



Multnomah County Oregon

Board of Commissioners & Agenda

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BOARD OF COMMISSIONERS

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JULY 8, 2004

BOARD MEETING

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:00 a.m. Executive Session
Pg 2	9:30 a.m. Opportunity for Public Comment on Non-Agenda Matters
Pg 3	9:30 a.m. Three Ordinance Readings and Possible Adoption
Pg 3	9:40 a.m. Public Hearing; Resolution Determining the Boundaries for Willamette Electric People's Utility District; and Calling an Election on District Formation
Pg 3	11:00 a.m. Proclaiming Probation, Parole and Community Supervision Officers' Week
Pg 3	11:15 a.m. Briefing Update on Implementing Phase III in the Redesign of Adult Community Justice Supervision Practices

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30

Friday, 11:00 PM, Channel 30

Saturday, 10:00 AM, Channel 30

Sunday, 11:00 AM, Channel 30

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(503) 491-7636, ext. 333 for further info

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Thursday, July 8, 2004 - 9:00 AM
Multnomah Building, First Floor Commissioners Conference Room 112
501 SE Hawthorne Boulevard, Portland

EXECUTIVE SESSION

- E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h) and ORS 192.660(1)(d). Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session. No Final Decision will be made in the Executive Session. Presented by Agnes Sowle, Gail Parnell and Invited Others. 30 MINUTES REQUESTED.
-

Thursday, July 8, 2004 - 9:30 AM
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM **PUBLIC CONTRACT REVIEW BOARD**

- C-1 ORDER Approving an Exemption Request to Extend Board Order 02-045 for an Additional Period of 18 Months

DISTRICT ATTORNEY'S OFFICE

- C-2 Amendment 7 to Government Revenue Contract (190 Agreement) 500167 with Tri-Met, Providing Continued Funding for One Full-time Deputy District Attorney to the Tri-Met Neighborhood-based Prosecution Office

REGULAR AGENDA - 9:30 AM **PUBLIC COMMENT - 9:30 AM**

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES - 9:30 AM

- R-1 Second Reading and Possible Adoption of an ORDINANCE Amending MCC Chapter 29, Building Regulations, Relating to Grading And Erosion Control to Correct Errors, Clarify the Types of Actions that Require a Permit, and Streamline the Review Process
- R-2 First Reading and Possible Adoption of an ORDINANCE Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan and Declaring an Emergency

NON-DEPARTMENTAL - 9:35 AM

- R-3 Second Reading and Possible Adoption of a Proposed ORDINANCE Amending Multnomah County Code Section 19.002, Library Board, to Add Youth Board Members
- R-4 Authorizing Settlement of *Multnomah County v. Wallace*, Multnomah County Circuit Court Case No. 0304-04596

NON-DEPARTMENTAL - 9:40 AM

- R-5 PUBLIC HEARING and Consideration of a RESOLUTION Determining the Boundaries for Willamette Electric People's Utility District and Calling an Election on District Formation and Related Matters

DEPARTMENT OF COMMUNITY JUSTICE - 11:00 AM

- R-6 PROCLAMATION Proclaiming July 18 through 24, 2004 as Probation, Parole and Community Supervision Officers' Week in Multnomah County, Oregon
- R-7 Briefing on Progress in Implementing Phase III in the Redesign of Adult Community Justice Supervision Practices. Presented by Joanne Fuller, Steve Liday and Don Trapp. 45 MINUTES REQUESTED.

Lonnie Roberts
Multnomah County Commissioner
District 4



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MEMORANDUM

DATE: July 7, 2004

TO: Chair Diane Linn
Commissioner Maria Rojo de Steffey, District 1
Commissioner Serena Cruz, District 2
Commissioner Lisa Naito, District 3
Board Clerk Deb Bogstad

FROM: Kristen West
Staff Assistant, Commissioner Lonnie Roberts

RE: Notice of Meeting Excuse

Commissioner Roberts will need to be excused from the Thursday, July 8th BCC Meeting and Executive Session. Thank you.

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: C-1

Est. Start Time: 9:30 AM

Date Submitted: 06/17/04

Requested Date: July 8, 2004

Time Requested: NA

Department: DBCS

Division: Business Services/CPCA

Contact/s: Franna Hathaway

Phone: (503)988-5111

Ext.: 22651

I/O Address: 503/4

Presenters: Consent Calendar

Agenda Title: ORDER Approving an Exemption Request to Extend Board Order 02-045 for an Additional Period of 18 Months

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.**

1. What action are you requesting from the Board? What is the department/agency recommendation?

The District Attorney's Office is requesting an amendment to Board Order 02-045 which allows the DA Office to contract with Ciber Inc. to replace the antiquated adult case tracking system (CTS) and to move the system off the County's mainframe. The original exemption covers a two-year period ending April 3, 2004 for the amount of \$875,000. This request will extend the ending date to October 3, 2005.

