



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

GENERAL COUNSEL

November 17, 2004

In reply refer to: LC-7

VIA HAND DELIVERY

Ms. Annette Taylor
Public Utility Commission of Oregon
550 Capitol Street NE, Suite 215
Salem, Oregon 97301-2551

Re: In the Matter of Oregon Electric Company, LLC, et al, Application for Authorization to Acquire Portland General Electric Company – Docket UM-1121
“Joint Offer of Proof of the Bonneville Power Administration and the Eugene Water & Electric Board”

Dear Ms. Taylor:

Enclosed for filing with the Commission in the above-referenced docket are an original and five copies of the “Joint Offer of Proof of the Bonneville Power Administration and the Eugene Water & Electric Board.” (“Joint Offer of Proof”) Also enclosed, under seal, are an original and five copies of the facts and references alluded to in the pleading being submitted.

In addition, there is enclosed an extra copy of the “Joint Offer of Proof.” If you could please date stamp the “extra” copy of the “Joint Offer of Proof” upon your receipt of this filing, returning it to me in the postage paid, pre-addressed envelope that is also enclosed, it would be most appreciated.

Thank you for your assistance in this matter.

Sincerely,

/s/ Geoffrey M. Kronick
Geoffrey M. Kronick
Of Attorneys for the Bonneville Power Administration

Enclosures

cc: via Electronic Mail and First Class Mail w/Offer of Proof (1 copy)
Official Service List in Docket UM-1121

1 **BEFORE THE PUBLIC UTILITY COMMISSION**

2
3 **OF OREGON**

4
5 **UM 1121**

6			
7	In the Matter of)	
8)	
9	OREGON ELECTRIC UTILITY COMPANY,)	Joint Offer of Proof of the Bonneville
10	LLC, et al.)	Power Administration and the Eugene
11)	Water & Electric Board
12	Application for Authorization to Acquire Portland)	(Motion)
13	General Electric Company.)	
14)	
15	_____)	

16
17 Hon. Kathryn Logan, ALJ
18 Hon. Christina M. Smith, ALJ

19
20 I.

21 The Bonneville Power Administration (“BPA”) and the Eugene Water & Electric Board
22 (“EWEB”) are parties to the instant proceeding and submit, under seal, an Offer of Proof of
23 specific proposed facts relating to the inadequacy of financial assurance for Portland General
24 Electric Company’s (“PGE”) share of Trojan decommissioning costs and the related costs of
25 Spent Nuclear Fuel/High Level Waste storage. These proposed facts are all obtained from four
26 documents for which Official Notice was denied in this proceeding. All of these proposed facts
27 would have been included and referenced in the “Opening Brief of the Eugene Water & Electric
28 Board and the Bonneville Power Administration,” but for the Presiding Administrative Law
29 Judge’s (“ALJ”) November 8, 2004, ruling denying Official Notice of the documents containing
30 the proposed facts.

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II.
Procedural History

In a Joint Request for Official Notice (“BPA/EWEB Request”) dated November 3, 2004 (and received by the Commission on November 4, 2004), BPA and EWEB requested that the Presiding ALJ take Official Notice of four documents. BPA and EWEB hereby incorporate by reference the EWEB/BPA Request and Attachments 1-4 appended thereto as though set forth fully herein. The four documents for which Official Notice was requested are as follows:

1. Attachment A – Complaint Filed by Portland General Electric before the United States Court of Federal Claims (Docket 04-009C), January 6, 2004, in Portland General Electric et al. v. United States of America.
2. Attachment B – United States General Accounting Office Report to the Hon. Edward J. Markey, U.S. House of Representatives – “Nuclear Regulation” “NRC’s Assurances of Decommissioning Funding During Utility Restructuring Could Be Improved” December 2001 – Report Number GAO-02-48.
3. Attachment C – Acceptance and Priority Ranking & Annual Capacity Report – U.S. Department of Energy – Office of Civilian Radioactive Waste Management – July 2004
4. Attachment D – Trojan Nuclear Plant – Decommissioning Plan – PGE/1061 – (January 26, 1995).¹

The legal basis upon which each document was subject to Official Notice by the Presiding ALJ or the Commission, pursuant to OAR 860-014-0050, was also set forth in the BPA/EWEB Request at pages 2-3.

¹ BPA and EWEB had requested Official Notice only of Section 5 of this lengthy document, approximately 20 pages of textual material and tables.

