



Portland General Electric Company
121 SW Salmon Street • Portland, Oregon 97204
PortlandGeneral.com

July 1, 2008

Public Utility Commission of Oregon
Attn: Filing Center
550 Capitol Street, N.E., Suite 215
Salem, OR 97301-2551

RE: Advice No. 08-11, Annual Power Cost Variance Mechanism

In addition to the electronic filing, enclosed is the original with a requested effective date of **January 1, 2009**:

First Revision of Sheet No. 126-4
First Revision of Sheet No. 126-5

The purpose of this filing is to establish the prices associated with the 2007 Power Cost Variance.

After applying the appropriate deadbands and sharing percentages to a 2007 gross variance amount of (\$29.3 million), PGE calculates a 2007 Power Cost Variance amount of (\$15.8 million) that PGE proposes to amortize over one year commencing January 1, 2009. The resulting equal cents per kWh credit to eligible customers is 0.103 cents. A Schedule 7 residential customer using 900 kWh monthly would see a bill reduction of \$0.95 or 1.1 percent.

Testimony and work papers supporting the calculations of the Power Cost Variance and the Schedule 126 prices are provided as are detailed bill comparisons. Also included is a motion for a Protective Order.

Please direct any questions regarding this filing to Marc Cody at (503) 464-7434.

Please direct all formal correspondence and requests to the following email address
pge.opuc.filings@pqn.com

Sincerely,

A handwritten signature in black ink, appearing to read "R. J. Dahlgren", written in a cursive style.

Randall J. Dahlgren
Director, Regulatory Policy & Affairs

Enclosure(s)
UE 197 Service List

Schedule 126 (Continued)

TIME AND MANNER OF FILING (Continued)

Included in this filing will be the following information:

- 1) A transmittal letter that summarizes the proposed changes.
- 2) Revised Power Cost Variance Rates.
- 3) Work papers supporting the calculation of the revised PCV rates.

If the Company finds that the PCV Rates may over or under collect revenues in a particular year, the Company may recommend a modification of the Adjustment Rates to the Commission. The Company may also recommend that the Commission consider Adjustment Rates based on a collection or refund period different than one year based on the balance in the PCV Account.

POWER COST VARIANCE RATES

The PCV Rates will be determined on an equal cents per kWh basis. The PCV Rates are:

| <u>Schedule</u> | <u>Adjustment Rate</u> | (R) |
|-----------------|----------------------------------|-----|
| 7 | (0.103) ¢ per kWh | |
| 15 | (0.103) ¢ per kWh | |
| 32 | (0.103) ¢ per kWh | |
| 38 | (0.103) ¢ per kWh | |
| 47 | (0.103) ¢ per kWh | |
| 49 | (0.103) ¢ per kWh | |
| 75 | | |
| Secondary | (0.103) ¢ per kWh ⁽¹⁾ | |
| Primary | (0.103) ¢ per kWh ⁽¹⁾ | |
| Subtransmission | (0.103) ¢ per kWh ⁽¹⁾ | |
| 83 | | |
| Secondary | (0.103) ¢ per kWh | |
| Primary | (0.103) ¢ per kWh | |
| 87 | | |
| Secondary | (0.103) ¢ per kWh ⁽¹⁾ | |
| Primary | (0.103) ¢ per kWh ⁽¹⁾ | |
| Subtransmission | (0.103) ¢ per kWh ⁽¹⁾ | |
| 89 | | |
| Secondary | (0.103) ¢ per kWh | |
| Primary | (0.103) ¢ per kWh | |
| Subtransmission | (0.103) ¢ per kWh | (R) |

(1) Applicable only to the Baseline and Scheduled Maintenance Energy.
(2) Not applicable to Customers where service was received for the entire calendar year that the Annual Power Cost Variance accrued.

Schedule 126 (Continued)

POWER COST VARIANCE RATES (Continued)