2. Please provide sufficient background information for the Board and the public to understand this issue.

During the initial two year exemption period the DA Office has worked with Ciber Inc to develop the adult case tracking system and successfully migrated off the County's mainframe system on schedule. During the next 18 month period the DA Office will continue to work with Ciber Inc. on two planned system modifications as listed below:

DSS-J Data Warehouse: Ciber will assist the DA office IT staff and County IT staff in creating a data model to prepare CRIMES(the proprietary software used in the CTS system) data to transfer to the County Data Warehouse.

PPDS Data Exchange: Ciber will design a data interface exchange that sends CRIMES Subpoena information to the Portland Police Data System. In addition the interface exchange receives Police Officer work schedules that are imported into CRIMES from the Portland Police Data System.

3. Explain the fiscal impact (current year and ongoing).

This amendment does not change the original exemption amount of \$875,000.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain: NA

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.
- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: NA

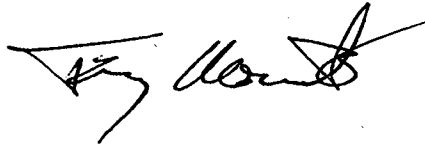
- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain: NA

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. **Explain any legal and/or policy issues.**
This exemption request is in accord with the requirements of Multnomah County Public Contract Review Board Administrative Rule 300-0050.
5. **Explain any citizen and/or other government participation that has or will take place.**
NA

Required Signatures:



Department/Agency Director:

Date: 06/16/04

Budget Analyst

By:

Date:

Dept/Countywide HR

By:

Date:



Michael D. Schrunk, District Attorney

1021 SW Fourth Avenue, Room 600
Portland, OR 97204-1193
Phone: 503-988-3162 Fax: 503-988-3643
www.mcda.us

RECEIVED
PURCHASING SECTION
2004 JUN 19 PM 3:40
MULTNOMAH COUNTY

MEMORANDUM

To: Diane Linn County Chair
From: Michael D. Schrunk
cc: Franna Hathaway
Date: June 8, 2004
Subject: Board Exemption Amendment

The District Attorney's Office is requesting an amendment to Board order 02—045 which is a Board Exemption allowing the District Attorney's Office to enter into a contract or series of contracts with Ciber Inc. the purposes of which are to replace the antiquated adult case tracking system and to move the system off the County's mainframe. Board Order 02-045, adopted on April 4th 2002, covered a 2 year period expiring on April 3, 2004. The amount of the Board Order was \$875,000 in total.

During the initial two year exemption period the District Attorney's Office worked closely with Ciber Inc. to develop the adult case system and successfully migrated off the Counties mainframe system on schedule. During the next 18 month period the District Attorney's Office will continue to work with Ciber Inc. on two planned system modifications and a number change orders necessary to complete the redesign and implementation process.

Two planned system modifications that are scheduled as part of the work over the next 18 months are listed below. While not specifically mentioned in the original scope of the project for Board Order 02-045, the cost of these modifications was anticipated and included in the original \$875,000 exemption amount.

DSS-J Data warehouse: Consultation by Ciber with MCDA IT staff and County IT staff to assist in creating a data model to prepare CRIMES data to transfer to the County Data Warehouse.

PPDS Data Exchange: Requested Ciber to design a data interface exchange that sends Crimes Subpoena information to the Portland Police Data System. In addition the interface exchange receives Police Officer work schedules that are imported into CRIMES from the Portland Police Data System.

While future change orders may necessitate amending the main contract with Ciber Inc. for this project, they will not increase the amount of the existing or amended exemption.

The District Attorney's Office respectfully makes a formal request to extend the existing Board Order 02-045 for an additional period of 18 months beginning April 4, 2004 and ending on October 3, 2005. This request does not affect the original \$875,000 amount approved.