1 By Order dated November 8, 2004, the Presiding ALJ issued a ruling denying Official
2 Notice of the four documents indicated in the BPA/EWEB Request and a second such request by
3 the City of Portland (received November 5, 2004). November 8, 2004, Order at 3.

4 On November 10, 2004, BPA and EWEB filed a “Joint Request of the Bonneville Power
5 Administration and the Eugene Water & Electric Board for Reconsideration of the Presiding
6 Administrative Law Judge’s Order Denying Request for Official Notice, or in the Alternative,
7 Request for Certification to the Commission” (“Reconsideration Request”). In the
8 Reconsideration Request, BPA and EWEB requested that the Presiding ALJ reverse her
9 November 8, 2004, ruling and grant Official Notice of the previously described four documents,
10 or in the alternative, certify the November 8, 2004, ruling denying Official Notice to the
11 Commission pursuant to OAR 860-012-0035(1)(i). Reconsideration Request at 11-12.

12 The November 10, 2004, Reconsideration Request, and the arguments contained in that
13 pleading are also hereby incorporated by reference as if wholly set forth herein.

14 III.
15 Offer of Proof
16

17 Under the procedural schedule established in this proceeding, Opening Briefs are to be
18 received at the Commission’s offices no later than 5:00 p.m. on Wednesday, November 17,
19 2004. EWEB and BPA plan to file an Opening Brief in this proceeding consistent with that
20 established date and deadline. The Opening Brief will not contain references to any of the four
21 documents² previously described above, given the Presiding ALJ’s November 8, 2004, ruling
22 denying Official Notice of those documents.³

² Portions of PGE’s “Trojan Nuclear Plant Decommissioning Plan and License Termination Plan (PGE-1078)” Revision 16, are admitted into the record as Exhibit EWEB/103. EWEB and BPA cite portions of Exhibit 103 in their Opening Brief.

³ No ruling on BPA and EWEB’s Joint “Reconsideration Request,” of the Presiding ALJ’s November 8, 2004, Order has yet been received at this time of this Offer of Proof. Similarly, no action has been taken at this time

1 WHEREFORE, Counsel for BPA and EWEB respectfully offer, under seal, those
2 proposed facts described above, and submit the foregoing Offer of Proof.

3 Respectfully submitted this 17th day of November, 2004.

4
5 /s/ Geoffrey M. Kronick

6 Geoffrey M. Kronick – OSB #85260
7 Julie A. Bates – OSB #01200
8 Of Attorneys for the Bonneville Power Administration
9 Mail Routing LC-7, P O Box 3621
10 Portland, OR 97208-3621
11 (503) 230-4201
12 Facsimile (503) 230-7405
13
14
15
16

17 /s/ Edward A. Finklea (by GK)

18 Thomas M. Grim – OSB #88218
19 Edward A. Finklea – OSB #84216
20 Cable Huston Benedict Haagensen & Lloyd, LLP
21 1001 SW Fifth Avenue, Suite 2000
22 Portland, OR 97204-1136
23 Phone: (503) 224-3092
24 Facsimile: (503) 224-3176
25 Of Attorneys for the Eugene Water & Electric Board

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1121

In the Matter of)	
)	
OREGON ELECTRIC UTILITY COMPANY,)	Joint Offer of Proof of the Bonneville
LLC, et al.)	Power Administration and the Eugene
)	Water & Electric Board
Application for Authorization to Acquire Portland)	
General Electric Company.)	
)	
_____)	

CERTIFICATE OF SERVICE

I, Geoffrey M. Kronick, caused the foregoing “Joint Offer of Proof of the Bonneville Power Administration and the Eugene Water & Electric Board” to be filed with the Commission in this instant proceeding by causing an original and five true copies to be hand delivered to the Commission’s offices this day, c/o Ms. Annette Taylor, at 550 Capitol Street N.E., Suite 215, Salem, Oregon 97301-2551; (503) 378-6163, with an original and five copies of the proposed facts for which the “Offer of Proof” is being made under seal, and a single true copy to be served upon the representatives of all parties indicated on the most recent Official Service List compiled in this proceeding by the Commission by causing such copies to be deposited, postage prepaid, in a receptacle maintained by the United States Postal Service for the receipt of mail, addressed to the following named individuals taken from the Commission’s most recent service list indicated on the electronic web page for this docket, and also to be routed via electronic mail to all parties’ representatives on the same service list who maintain electronic mail addresses.