| <u>Schedule</u> | <u>Adjustment Rate</u> | (R) |
|-----------------|----------------------------------|-----|
| 91 | (0.103) ¢ per kWh | (R) |
| 92 | (0.103) ¢ per kWh | |
| 93 | (0.103) ¢ per kWh | |
| 94 | (0.103) ¢ per kWh | |
| 483 | | |
| Secondary | (0.103) ¢ per kWh ⁽²⁾ | |
| Primary | (0.103) ¢ per kWh ⁽²⁾ | |
| 489 | | |
| Secondary | (0.103) ¢ per kWh ⁽²⁾ | |
| Primary | (0.103) ¢ per kWh ⁽²⁾ | |
| Subtransmission | (0.103) ¢ per kWh ⁽²⁾ | |
| 515 | (0.103) ¢ per kWh ⁽²⁾ | |
| 532 | (0.103) ¢ per kWh ⁽²⁾ | |
| 538 | (0.103) ¢ per kWh ⁽²⁾ | |
| 549 | (0.103) ¢ per kWh ⁽²⁾ | |
| 575 | | |
| Secondary | (0.103) ¢ per kWh ⁽¹⁾ | |
| Primary | (0.103) ¢ per kWh ⁽¹⁾ | |
| Subtransmission | (0.103) ¢ per kWh ⁽¹⁾ | |
| 583 | | |
| Secondary | (0.103) ¢ per kWh ⁽²⁾ | |
| Primary | (0.103) ¢ per kWh ⁽²⁾ | |
| Subtransmission | (0.103) ¢ per kWh ⁽²⁾ | |
| 589 | | |
| Secondary | (0.103) ¢ per kWh ⁽²⁾ | |
| Primary | (0.103) ¢ per kWh ⁽²⁾ | |
| Subtransmission | (0.103) ¢ per kWh ⁽²⁾ | |
| 591 | (0.103) ¢ per kWh ⁽²⁾ | |
| 592 | (0.103) ¢ per kWh ⁽²⁾ | |
| 594 | (0.103) ¢ per kWh | (R) |

(1) Applicable only to the Baseline and Scheduled Maintenance Energy.

(2) Not applicable to Customers where service was received for the entire calendar year that the Annual Power Cost Variance accrued.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON**

**UE _____
2007 PCAM
For Prices Effective January 1, 2009**

PORTLAND GENERAL ELECTRIC COMPANY

Direct Testimony

July 01, 2008

2007 PCAM

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I. Introduction

1 **Q. Please state your names and positions with PGE.**

2 A. My name is Alex Tooman. I am a project manager for PGE. I am responsible, along with
3 Mr. Tinker, for the development of PGE's revenue requirement forecast. In addition, my
4 areas of responsibility include results of operations reporting, affiliated interest filings, and
5 other regulatory analyses.

6 My name is Jay Tinker. I am also a project manager for PGE. My areas of responsibility
7 include revenue requirement and other regulatory analyses.

8 Our qualifications appear at the end of this testimony.

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of our testimony is two-fold. First, we describe the 2007 Power Cost Variance
11 (PCV), including base and actual power costs. Second, we describe how we determined the
12 deferred amount for power costs using the power cost adjustment mechanism (PCAM)
13 authorized by the Oregon Public Utility Commission (OPUC or Commission) in Order No.
14 07-015 (Docket UE 180) and established in PGE Schedule 126.

15 **Q. Please summarize the PCAM.**

16 A. The PCAM is designed to compare PGE's actual unit net variable power costs (NVPC) with
17 our Base Unit NVPC and multiply the difference by actual load to determine an Annual
18 Variance. We then apply an asymmetrical power cost deadband to the Annual Variance
19 followed by 90-10 sharing between customers and shareholders to develop the PCV (see
20 Order No. 07-015, page 26). After this, we apply a symmetrical return on equity (ROE)
21 deadband to an earnings test to determine whether the final PCV should be collected from or
22 refunded to customers (see Exhibit 101 for a summary of the PCV calculation). This

1 amount is then posted to PGE's PCV account where it will accrue interest at PGE's
2 authorized rate of return (until the amortization phase begins). Finally, with this filing, PGE
3 proposes the amortization of the PCV balance through Schedule 126, which is an Automatic
4 Adjustment Clause as defined in ORS 757.210.

5 **Q. What is the final PCV for 2007?**

6 A. For 2007, PGE has determined that the Annual Variance is a credit of approximately \$29.3
7 million, where actual power costs were below base power costs. After the application of
8 both deadbands and the sharing percentages, the final PCV is a credit of approximately
9 \$15.8 million, which represents a refund to customers. PGE proposes amortizing this
10 amount over one year beginning January 1, 2009.

11 **Q. How is your testimony organized?**

12 A. We begin by describing in greater detail how PGE calculated the PCV as determined by the
13 Annual Variance, the power cost deadband, and the sharing percentages. We then describe
14 PGE's PCAM earnings review and the application of the ROE deadband in order to
15 determine the final PCV. Next, we briefly describe the rate design aspects of refunding the
16 2007 PCV. The last section contains our qualifications.