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

ORDER NO. 02-045

Exempting from the Formal Competitive Bid Process a Contract with Ciber, Inc. for Two Years for the Implementation of an Adult Criminal Tracking System (CTS)

The Multnomah County Board of Commissioners Finds:

- a. The Board, acting in its capacity as the Multnomah County Public Contract Review Board to review, pursuant to PCRB Rules AR10.140 , a request from the District Attorney's Office for an exemption from the formal competitive bid process a contract with Ciber, Inc. for the implementation of an Adult Criminal Case Tracking System (CTS).
- b. As it appears in the memorandum from Michael Schrunk, the request for exemption is based upon the fact that their current Adult CTS is 10 years old and resides on the County mainframe that is scheduled for decommissioning 10/1/03.

Ciber, Inc. has acquired the company (Metamor Industry Solutions, Inc.) that supplied the CTS for the Juvenile department. Metamor was selected in a County Request for Proposals process, and they offered a selection of proprietary software modules called CRIMES. Current Oregon law requires that the juvenile offender data be segregated from the adult offender data. Thus they cannot just "expand" the application of the current Juvenile CRIMES implementation. However, the DA's Office seeks to implement the adult software modules in CRIMES, and also share officer, civilian witness and victim information across both systems.

The primary reasons why Ciber is the best vendor for the Adult CTS:

- The Adult CTS must be compatible with the Juvenile CTS without requiring changes or increased costs to the Juvenile CTS. While offender information will be segregated between the systems, other modules will be identical.
- There would be significant cost savings to train attorneys and staff on one CTS program since there are frequent interoffice personnel transfers.
- Support-cost efficiencies will be realized to have the Juvenile CTS and Adult CTS share similar hardware and operating systems.
- One common database software and table design structure will allow for support-cost efficiencies for both the Juvenile CTS and the Adult CTS. This will allow for only one technology to be supported (Oracle). Only by having the same vendor for both systems can we insure that the database table design structure is the same.
- There will be future cost savings in software upgrades and maintenance because one vendor can support both systems and we will have economies of scale. Ultimately, both systems will be covered by the same maintenance agreement.

- Both the Juvenile CTS and Adult CTS need to link to the Oregon Courts (OJIN) so they can automatically populate the databases with current court data. At present, the Juvenile CTS does not link to OJIN. For the Adult CTS they plan to invest in an OJIN link. If the Adult CTS were CRIMES, the investment there for an OJIN module would be applicable to the current Juvenile CTS.
 - An agreement is in place for the propriety CRIMES software code to be placed in escrow. It is anticipated that Ciber will likewise agree that the CRIMES' adult-specific modules will be placed in escrow. Then, if the vendor fails to perform or abandons the product we will have access to the source code to enable us to maintain the programming.
 - By utilizing Ciber as the vendor for the Adult CTS, the quantifiable items listed above would have one-time savings of approximately \$61,000 and annual savings of \$49,600
 - The total of all the contracts with Ciber addressed by this exemption request will approximately be \$875,000 and to cover two years.
- c. This exemption request is in accord with the requirements of Multnomah County Public Contract Review Board Administrative Rules AR10.140.

The Multnomah County Board of Commissioners, Acting as the Public Contract Review Board Orders:

The Contract with Ciber, Inc. for the implementation of an Adult Criminal Case Tracking system (CTS) for two years is exempted from the formal competitive bidding.

ADOPTED this 4th day of April, 2002.



BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON, ACTING AS
THE PUBLIC CONTRACT REVIEW BOARD

Diane M. Linn

Diane M. Linn, Chair

REVIEWED:

THOMAS SPONSER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *[Signature]*

John Thomas, Assistant County Attorney

MEETING DATE: _____
AGENDA NO: _____
ESTIMATED START TIME: _____
LOCATION: _____

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: : PCRB EXEMPTION REQUEST TO CONTRACT WITH CIBER, INC. FOR THE IMPLEMENTATION OF AN ADULT CRIMINAL CASE TRACKING SYSTEM (CTS)

BOARD BRIEFING: DATE REQUESTED: _____
REQUESTED BY: _____
AMOUNT OF TIME NEEDED: _____

REGULAR MEETING: DATE REQUESTED: April 4, 2002
AMOUNT OF TIME NEEDED: N/A

DEPARTMENT: DBCS DIVISION: Finance/CPCA

CONTACT: Franna Hathaway TELEPHONE #: 988-5111 X22651
BLDG/ROOM #: 503/4th floor

PERSON(S) MAKING PRESENTATION: Consent Calendar

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☒ APPROVAL ☐ OTHER

SUGGESTED AGENDA TITLE:

