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September 11, 2007

***Via Electronic and U.S. Mail***

Public Utility Commission  
Attn: Filing Center  
550 Capitol St. NE #215  
P.O. Box 2148  
Salem OR 97308-2148

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY  
Request for a General Rate Revision  
**Docket No. UE 188**

Dear Filing Center:

Enclosed please find the original and five (5) copies of the Confidential Opening Brief of the Industrial Customers of Northwest Utilities in the above-captioned docket. The confidential pages are provided in separate, sealed envelopes pursuant to the terms of the Protective Order in this proceeding. Also provided is a complete copy of the redacted version of the Opening Brief.

Thank you for your assistance.

Sincerely yours,

/s/ Ruth A. Miller  
Ruth A. Miller

Enclosures

cc: Service List

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Confidential and Redacted Opening Briefs of the Industrial Customers of Northwest Utilities upon the parties on the official service list by causing the same to be served via electronic and US Mail, to those parties which have not waived paper service in this proceeding. Confidential information will only be sent by US Mail to qualified parties as applicable under the general protective order.

Dated at Portland, Oregon, this 11th day of September, 2007.

/s/ Ruth A. Miller  
Ruth A. Miller

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UE 188**

In the Matter of )  
 )  
PORTLAND GENERAL ELECTRIC )  
COMPANY )  
 )  
Request for General Rate Revision. )  
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**REDACTED**  
**OPENING BRIEF OF**  
**THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES**

**September 11, 2007**

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UE 188**

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC	)	OPENING BRIEF OF THE INDUSTRIAL
COMPANY	)	CUSTOMERS OF NORTHWEST
	)	UTILITIES
Request for General Rate Revision.	)	
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The Industrial Customers of Northwest Utilities (“ICNU”) submits this Opening Brief, requesting that the Public Utility Commission of Oregon (“OPUC” or “Commission”) reject Portland General Electric Company’s (“PGE” or the “Company”) proposal for recovering the costs of Phase I of the Biglow Canyon wind generating facility. PGE requests that the Commission approve a tariff that would “lock in” the first year costs of Biglow Canyon for ratemaking purposes, even though the Company acknowledges that the costs will decrease over time. Approving this tariff will force PGE customers to pay more than the actual Biglow Canyon costs in the future. ICNU urges the Commission to order PGE to develop a new tariff that adjusts prices annually to reflect the decreasing costs of Biglow Canyon.

**BACKGROUND**

On March 2, 2007, PGE filed revised tariffs, requesting approval of a general rate increase. PGE filed testimony supporting forecast results of operations for a 2008 test year, but the Company stated that it was limiting its request for additional revenues to \$13 million for the costs of Biglow Canyon. PGE asked the Commission to approve a new supplemental tariff, Schedule 120, to recover the Biglow Canyon costs beginning January 1, 2008.

The Commission suspended Schedule 120 for investigation, Administrative Law Judge Hayes convened a prehearing conference, and a schedule was established. Settlement discussions were held in May and June 2007. Staff, CUB, ICNU, and PGE entered into a stipulation resolving all issues in this docket except for one. Under the stipulation, the unresolved issue for the parties to address is whether Schedule 120 should address yearly changes in the Biglow Canyon costs.

ICNU and CUB filed testimony on this issue in June 2007, requesting that the Commission direct PGE to revise Schedule 120 to establish an annual adjustment to the tariff charges to reflect changes in the facility costs. Staff submitted testimony opposing the annual adjustment, and argued for the Commission to open an investigation into an annual update of PGE's entire ratebase. Staff/100, Owings/6-7. PGE filed rebuttal testimony in July 2007, again opposing an annual adjustment.

The parties waived cross-examination of witnesses, and the evidence and prefiled testimony was stipulated into the record. Briefs are due on September 11, and October 4, 2007. A decision is expected by the end of the year.

### **ARGUMENT**

The issue in this case is one of fundamental fairness: if PGE proposes a tariff rider to recover the costs of Biglow Canyon, should the rates in that tariff be adjusted to reflect actual cost changes over time or should customers continue to pay rates based on the higher costs of the facility in the first year? ICNU urges the Commission to adopt an annual adjustment to correct the inequity in PGE's proposal. Customers should not be forced to pay rates based on the high initial costs of Biglow Canyon when all parties acknowledge that the costs will decrease the

next year. PGE and Staff support maintaining rates based on Biglow Canyon's first year costs, but these parties provide no sound policy or evidentiary reason for doing so. In fact, setting future rates knowing that PGE will be overcollecting from customers is unjust and unreasonable. Without an annual adjustment in Schedule 120, PGE will overcollect an estimated \$9.3 million by 2010 and more than \$28 million by 2012. ICNU/100, Falkenberg/9.