II. Calculation of PCV

A. Base Power Costs

1 **Q. What is the first step in calculating the PCV?**

2 A. The first step is to identify PGE's base NVPC, which are based on the final power cost
3 forecasts that PGE created for UE 180 using our power cost forecasting model, Monet.¹
4 This aspect is slightly complicated because PGE brought a new power plant (Port
5 Westward) on line during the year. To account for the impact of Port Westward, PGE uses
6 two Monet runs to establish base power costs: one without Port Westward to represent the
7 period before Port Westward became operational (January 1 through June 11, 2007) and one
8 with Port Westward to represent the period Port Westward was operational (June 12 through
9 December 31, 2007).² These Monet results represent the unadjusted base power costs for
10 2007. The combined results establish the unadjusted base NVPC of approximately \$775.1
11 million.

12 **Q. What adjustments did you apply to derive base costs?**

13 A. From the unadjusted base NVPC, we applied several adjustments as directed by the
14 Commission in Order No. 07-015 to achieve adjusted base power costs. First, we removed
15 \$1.4 million in costs associated with the Super Peak capacity contract and \$4.6 million
16 related to the Boardman forced outage rate. Second, we annualized the dispatch of Port
17 Westward, which reduced costs by \$1.9 million during the period Port Westward was

¹ PGE has described the Monet model in the last four general rate proceedings (i.e., UE 115, UE 180, UE 188, and UE 197) as well as the previous RVM filings (Resource Valuation Mechanism – UE 139, UE 149, UE 161, and UE 172) and AUT filing (Annual Update Tariff – UE 192). Consequently, we incorporate those descriptions by reference.

² The June Monet results for each run are prorated to reflect the applicable number of days with and without Port Westward.

1 operational. Third, we reduced power costs by \$1.4 million to recognize ancillary service
2 revenue and another \$1.4 million to recognize Coyote steam sales.

3 **Q. Did you apply any other adjustments to the Monet output?**

4 A. Yes. PGE reduced power costs related to the additional 107 MWa of 2007 direct access and
5 variable price option load that had not been identified at the time the final Monet runs were
6 prepared in November 2006. This reduced power costs by another \$52.9 million.

7 **Q. What were the final base NVPC?**

8 A. After all the adjustments described above, base NVPC for 2007 were approximately \$711.5
9 million. Because UE 180 rates (including the PCAM) did not become effective until mid-
10 January 2007, we then reduce the base power costs by \$37.8 million to reflect only the
11 period that the PCAM was in effect. Consequently, final base NVPC total \$673.7 million.

B. Actual Power Costs

12 **Q. What is the next step in calculating the PCV?**

13 A. The next step is to calculate PGE's actual NVPC for 2007. We begin this by identifying
14 PGE's variable power costs as charged to the following FERC accounts: 501, 547, 555, and
15 565. We then include the amount of sales for resale, as charged to FERC 447. For 2007,
16 this net amount is \$677.8 million. To this amount, we apply a number of adjustments as
17 listed in Table 1, and described below.

Table 1

Adjustments to Actual 2007 Power Costs (\$000)

| | | |
|---|----------|---------------|
| Actual NVPC per financial statements | | 677,804 |
| Excluded Items per Schedule 126: | | |
| FAS 133/71, mark to market deferrals | subtract | (346) |
| Credit reserve for non-payment | subtract | 403 |
| Out of period items | subtract | (27,082) |
| Other Excluded Items | | |
| 2007 PCAM accrual | subtract | 16,064 |
| Biglow wind benefits | subtract | (1,886) |
| Green power costs billed directly to customers | subtract | 4,079 |
| Items to Included | | |
| Coyote steam sales | add | (1,847) |
| Gas resale revenues | add | (4,156) |
| 2007 items booked outside of the period | add | (375) |
| Energy revenues for variable price option customers | add | (8,126) |
| Estimated 2007 Colstrip coal royalty payments | add | 275 |
| Costs associated with gas transportation deferral | add | <u>2,538</u> |
| Subtotal NVPC | | 674,880 |
| Remove costs for January 2007 pre-UE 180 rates | subtract | <u>35,938</u> |
| Adjusted Actual NVPC | | 638,943 |

1 Q. What adjustments did PGE apply to its actual NVPC per Schedule 126?

2 A. PGE applied several adjustments that are specifically identified in Schedule 126. First, PGE
 3 removed the following items:

- 4 • A credit of (\$346,000) for all costs associated with FAS 133/71 mark-to-market
 5 deferrals.
- 6 • A charge of \$403,000 for a credit reserve that represents losses related to non-retail
 7 customers failing to pay for the sale of power during the deferral period.
- 8 • A credit of (\$27.1 million) for out-of-period items. The primary components of this
 9 are (\$20.6 million) for the Boardman deferral that relates to 2005 and 2006 plus (\$5.3
 10 million) for wholesale receivables from California that relate to 2001.