PCRB EXEMPTION REQUEST TO CONTRACT WITH CIBER, INC. FOR THE IMPLEMENTATION OF AN ADULT CRIMINAL CASE TRACKING SYSTEM (CTS)

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____
(OR)
DEPARTMENT MANAGER:  _____

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ (503) 988-3277 or email
deborah.i.bogstad@co.multnomah.or.us



Michael D. Schrunk, District Attorney

1021 SW Fourth Avenue, Room 600
Portland, OR 97204-1193
Phone: 503-988-3162 Fax: 503-988-3643
www.co.multnomah.or.us/da/

MEMORANDUM

To: Diane Linn County Chair
From: Michael D. Schrunk *M. D. Schrunk*
cc: Franna Hathaway
Date: March 14, 2002
Subject: Request for formal exemption

RECEIVED
PURCHASING SECTION
2002 MAR 18 PM 2:58
MULTNOMAH COUNTY

The Multnomah County District Attorney seeks exemption from the formal request-for-proposal process so that we can enter into contract negotiations with Ciber, Inc., for the purpose of implementing an Adult criminal case tracking system (CTS). DACTS, our current Adult CTS, is 10 years old and resides on the county mainframe that is scheduled for decommissioning 10/01/03.

In the fall of 2000, Ciber acquired the company (Metamor Industry Solutions, Inc.) that supplied our CTS for the Juvenile department that was implemented 11/98. Metamor offered a selection of proprietary software modules designed to work together that collectively were called CRIMES. For the Juvenile CTS, the county published a RFP where two companies replied. The total budget for the Juvenile project was \$807,000, of which \$395,700 was paid to Metamor.

Current Oregon law requires that the juvenile offender data be segregated from the adult offender data. Thus, we cannot just "expand" the application of the current Juvenile CRIMES implementation. But our successful experience with Metamor (now Ciber) for the Juvenile project is illustrative of what we expect for the adult implementation. We seek to implement the adult software modules in CRIMES, and also share officer, civilian witness and victim information across both systems.

The county has already budgeted \$1,546,700 for this project. For comparison, ISD estimates their cost to migrate our current CTS (without modifications) to another hardware platform at \$1,236,000. This approach, however, does not allow the implementation of significant changes in our workflow that have developed over the last ten years. It would essentially entail duplicating screen-by-screen our current ten-year-old system with no functionality changes. Additionally, we would be forced to maintain our current database design, which has considerable constraints for timely and accurate reports. It would also require our office to support and train staff on two

distinct systems, and forgo the benefit of future enhancements in the adult system as the juvenile CTS vendor releases new versions. Furthermore, this estimate from ISD does not include yearly database and application maintenance, for which we presently spend approximately \$90,000 annually. Finally, it does not include development of the critical link to the data we need that is maintained by the Oregon Courts (OJIN).

The contracts with Ciber will be comprised of both initial development and on-going maintenance. I estimate the initial software and related costs to be \$800,000 and the yearly maintenance \$75,000. It will take approximately 16 months to fully implement a new Adult CTS. Of the remaining project budget, \$90,000 is budgeted for hardware, \$60,000 for training, and \$521,700 for design and project management, which includes four full-time employees for two years. (For comparison, during the Juvenile CTS implementation \$216,000 was spent for design and project management directly to a third-party consultant and additionally the office invested approximately 4,000 hours of attorney and staff time for design and project management.)

The primary reasons why Ciber is the best vendor for the Adult CTS:

- The Adult CTS must be compatible with the Juvenile CTS without requiring changes or increased costs to the Juvenile CTS. While offender information will be segregated between the systems, other modules will be identical. For example, reports, audits, witness and victim information, and document generation tools would be easily shared between systems.
- There would be significant cost savings to train attorneys and staff on one CTS program since there are frequent interoffice personnel transfers. I estimate these savings to be \$21,600 annually if we have the same program office-wide. (15 personnel changes a year @ 16 hours of training each @) \$90/hour combined rate for both the trainer and trainee.)
- We will realize support-cost efficiencies to have the Juvenile CTS and Adult CTS share similar hardware and operating systems (both would be on Sun hardware and operating system software). These savings would be for both internal MIS staff and for outside maintenance agreements with software and hardware vendors. While we could insist that any ADULT CTS vendor make their application operate on Sun hardware, that is the hardware of choice of Ciber and completely supported by them. More importantly, implementing a security program and database maintenance schedule is simpler if the databases are similar in design across both the adult and juvenile systems. While difficult to quantify in dollars, this concept mirrors the County's plans to implement Sun and Unix across a myriad of agency applications.
- One common database software and table design structure will allow for support-cost efficiencies for both the Juvenile CTS and the Adult CTS. This will allow for only one technology to be supported (Oracle). Only by having the same vendor for both systems can we insure that the database table design