ICNU proposes a straightforward annual adjustment that will be simple to administer. Id. at Falkenberg/10-11. ICNU suggests an adjustment based on the methodology for calculating the 2008 revenue requirement in PGE/201, which would update all Biglow Canyon costs. Id. ICNU does not propose a partial update, as Staff presupposed. See Staff/100, Owings/4. By early September of each year, PGE should be required to file an annual report of the projected Biglow Canyon revenue requirement for the next year, and new rates would take effect each January 1. ICNU/100, Falkenberg/10. An early September filing would provide parties time to review PGE's cost projections and raise any issues with the Commission.

**A. A Tariff Rider Such as Schedule 120 Should Recover Actual Costs as Accurately as Possible**

Adopting an annual adjustment is critically important because PGE proposes recovering the Biglow Canyon costs through a tariff rider rather than through base rates. The Commission traditionally sets PGE's rates by examining the Company's forecasted results of operations and calculating what rates would allow PGE to recover its costs and earn its authorized rate of return. Although PGE's forecast of certain costs may be higher or lower than the actual cost, the traditional ratemaking method assumes that the increases and decreases in costs will cancel each other out. Id. at Falkenberg/11. If actual costs stray from the costs

included in rates by a significant amount, it is up to PGE to request a rate increase or the Commission to open an investigation related to overearnings.

In this case, PGE proposes to collect the costs of Biglow Canyon through a tariff rider specific to that resource. The assumptions underlying traditional ratemaking are inapplicable when rates are set based on an isolated cost increase, because there is no correlation with other aspects of a utility's operations. In order to ensure that rates are "fair, just and reasonable" when setting rates in this manner, an annual adjustment is necessary to ensure that rates accurately PGE's actual Biglow Canyon costs. Without an annual adjustment, PGE will substantially overcollect the actual costs of Biglow Canyon. Id. at Falkenberg/9. PGE argues that the use of a tariff rider without an annual update is "administratively simple." PGE/500, Dahlgren-Tinker/9. Administrative ease, however, is not a sufficient reason to allow PGE to overcollect from customers.

**B. An Annual Adjustment Is Required for a Wind Resource Due to Negative Attrition**

Adopting an annual adjustment for Biglow Canyon is particularly important given the accelerated decrease in costs for wind resources. The annual revenue requirement for a wind resource such as Biglow Canyon amounts to approximately 67% of the resource's initial year value after five years, as compared to almost 90% for a conventional resource. ICNU/100, Falkenberg/5-6. Allowing PGE to include indefinitely in rates 100% of Biglow Canyon's initial value will result in substantial overcollection from customers.

Negative attrition for a wind resource is attributable to: 1) the favorable tax treatment afforded such resources; 2) a shorter book life for wind resources than conventional plants; and 3) the absence of variable fuel costs for wind resources. Id. at 6. The chief

characteristic of a wind resource that justifies an annual adjustment is the favorable tax treatment. The stipulation in this Docket addresses property tax exemptions that PGE will receive for Biglow Canyon. The facility also is eligible for federal production tax credits and other reductions to tax expense may be available. If customers are paying for the cost of this investment, they deserve to receive the benefits of favorable tax treatment.

In addition, with a shorter book life for wind resources, there is less time over which to depreciate those resources as compared to a conventional resource. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] This effect will

continue in each subsequent year, substantially reducing the revenue requirements for Biglow Canyon. Id. Without some type of annual adjustment, the discrepancy between rates and actual costs will increase year after year until the Company updates its costs in a general rate case.

**C. Adopting an Annual Adjustment for Biglow Canyon Is Consistent with the Commission’s Ratemaking Policy for PGE**

An annual adjustment for Biglow Canyon would fit well with the numerous other tariffs that PGE modifies on a regular basis to address cost changes. PGE has a consistent history of advocating for an annual adjustment to particular tariffs when favorable to the Company, such as with the Annual Update tariff and Power Cost Adjustment Mechanism (“PCAM”) approved in UE 180. Now, however, PGE opposes this concept when it appears that an annual adjustment will benefit customers.



The problem with an annual update for Schedule 120, according to PGE, is that it “tracks the fixed costs of only one plant.” PGE/500, Dahlgren-Tinker/9. But that is precisely the problem with using a single issue tariff rider or any adjustment mechanism. This problem, to the extent it is one, is entirely of PGE’s own making. Instead of looking at the Company’s total results of operations, Schedule 120 isolates the costs for Biglow Canyon. Similarly, PGE’s annual update and PCA tariffs focus only on power cost deviations, but ignore other types of cost changes and overall earnings in some circumstances.