1 **Q. Did PGE exclude any other items?**

2 A. Yes. PGE also removed the following:

- 3 • \$16.0 million for the 2007 PCAM. This is PGE's accounting accrual for the 2007
4 PCAM refund to customers and is removed from actual power costs so as to not
5 affect the PCV calculation.
- 6 • A credit of (\$1.9 million) for Biglow wind benefits. These benefits are excluded
7 per Special Condition 4 of Schedule 120 (Biglow Canyon 1 Adjustment) because
8 UE 180 and the 2007 test year forecast did not include any corresponding costs or
9 rate base associated with the Biglow Canyon wind farm.
- 10 • \$4.1 million for green power expenses that are billed directly to customers
11 through Schedules 7 and 32. Consequently, they should not be included when
12 calculating the PCV.

13 **Q. What other adjustments did PGE make to actual NVPC?**

14 A. PGE included the following items that are specifically identified in Schedule 126:

- 15 • A credit of (\$1.8 million) for steam sale revenue from the Coyote Springs 1 plant.
- 16 • A credit of (\$4.2 million) for gas resale revenues.
- 17 • A credit of (\$375,000) that represents costs/revenues that relate to 2007 but were
18 booked outside the period.
- 19 • A credit of (\$8.1 million) for energy revenues from variable price option
20 customers.

21 **Q. Did PGE include any other items?**

22 A. Yes. We incorporated two additional items in our actual power costs for 2007. First, PGE
23 included \$2.5 million for costs associated with the gas transportation deferral as addressed in

1 Docket No. UM 1290 and approved by Commission Order No. 07-452. Because the
2 forecasted gas transportation costs are included in the base NVPC, and the delta to actual
3 gas transportation costs has already been deferred as a customer credit through revenue, we
4 include the deferral in actual power costs so that actual NVPC is comparable to base NVPC
5 and the deferral is not refunded twice.

6 **Q. What was the second item that you included?**

7 A. PGE has identified potential power costs associated with royalties and taxes related to coal
8 transportation for the Colstrip generating plant.³ PGE currently estimates the applicable
9 accrual for 2007 royalties and taxes to be approximately \$275,000 and we have incorporated
10 this amount into our 2007 actual NVPC. In addition, PGE proposes to true up the 2007 PCV
11 when the final amount has been determined. This treatment would be similar to the true-up
12 approved by Commission Order No. 02-215 and performed for the nine-month, 2001 PCAM
13 (Docket UE 136) in relation to certain California receivables. The 2001 true-up was finally
14 completed in 2007.

15 **Q. Are Sales of Ancillary Services included in actual NVPC?**

16 A. Yes. Revenues from sales of ancillary services are included as a credit to actual NVPC
17 included in our financial statements.

18 **Q. What were the final actual NVPC?**

19 A. After all the adjustments described above, actual NVPC for 2007 were approximately
20 \$674.9 million. Similar to base NVPC, we reduce actual power costs by \$35.9 million to
21 reflect only the period that the PCAM was in effect. Therefore, final actual NVPC total is
22 \$638.9 million.

³ For more detail see PGE's Form 10-Q for the first quarter of 2008.

C. Unit Power Costs and Annual Variance

1 **Q. What is the next step in calculating the PCV?**

2 A. The next step is to unitize the base and actual NVPC so as to calculate a unit NVPC
3 variance. To accomplish this, we divide base NVPC and actual NVPC by base loads and
4 actual loads. In both cases, we use retail cost of service loads. The unit NVPC variance is
5 calculated by subtracting base unit NVPC from actual unit NVPC. We perform this step to
6 eliminate the power cost variance that would arise from changes in load.

7 **Q. What is the unit NVPC variance and how do you calculate the Annual Variance?**

8 A. Because the PCV is calculated on a monthly basis (see PGE Exhibit 101), the unit NVPC
9 variance fluctuates during 2007 based on the activities in any given month. On average for
10 the year, however, the unit NVPC variance is approximately -\$1.79 per MWh. We then
11 calculate the Annual Variance by multiplying the unit NVPC variance times actual load.
12 This produces a credit Annual Variance of approximately (\$29.3 million) with actual costs
13 below base NVPC.