JIM ABRAHAMSON
 COMMUNITY ACTION DIRECTORS OF
 OREGON
 4035 12TH ST CUTOFF SE STE 110
 SALEM OR 97302

SUSAN K ACKERMAN
 NIPPC
 PO BOX 10207
 PORTLAND OR 97296-0207

GRIEG ANDERSON
 5919W MILES ST.
 PORTLAND OR 97219

KEN BEESON
 EUGENE WATER & ELECTRIC BOARD
 500 EAST FOURTH AVENUE
 EUGENE OR 97440-2148

KIM BURT
 WEST LINN PAPER COMPANY
 4800 MILL ST
 WEST LINN OR 97068

JULIE BRANDIS
 ASSOCIATED OREGON INDUSTRIES
 1149 COURT ST NE
 SALEM OR 97301-4030

J. LAURENCE CABLE
 CABLE HUSTON BENEDICT ET AL
 1001 SW 5TH AVE STE 2000
 PORTLAND OR 97204-1136

MICHAEL CARUSO
 176 SW HEMLOCK
 DUNDEE OR 97115

D KEVIN CARLSON
 DOJ – GENERAL COUNSEL DIVISION
 1162 COURT ST NE
 SALEM, OR 97301-4096

JENNIFER CHAMBERLIN
 STRATEGIC ENERGY LLC
 2633 WELLINGTON COURT
 CLYDE CA 94520

WILLIAM H CHEN
 CONSTELLATION NEWENERGY, INC.
 2175 N CALIFORNIA BLVD STE 300
 WALNUT CREEK CA 94596

JOAN COTE
 OREGON ENERGY COORDINATORS
 ASSOCIATION
 2585 STATE ST NE
 SALEM OR 97301

CHRIS CREAM
 MULTNOMAH COUNTY
 501 SE HAWTHORNE, SUITE 500
 PORTLAND OR 97214

MELINDA J DAVISON
 DAVISON VAN CLEVE PC
 1000 SW BROADWAY STE 2460
 PORTLAND OR 97205

JIM DEASON
 CABLE HUSTON BENEDICT
 HAAGENSEN & LLOYD LLP
 1001 SW FIFTH AVE STE 2000
 PORTLAND OR 97204-1136

J JEFFREY DUDLEY
 PORTLAND GENERAL ELECTRIC
 121 SW SALMON ST 1WTC1301
 PORTLAND OR 97204

GARY DUELL
 11301 SE CHARVIEW COURT
 CLACKAMAS, OR 97015

JASON EISDORFER
 CITIZENS' UTILITY BOARD OF OREGON
 610 SW BROADWAY STE 308
 PORTLAND OR 97205

JAMES F FELL
 STOEL RIVES LLP
 900 SW 5TH AVE STE 2600
 PORTLAND OR 97204-1268

SCOTT FORRESTER
 FRIENDS OF THE CLACKAMAS
 RIVER
 2030 NE 7TH PL
 GRESHAM OR 97030

KATHERINE FUTORNICK
 14800 NE BLUEBIRD HILL LANE
 DAYTON OR 97114

ANN L FISHER
 AF LEGAL & CONSULTING SERVICES
 1425 SW 20TH STE 202
 PORTLAND OR 97201

ANDREA FOGUE
 LEAGUE OF OREGON CITIES
 PO BOX 928
 1201 COURT ST NE STE 200
 SALEM OR 97308

LEONARD GIRARD
 2169 SW KINGS COURT
 PORTLAND OR 97205

ANN ENGLISH GRAVATT
RENEWABLE NORTHWEST PROJECT
917 SW OAK - STE 303
PORTLAND OR 97205

PATRICK G. HAGER
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST 1WTC0702
PORTLAND OR 97204

ROY HENDERSON
PENSION ENHANCEMENT COMMITTEE
895 NW DALE AVE.
PORTLAND OR 97229

MARY ANN HUTTON
CANON AND HUTTON
9999 NE WORDEN HILL RD
DUNDEE OR 97115-9174

JOE JANSSENS
PGE Pension Enhancement
Committee
24495 Butteville Rd. NE
Aurora Or 97002

