served by PGE would receive a cash payment. Those who remain PGE customers would receive a billing credit. This process is similar to the method PGE used to implement the Multnomah County Business Income Tax refund completed in 2006. The specific mechanics can be determined after the Commission identifies any injury to customers and specifies the affected customers.

#### IV. CONCLUSION

We ask the Commission to apply its special expertise and identify those fair and reasonable rates that, under the new interpretation of Oregon law, would have satisfied statutory and constitutional standards. We ask the Commission to identify any harm or injury suffered by customers during the entire relevant period and order complete relief.


DATED this 31<sup>st</sup> day of January, 2007.

PORTLAND GENERAL ELECTRIC  
COMPANY

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