D. PCV and Refund to Customers

14 **Q. What is the final step in calculating the PCV?**

15 A. The final step is to apply the deadbands and sharing percentages to the Annual Variance.
16 Because we focus on the earnings test and ROE deadband in the next section, we only
17 discuss the power cost deadband here.

18 **Q. What is the power cost deadband?**

19 A. The power cost deadband is asymmetrical such that it will “range from 75 basis points ROE
20 below the base level of NVPC included in rates, to 150 basis points ROE above”

1 (Commission Order No. 07-015, page 26). Because PGE realized actual power costs below
2 base power costs in 2007, we use the 75 basis point ROE, resulting in a credit deadband of
3 (\$11.7 million).

4 **Q. What was the final PCV after application of sharing percents?**

5 A. After we deduct the (\$11.7 million) power cost deadband from the Annual Variance of
6 (\$29.3 million), we have a (\$17.6 million) credit to allocate between customers (90%) and
7 shareholders (10%). Applying the 90% customer share to that credit results in a credit PCV
8 of approximately (\$15.8 million).

III. Earnings Review

1 **Q. Has PGE performed an earnings review with which to calculate the ROE deadbands?**

2 A. Yes. We performed this review initially as part of our annual requirement to provide a
3 Results of Operations (ROO) Report to the OPUC Staff. PGE submitted the 2007 ROO on
4 June 2, 2008. Because the ROO incorporates all aspects of the PCAM earnings review,
5 PGE uses it as the basis for the ROE deadband and we include it as PGE Exhibit 102.

6 **Q. What is the ROE deadband?**

7 A. The ROE deadband is +/-100 basis points of PGE's authorized ROE, which for 2007 is
8 10.1% (Commission Order No. 07-015). This means that if PGE's earnings are within 9.1%
9 and 11.1%, PGE absorbs the entire PCV. If PGE's earnings are below 9.1%, then it would
10 collect the PCV up to the point where its ROE is 9.1%. Alternatively, if PGE's earnings are
11 above 11.1%, then it would refund the PCV down to the point where its ROE is 11.1%.

12 **Q. Was PGE's 2007 ROE outside the ROE deadband?**

13 A. Yes. As PGE Exhibit 102 demonstrates, PGE's ROE for 2007 exceeded 11.1%, primarily
14 because of two factors: power costs and SB 408 tax effects. The variance in power costs is
15 specifically addressed in detail in this filing and is why the PCAM was created. The SB 408
16 effect is a result of the "double whammy" that PGE has noted in numerous dockets
17 previously and that exaggerates any aspect of under or over earnings.

18 **Q. Does the OPUC Staff agree that SB 408 accruals should be included in earnings tests?**

19 A. No. In Docket UM 1224, the OPUC Staff testified that SB 408 accruals should be excluded
20 from earnings tests. In PGE's rebuttal testimony, we explained why PGE did not agree with
21 Staff and noted that the ultimate treatment of SB 408 accruals "could impact future earnings
22 tests, such as those related to PGE's PCAM" (see PGE Exhibit 200, page 3, UM 1224).

1 **Q. How would an OPUC decision in UM 1224 affect this PCV?**

2 A. If the Commission agrees with PGE, the 2007 PCAM and earnings test would remain as
3 described in this testimony. If, however, the Commission agrees with Staff's position, then
4 PGE would have to remove the SB 408 accrual from its 2007 results, which would lower the
5 earnings test ROE. This would then significantly reduce the PCV to approximately \$9.1
6 million because PGE's ROE cannot go below 11.1% per the upper deadband as established
7 by the Commission in Order No. 07-015. Consequently, PGE proposes to update the 2007
8 PCV calculation as prescribed by the Commission once an order is issued in UM 1224.

9 **Q. What was PGE's final 2007 ROE including the PCV and SB 408 accrual?**

10 A. PGE's final 2007 ROE including the PCV was 11.58%. This is the earnings test result that
11 includes the relevant adjustments from Commission Order No. 07-015 and the OPUC letter
12 regarding the calculation of ROOs dated March 25, 1992. Consequently, PGE has accrued
13 the entire \$15.8 million of the 2007 PCV, and proposes to refund this amount to customers
14 beginning January 1, 2009.

IV. Rate Design

1 **Q. How will PGE determine rates for the PCV?**

2 A. As stated in Schedule 126, PGE will determine PCV Rates on an equal cents per kWh basis
3 over eligible load. As noted in Section I above, PGE proposes to amortize this amount over
4 one year beginning January 1, 2009

5 **Q. Did PGE make any other adjustments to the PCV per Schedule 126?**

6 A. Yes. Schedule 126 specifies that “the amount accruing to the Power Cost Variance
7 Account, whether positive or negative will be multiplied by a revenue sensitive factor of
8 1.0287 to account for franchise fees and uncollectibles” (page 126-3). PGE has applied this
9 factor to the PCV account for amortization.