VALARIE KOSS
COLUMBIA RIVER PUD
PO BOX 1193
ST HELENS OR 97051

MICHAEL L KURTZ
BOEHM, KURTZ & LOWRY
36 E 7TH ST STE 2110
CINCINNATI OH 45202

ROCHELLE LESSNER
LANE, POWELL, SPEARS,
LUBERSKY LLP
601 SW 2ND AVE. STE. 2100
PORTLAND OR 97204

KEN LEWIS
2880 NW ARIEL TERRACE
PORTLAND OR 97210

STEVEN G LINS
GLENDALE, CITY OF
613 E BROADWAY STE 220
GLENDALE CA 91206-4394

JAMES MANION
WARM SPRINGS POWER
ENTERPRISES
PO BOX 960
WARM SPRINGS OR 97761

LLOYD K MARBET
DON'T WASTE OREGON
19142 S BAKERS FERRY RD
BORING OR 97009

GORDON MCDONALD
PACIFIC POWER & LIGHT
825 NE MULTNOMAH STE 800
PORTLAND OR 97232

DANIEL W MEEK
ATTORNEY AT LAW
10949 SW 4TH AVE
PORTLAND OR 97219

THAD MILLER
OREGON ELECTRIC UTILITY CO
222 SW COLUMBIA STREET STE 1850
PORTLAND OR 97201-6618

WILLIAM MILLER
IBEW
17200 NE SACRAMENTO
PORTLAND OR 97230

CHRISTY MONSON
LEAGUE OF OREGON CITIES
1201 COURT ST. NE STE. 200
SALEM OR 97301

MICHAEL MORGAN
TONKON TORP LLP
888 SW 5TH AVE STE 1600
PORTLAND OR 97204-2099

FRANK NELSON
543 WILLIAMETTE CT
MCMINNVILLE OR 97128

NANCY NEWELL
3917 NE SKIDMORE
PORTLAND OR 97211

JAMES NOTEBOOM
KARNOPP PETERSEN NOTEBOOM
ET AL
1201 NW WALL ST STE 300
BEND OR 97701

LISA F RACKNER
ATER WYNNE LLP
222 SW COLUMBIA ST STE 1800
PORTLAND OR 97201-6618

DONALD W SCHOENBECK
REGULATORY & COGEN
SERVICES, INC.
900 WASHINGTON ST STE 780
VANCOUVER WA 98660-3455

JOHN W STEPHENS
ESLER STEPHENS & BUCKLEY
888 SW FIFTH AVE STE 700
PORTLAND OR 97204-2021

BRETT SWIFT
 AMERICAN RIVERS
 320 SW STARK ST, SUITE 418
 PORTLAND OR 97204

MITCHELL TAYLOR
 ENRON CORPORATION
 PO Box 1188
 1221 LAMAR, SUITE 1600
 HOUSTON TX 77251-1188

LAURENCE TUTTLE
 CENTER FOR ENVIRONMENTAL
 EQUITY
 610 SW ALDER #1021
 PORTLAND OR 97205

S. BRADLEY VAN CLEVE
 DAVISON VAN CLEVE PC
 1000 SW BROADWAY STE 2460
 PORTLAND OR 97205

BENJAMIN WALTERS
 CITY OF PORTAND OFFICE OF
 CITY ATTORNEY
 1221 SW 4TH AVE - RM 430
 PORTLAND OR 97204

MICHAEL T WEIRICH
 DEPARTMENT OF JUSTICE
 1162 COURT ST NE
 SALEM OR 97301-4096

STEVEN WEISS
 NORTHWEST ENERGY
 COALITION
 4422 OREGON TRAIL CT NE
 SALEM OR 97305

ROBIN WHITE
 PORTLAND BOMA
 1211 SW 5TH AVE STE 2722-
 MEZZANINE
 PORTLAND OR 97201

LORNE WHITTLES
 EPCOR MERCHANT & CAPITAL (US),
 INC.
 1161 W RIVER ST STE 250
 BOISE ID 83702

LINDA K WILLIAMS
 KAFOURY & MCDUGAL
 10266 SW LANCASTER RD
 PORTLAND OR 97219-6305

REBECCA SHERMAN
 HYDROPOWER REFORM
 COALITION
 320 SW STARK ST, SUITE 429
 PORTLAND OR, 97204

JEANNE L ARANA
 OR HOUSING & COMMUNITY SERV
 DEPT
 PO BOX 14508
 SALEM OR 97301

Dated this 17th day of November, 2004 at Portland, Oregon.

Geoffrey M. Kronick
 Of Attorneys for the Bonneville Power Administration
 Routing LC-7 – P O Box 3621
 Portland, Oregon 97208
 (503) 230-4201
 Facsimile (503) 230-7405
 E-mail – gmkronick@bpa.gov