



# Oregon

Theodore R. Kulongoski, Governor

## Public Utility Commission

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May 16, 2008

OREGON PUBLIC UTILITY COMMISSION  
ATTENTION: FILING CENTER  
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**RE: Docket No. DR 10, UE 88 and UM 989 – In the Matter of The Application of Portland General Electric Company for an Investigation into Least Cost Plan Retirement, (DR 10), Revised Tariffs Schedules for Electric Service in Oregon Filed by Portland General Electric Company, (UE 88), and Portland General Electric Company's Application for an Accounting Order and for Order Approving Tariff Sheets Implementing Rate Reduction. (UM 989)**

Enclosed for electronic filing in the above-captioned dockets is the Public Utility Commission Staff's Phase III Response Testimony.

*/s/ Kay Barnes*

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

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c: DR10, UE88 and UM 989 Service Lists (parties)

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**PUBLIC UTILITY COMMISSION  
OF OREGON**

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**DR 10/UE 88/ UM 989  
PHASE III**

**STAFF RESPONSE TESTIMONY OF  
Judy Johnson**

**In the Matter of  
The Application of Portland General Electric Company for an  
Investigation into Least Cost Plan 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)**

**May 16, 2008**

CASE: DR10/UE88/UM989  
WITNESS: Judy Johnson

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 500**

**Phase III Response Testimony**

**May 16, 2008**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**  
2 **ADDRESS.**

3 A. My name is Judy Johnson. I am Program Manager of the Rates and Tariffs  
4 Section in the Electric and Natural Gas Division at the Public Utility  
5 Commission of Oregon. My business address is 550 Capitol Street NE Suite  
6 215, Salem, Oregon 97301-2551.

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**  
8 **EXPERIENCE.**

9 A. My Witness Qualification Statement is found in Exhibit Staff/101.

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A. The purpose of my testimony is to respond to the Phase III issues in this DR  
12 10/UE 88/UM 989 remand proceeding set forth in the ALJ's conference report  
13 dated February 22, 2008. Portland General Electric provided testimony on  
14 these issues in Exhibit PGE/7500.

15 **Q. WHAT DID THE ALJ IDENTIFY AS THE SCOPE OF PHASE III OF THIS**  
16 **PROCEEDING?**

17 A. The ALJ identified the following seven issues to be addressed in this phase:

18 1) What was PGE's remaining undepreciated investment in Trojan as of  
19 October 1, 2000?  
20

21 2) Do the rates approved in Order No. 02-227 provide PGE with the functional  
22 equivalent of a "return on" the remaining undepreciated investment in Trojan?  
23

24 3) Should the creation of a new regulatory asset to pay the customers' FAS  
25

26 109 liability be disregarded because it is a "phantom" tax bookkeeping asset?  
27  
28

1  
2 4) Did the Settlement improperly transfer the proceeds from PGE's NEIL policy  
3  
4 from ratepayers to PGE?

5  
6 5) Were the rates adopted in Order No. 02-227 unjust and unreasonable  
7  
8 because they were higher than the rates adopted in UE 88, which the Court of  
9  
10 Appeals "declared unlawful" in Citizens' Utility Board?

11  
12 6) Was Order No. 02-227 supported by substantial evidence?

13  
14 7) Did the commission deny URP due process in Docket UM 989?

15  
16 **Q. WHICH ISSUES DO YOU ADDRESS IN THIS TESTIMONY?**

17 A. I address the first four of the seven issues identified in the scope of this  
18 proceeding. PGE asserts that issues #5, #6, and #7 are legal issues; staff  
19 agrees and will be address those issues in staff's legal briefs.

20 **Q. WHAT WAS THE REMAINING UNDEPRECIATED INVESTMENT IN**  
21 **TROJAN?**

22 A. Staff-PGE Exhibit 201 (From docket UM 989) shows the actual undepreciated  
23 balance of \$180.5 million as of 9/30/2000.