V. Qualification

1 **Q. Mr. Tooman, please state your educational background and experience.**

2 A. I received a Bachelor of Science degree in Accounting and Finance from the Ohio State
3 University in 1976. I received a Master of Arts degree in Economics from the University of
4 Tennessee in 1993 and a Ph.D. in Economics from the University of Tennessee in 1995. I
5 have held managerial accounting positions in a variety of industries and have taught
6 economics at the undergraduate level for the University of Tennessee, Tennessee Wesleyan
7 College, Western Oregon University, and Linfield College. Finally, I have worked for PGE
8 in the Rates and Regulatory Affairs department since 1996.

9 **Q. Mr. Tinker, please state your educational background and experience.**

10 A. I received a Bachelor of Science degree in Finance and Economics from Portland State
11 University in 1993 and a Master of Science degree in Economics from Portland State
12 University in 1995. In 1999, I obtained the Chartered Financial Analyst (CFA) designation.
13 I have worked in the Rates and Regulatory Affairs department since 1996.

14 **Q. Does this complete your testimony?**

15 A. Yes.

List of Exhibits

| <u>PGE Exhibit</u> | <u>Description</u> |
|---------------------------|---|
| 101 | Summary Calculation of PCV |
| 102 | 2007 Results of Operations |
| 103C | Actual Power Costs by Month and PGE Ledger |

**BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON**

**Motion for Approval of
Protective Order**

PORTLAND GENERAL ELECTRIC COMPANY

July 01, 2008

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE _____

In the Matter of Portland General Electric
Company's Application for Annual
Adjustment to Schedule 126 Under the Terms
of the Annual Power Cost Variance
Mechanism

**MOTION FOR APPROVAL OF
PROTECTIVE ORDER**

Pursuant to ORCP 36(C)(7) and OAR 860-12-0035(1)(k), Portland General Electric Company ("PGE") requests the issuance of a Protective Order in this proceeding. PGE believes good cause exists for the issuance of such an order to protect confidential market information and confidential business information, plans and strategies. In support of this Motion, PGE states:

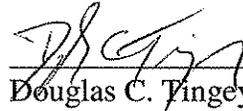
1. Along with this motion PGE has filed its 2007 Annual Power Cost Variance under Tariff Schedule 126. PGE has filed testimony regarding the power cost variance, and the 2007 Annual Power Cost Variance to be refunded to customers. The work papers that support the testimony filed by PGE in this docket include confidential, sensitive business information, including PGE's timing of and prices for electricity purchases and sales, fuel purchases and other contracts. PGE anticipates that there may be requests for further confidential information during this docket as well. PGE desires to provide the requested information, but the information is confidential, sensitive business information and of significant commercial value, and its public disclosure could be detrimental to PGE and its customers.

2. The Commission should therefore issue a Protective Order to protect the confidentiality of that material. The requested order, identical to the one that the Commission customarily issues, is attached.

For the reasons stated above, PGE requests that a protective order be issued in this proceeding.

DATED this ^{1st} day of July 2008.

Respectfully submitted,



Douglas C. Tingey, OSB No. 044366
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Portland, Oregon 97204
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(503) 464-2200 fax
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ORDER NO.

ENTERED

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE _____

In the Matter of Portland General Electric
Company's Application for Annual Adjustment to
Schedule 126 Under the Terms of the Annual
Power Cost Variance Mechanism

ORDER

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On July 1, 2008, Portland General Electric Company ("PGE") filed a Motion for a Protective Order with the Public Utility Commission of Oregon ("Commission"). PGE states that the workpapers supporting its testimony in this docket contain confidential information including PGE's timing of and prices for electricity purchases and sales, fuel purchases and other contracts. PGE anticipates that there may be requests for further confidential information in this docket. PGE states that good cause exists for the issuance of a protective order to protect confidential business information, plans and strategies. PGE adds that the public release of such information could prejudice PGE and its customers.

Pursuant to OAR 860-012-0035(1)(k), I find that good cause exists to issue a Protective Order, attached as Appendix A. Under the terms of the order, a party may designate as confidential any information that falls within the scope of ORCP 36(C)(7).