PGE argues that the annual update and PCAM were adopted to address power cost volatility and that a Biglow Canyon annual adjustment is unwarranted because no similar volatility exists for rate base. Id. The Company’s arguments in UE 180 reflected a different perspective on changes in costs. In UE 180, PGE invented the concept of “cost-of-service” risk to justify its cost update mechanisms. According to PGE, cost-of-service risk is “the risk that PGE’s Commission-set cost-of-service prices do not reflect PGE’s actual cost of providing on demand electric service to customers.” OPUC Docket No. UE 180/UE 181/ UE 184, PGE Opening Brief at 31. PGE repeatedly stated concerns that “cost-of-service rates accurately reflect the cost of service” and that by “shielding ratepayers from true cost of service, customers cannot make wise decisions about consumption.” See id.; OPUC Docket Nos. UE 180/UE 181/UE 184, Order No. 07-015 at 19, 21. In this case, ICNU is proposing that PGE’s cost-of-service prices reflect the actual costs of Biglow Canyon. Not surprisingly, PGE does not mention the need to address cost-of-service risk at all in response to ICNU’s suggestion. PGE’s opposition to an annual adjustment for Biglow Canyon lacks credibility given the Company’s recent concerns about cost-of-service prices reflecting actual costs.

ICNU described in UE 180 how adopting multiple mechanisms to address power cost deviations for PGE decreases the incentive to file general rate cases. The Company now updates and trues-up on an annual basis the subset of costs that comprise the largest percentage of its revenue requirement, and general rate cases are less important. See OPUC Docket Nos. UE 180/UE 181/UE 184, ICNU Opening Brief at 5. Customers have no control over when PGE will file its next rate case and it likely is not in their best interest for PGE to file a full rate case just to adjust Biglow Canyon costs. If the Commission fails to adopt an annual adjustment for Biglow Canyon in this case, PGE could overcollect for several years before costs are updated.

**D. A Commission Investigation Regarding the Treatment of all Resources is Unnecessary to Protect Ratepayers From Paying Excess Costs for Biglow Canyon**

Staff is concerned that an annual adjustment for Biglow Canyon would adjust only ratebase, without consideration of other costs such as operation and maintenance expenses. Staff/100, Owings/4. Staff recommends that the Commission open an investigation to look into any proposal to apply an annual adjustment in this case. Id. at 6. A Commission investigation is unnecessary because ICNU's proposal addresses Staff's concerns.

ICNU's proposed annual adjustment would use the same method that PGE used to determine revenue requirement in this case, which is shown in PGE/201. This is not a one-sided adjustment to rate base or a selective update; ICNU suggests updating all of the Biglow Canyon costs.

Both PGE and Staff argue that any decision in this Docket will set precedent for how to include new resources in rates in the future. This is not the case. The only issue that the Commission is considering is how to account for the costs of Biglow Canyon. Adopting an

annual adjustment for Schedule 120 will not affect the Commission's discretion to determine the treatment of other resources in the future.

**E. If the Commission Declines to Adopt an Annual Adjustment, it Should Approve a Levelized Rate for Schedule 120**

Should the Commission choose not to adopt an annual adjustment for Biglow Canyon, the Commission could address the problem of overcollection by adopting a levelized rate applicable to a multi-year period. A levelized rate would produce one revenue requirement that need not be updated, and produces the same net present value of revenue requirement as currently projected. ICNU/100, Falkenberg/12-13. Using a five-year levelization period as an example reduces PGE's proposed revenue requirement by \$5.4 million. Id. at 13.

Should PGE file for a rate increase before the end of the levelization period increasing base rates, a regulatory asset could be created to track the cost differences. The uncollected amount could then be included in ratebase subject to a Commission-approved amortization schedule. Id. Although a levelized rate would be subject to some risk of mismatch between rates and actual costs, there is a possibility that these risks will cancel out over time, unlike PGE's proposal. Id. at 13-14.

**CONCLUSION**

For the foregoing reasons, ICNU respectfully requests that the Commission adopt an annual adjustment or levelized rate to ensure that the costs of Biglow Canyon are accurately reflected in customer rates. PGE stands to gain a significant windfall under the Company's proposed tariff.

Dated this 11th day of September, 2007.

Respectfully submitted,

/s/ Melinda J. Davison

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