24 **Q. DID UM 989 PROVIDE PGE WITH THE FUNCTIONAL EQUIVALENT OF A**  
25 **RETURN ON THE UNDEPRECIATED INVESTMENT IN TROJAN?**

26 A. No. As stated in Staff-PGE Exhibit 200, page 9, "Because the regulatory asset  
27 that reflects Trojan costs is eliminated as a result of the Settlement, PGE is not  
28 directly receiving a 'return on' Trojan under the Settlement. In addition, PGE is  
29 not indirectly receiving a return on Trojan because PGE is not required to  
30 provide interest on credits that are refunded (amortized) at a moment in time."

1 **Q. DOESN'T THE QUESTION OF WHETHER OR NOT TROJAN WAS AN**  
2 **INTEREST-BEARING ASSET MAKE A DIFFERENCE IN WHETHER THE**  
3 **SETTLEMENT EFFECTIVELY PROVIDED PGE WITH A RETURN ON**  
4 **TROJAN?**

5 A. No. The relevant point is that both the Trojan liability and the customer credits  
6 were available for amortization on September 30, 2000. As PGE pointed out in  
7 PGE/7500/4, interest is applied when there is a delay in payment. In UM 989,  
8 the commission in its discretion approved amortization of both the Trojan  
9 liability and the regulatory credits on a single day. There was no further delay  
10 in payment to either PGE or customers, so the question of whether these  
11 amounts could earn interest was no longer germane.

12 **Q. SHOULD THE FAS 109 LIABILITY BE DISREGARDED BECAUSE IT IS A**  
13 **"PHANTOM" BOOKKEEPING ASSET?**

14 A. No. PGE/7500/6 correctly describes the FAS 109 asset related to Trojan as an  
15 asset required to be recognized under Generally Accepted Accounting  
16 Principles (GAAP). It is not new, and was not created as a result of the  
17 Settlement. Customers would have owed this amount with or without the  
18 Settlement. In Staff-PGE Exhibit 200, page 13, it states: "The FAS 109 asset  
19 represents the value of accelerated tax deduction which are flowed through to  
20 customers. The benefits of these tax deductions are passed through to  
21 customers through lower current tax expenses. As the accelerated tax  
22 deductions reverse over time, that benefit is recaptured through higher current  
23 tax expense in later years. The balance of the FAS 109 asset represents the

1 amount that customers owe PGE at a particular point in time for these tax  
2 benefits that were previously flowed through to customers.”

3 **Q. DID THE SETTLEMENT IMPROPERLY TRANSFER PROCEEDS FROM**  
4 **PGE’S NEIL POLICY FROM RATEPAYERS TO PGE?**

5 A. No. The Commission had discretion in UM 989 regarding how to allocate NEIL  
6 benefits between customers and shareholders. Importantly, even after  
7 allocating 45 percent of the NEIL distribution to shareholders, the UM 989  
8 settlement resulted in a net benefit to customers. As stated in Staff-PGE  
9 Exhibit 200, page 17, “The net benefit analysis takes the most conservative  
10 (from customers’ viewpoint) position. Specifically, the net benefit analysis  
11 assumes that customers are due 100% of NEIL distributions. As a result, the  
12 net benefit analysis treats the 45% share of NEIL that accrues to PGE  
13 shareholders as a loss from customers’ perspective. Even having made this  
14 assumption, the net benefit analysis still shows net customer benefits from the  
15 Settlement.”

16 **Q. HOW MIGHT NEIL BENEFITS HAVE BEEN CREDITED ABSENT A**  
17 **SETTLEMENT?**

18 A. It depends on how the benefits would have come in relative to the test period  
19 for a rate case. If the benefit came in between rate cases, customers may not  
20 have benefited at all. In addition, even if the benefits were recognizable during  
21 a test period, the crediting of a NEIL benefit might have been considered a  
22 one-time occurrence for purposes of a rate case and removed from the test  
23 period as a non-recurring item.

1 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

2 A. Yes.

3



**CERTIFICATE OF SERVICE**  
**DR10, UE88 and UM 989**

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 16th day of May, 2008.

*Kay Barnes*

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Kay Barnes  
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**UM 989  
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