Confidential Information shall be disclosed only to a "qualified person" as defined in paragraph 3 of the Protective Order. Authors of the confidential material, the Commission or its Staff, and counsel of record for a party or persons directly employed by counsel are "qualified persons" who may review confidential information. Other persons desiring confidential information must become qualified pursuant to paragraph 10.

To receive confidential information, however, all parties—with the general exception of Staff—must sign the Consent to be Bound Form attached as Appendix B. This includes the party seeking the issuance of the protective order, because any party may designate information as confidential under this order.

The confidentiality of confidential information shall be preserved for a period of five years from the date of the final order in this docket, unless extended by the Commission at the request of the party desiring confidentiality.

ORDER NO.

All persons who are given access to confidential information have the duty to monitor their own conduct to ensure their compliance with the Protective Order. Such persons shall not use or disclose the information for any purpose other than the preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the confidential information secure. If any questions exist as to the status of any person to receive confidential information, the parties may contact the Administrative Hearings Division at (503) 378-6678.

ORDER

IT IS ORDERED that the Protective Order, attached as Appendix A, shall govern the disclosure of confidential information in this case.

Made, entered, and effective on _____

[Judge]

Administrative Law Judge

A party may appeal this order to the Commission pursuant to OAR 860-014-0091.

PROTECTIVE ORDER

DOCKET NO.

Scope of this Order-

1. This order governs the acquisition and use of "Confidential Information" in this proceeding.

Definitions-

2. "Confidential Information" is information that falls within the scope of ORCP 36(C)(7) ("a trade secret or other confidential research, development, or commercial information").

3. A "qualified person" is an individual who is:

- a. An author(s), addressee(s), or originator(s) of the Confidential Information;
- b. A Commissioner or Commission staff;
- c. Counsel of record for a party;
- d. A person employed directly by counsel of record; or
- e. A person qualified pursuant to paragraph 10. This includes parties and their employees.

Designation of Confidential Information-

4. A party providing Confidential Information shall inform other parties that the material has been designated confidential by placing the following legend on the information:

CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDER

To the extent practicable, the party shall designate as confidential only those portions of the document that fall within ORCP 36(C)(7).

5. A party may designate as confidential any information previously provided by giving written notice to the other parties. Parties in possession of newly designated Confidential

Information shall, when feasible, ensure that all copies of the information bear the above legend to the extent requested by the party desiring confidentiality.

Information Given to the Commission-

6. Confidential Information that is: (a) filed with the Commission or its staff; (b) made an exhibit; (c) incorporated into a transcript; or (d) incorporated into a pleading, brief, or other document, shall be printed on yellow paper, separately bound and placed in a sealed envelope or other appropriate container. An original and five copies each separately sealed shall be provided to the Commission. **Only the portions of a document that fall within ORCP 36(C)(7) shall be placed in the envelope/container.** The envelope/container shall bear the legend:

THIS ENVELOPE IS SEALED PURSUANT TO ORDER
NO. _____ AND CONTAINS CONFIDENTIAL
INFORMATION. THE INFORMATION MAY BE SHOWN
ONLY TO QUALIFIED PERSONS AS DEFINED IN THE
ORDER.

7. The Commission's Administrative Hearings Division shall store the Confidential Information in a locked cabinet dedicated to the storage of Confidential Information.

Disclosure of Confidential Information-

8. Parties desiring receipt of Confidential Information shall sign the Consent to be Bound Form attached as Appendix B. This requirement does not apply to the Commission staff. Confidential Information shall not be disclosed to any person other than a "qualified person," as defined in paragraph 3. When feasible, Confidential Information shall be delivered to counsel. In the alternative, Confidential Information may be made available for inspection and review by qualified persons in a place and time agreeable to the parties or as directed by the Administrative Law Judge.

9. Qualified persons may disclose confidential information to any other qualified person, unless the party desiring confidentiality protests as provided in Section 11.

10. To become a qualified person under paragraph 3(e), a person must:

- a. Read a copy of this Protective Order;
- b. Execute a statement acknowledging that the order has been read and agreeing to be bound by the terms of the order;
- c. Date the statement;

- d. Provide a name, address, employer, and job title; and
- e. If the person is a consultant or advisor for a party, provide a description of the nature of the person's consulting or advising practice, including the identity of his/her current, past, and expected clients.

Counsel shall deliver a copy of the signed statement including the information in (d) and (e) above to the party desiring confidentiality and to all parties of record. Such notification may be made via e-mail or facsimile. A person qualified under paragraph 3(e) shall not have access to Confidential Information sooner than five (5) business days after receipt of a copy of the signed statement including the information in (d) and (e) above by the party desiring confidentiality.

11. All qualified persons shall have access to Confidential Information, unless the party desiring confidentiality protests as provided in this paragraph. The party desiring to restrict the qualified person(s) from accessing specific Confidential Information must provide written notice to the qualified person(s) and counsel for the party associated with the qualified person(s) as soon as the party becomes aware of reasons to restrict access. The parties must promptly confer and attempt to resolve any dispute over access to Confidential Information on an informal basis before filing a motion with the Administrative Law Judge. If the dispute cannot be resolved informally, either party may file a motion with the Administrative Law Judge for resolution. Either party may also file a motion if the other party does not respond within five days to a request to resolve the dispute. A motion must describe in detail the intermediate measures, including selected redaction, explored by the parties and explain why such measures do not resolve the dispute. After receipt of the written notice as required in this paragraph, the specific Confidential Information shall not be disclosed to the qualified person(s) until the issue is resolved.

Preservation of Confidentiality-

12. All persons who are given access to any Confidential Information by reason of this order shall not use or disclose the Confidential Information for any purpose other than the purposes of preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the Confidential Information secure. Disclosure of Confidential Information for purposes of business competition is strictly prohibited.

Qualified persons may copy, microfilm, microfiche, or otherwise reproduce Confidential Information to the extent necessary for the preparation and conduct of this proceeding. Qualified persons may disclose Confidential Information only to other qualified persons associated with the same party.

Duration of Protection-

13. The Commission shall preserve the confidentiality of Confidential Information for a period of five years from the date of the final order in this docket, unless extended by the Commission at the request of the party desiring confidentiality. The Commission shall notify the party desiring confidentiality at least two weeks prior to the release of confidential information.

Destruction After Proceeding-

14. Counsel of record may retain memoranda, pleadings, testimony, discovery, or other documents containing Confidential Information to the extent reasonably necessary to maintain a file of this proceeding or to comply with requirements imposed by another governmental agency or court order. The information retained may not be disclosed to any person. Any other person retaining Confidential Information or documents containing such Confidential Information must destroy or return it to the party desiring confidentiality within 90 days after final resolution of this proceeding unless the party desiring confidentiality consents, in writing, to retention of the Confidential Information or documents containing such Confidential Information. This paragraph does not apply to the Commission or its Staff.

Appeal to the Presiding Officer-

15. If a party disagrees with the designation of information as confidential, the party shall contact the designating party and attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute, the party desiring to use the information may move for exclusion of the information from the protection conferred by this order. The motion shall:

- a. Specifically identify the contested information, and
- b. Assert that the information does not fall within ORCP 36(C)(7) and state the reasons therefore.

The party resisting disclosure has the burden of showing that the challenged information falls within ORCP 36(C)(7). If the party resisting disclosure does not respond to the motion within ten (10) calendar days, the challenged information shall be removed from the protection of this order.

The information shall not be disclosed pending a ruling by the Administrative Law Judge on the motion.

Additional Protection-

16. The party desiring additional protection may move for any of the remedies set forth in ORCP 36(C). The motion shall state:

ORDER NO.

- a. The parties and persons involved;
- b. The exact nature of the information involved;
- c. The exact nature of the relief requested;
- d. The specific reasons the requested relief is necessary; and
- e. A detailed description of the intermediate measures, including selected redaction, explored by the parties and why such measures do not resolve the dispute.

The information need not be released and, if released, shall not be disclosed pending the Commission's ruling on the motion.

ORDER NO.

SIGNATORY PAGE

DOCKET NO.

I. Consent to be Bound-

This Protective Order governs the use of "Confidential Information" in this proceeding.

_____ PGE agrees to be bound by its terms of this Protective Order.

By: _____
Signature & Printed Date

II. Persons Qualified pursuant to Paragraphs 3(a) through 3 (d)

_____ PGE identifies the following person(s) automatically qualified under paragraph 3(a) through (d).

| | |
|---------|-------|
| _____ | _____ |
| Printed | Date |
| _____ | _____ |
| Printed | Date |
| _____ | _____ |
| Printed | Date |
| _____ | _____ |
| Printed | Date |
| _____ | _____ |
| Printed | Date |
| _____ | _____ |
| Printed | Date |

III. Persons Qualified pursuant to Paragraph 3(e) and Paragraph 10.

I have read the Protective Order, agree to be bound by the terms of the order, and will provide the information identified in paragraph 10.

By: _____
Signature & Printed

Date

By: _____
Signature & Printed

Date

By: _____
Signature & Printed

Date

By: _____
Signature & Printed

Date