structure is the same because each vendor has a unique database design philosophy particular to their application. We currently pay Ciber \$14,000 year for Oracle support on the Juvenile CTS. I estimate that Oracle support from a single vendor for both the Juvenile and Adult CTS to be \$20,000. Separately, it would cost approximately \$30,000. Thus, our cost savings would be \$10,000 a year.

- Future cost savings in software upgrades and maintenance because one vendor can support both systems and we will have economies of scale. Ultimately, both systems will be covered by the same maintenance agreement. The more users covered by a maintenance agreement, the lower the cost is per user. Similarly, when changes need to be made to a shared module, the lower the cost is per user. For example, both CTS need to have current criminal statutes. We invested \$8,000 to have the statutes inputted into a module for CRIMES for juvenile. We will be able to utilize this module for the adult system at no additional cost. Our on-going annual maintenance for this module is approximately \$4,000. That would be doubled if we had to support a separate module for two different vendors. There are other modules that could be shared. I estimate one-time savings of \$16,000 and annual savings of \$8,000 if we share several modules from the same system.
- Both the Juvenile CTS and Adult CTS need to link to the Oregon Courts (OJIN) so we can automatically populate the databases with current court data. Because every vendor would need to customize a link to OJIN, we would pay for this important feature twice if we use two vendors. Presently, the Juvenile CTS does not link to OJIN and we are spending approximately \$71,400 annually to hand-input the data. (The Juvenile link was not budgeted at time of implementation in 1998. If we lose the OJIN link functionality in the Adult CTS, it will cost us approximately \$160,650 annually to hand input the data.) For the Adult CTS we plan to invest in an OJIN link. If the Adult CTS were CRIMES, the investment there for an OJIN module would be applicable to the current Juvenile CTS. It would cost approximately \$45,000 more to custom build a Juvenile OJIN link than to utilize the Adult OJIN link, along with \$10,000 annually in additional support costs.
- We have already negotiated an agreement for the propriety CRIMES software code to be placed in escrow. I anticipate that Ciber will likewise agree that the CRIMES' adult-specific modules will be placed in escrow. Then, if the vendor fails to perform or abandons the product we will have access to the source code to enable us to maintain the programming.
- Ciber is the only vendor in the CTS marketplace that is publicly traded and has over \$600,000,000 in sales and 5,000 employees. There are many advantages to using a large vendor. Ciber has breadth and depth of experience in a multitude of technology areas. For example, Ciber has the ability in-house to address the OJIN connectivity issue (as compared to ISD who would have to contract-out for

March 14, 2002

that functionality). Ciber is better prepared to weather economic and political changes since they have financial stability and many divisions with varied practice-focuses in the government sector.

By utilizing Ciber as the vendor for the Adult CTS, the quantifiable items listed above would have one-time savings of approximately \$61,000 and annual savings of \$49,600. However, much of the savings and efficiencies are not easily quantifiable, but are just as significant. Therefore, we are requesting an exemption from the formal request-for-proposal process and authority to immediately contract with Ciber. We expect the total of all the contracts with Ciber addressed by this exemption requested to be for approximately \$875,000 and to cover two years.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

ORDER NO. _____

Approving an Exemption Request to Extend Board Order 02-045 for an Additional Period of 18 Months

The Multnomah County Board of Commissioners Finds:

- a. The Board, acting as the Multnomah County Public Contract Review Board to review, pursuant to PCRB Rule 300-0050, a request from the District Attorney's Office to extend Board Order 02-045 for an additional period of 18 months without changing the original exemption amount of \$875,000.
- b. In April, 2002, The DA Office was granted Board Exemption 02-045 to contract with Ciber Inc. to replace the antiquated adult case tracking system (CTS) and to move the system off the County's mainframe. This exemption covers a two-year period ending April 3, 2004.

During the initial two year exemption period the DA Office has worked with Ciber Inc to develop the adult CTS system and successfully migrated off the County's mainframe system on schedule. During the next 18 month period the DA Office will continue to work with Ciber Inc. on two planned system modifications as listed below:

DSS-J Data Warehouse: Ciber will assist the DA Office IT staff and County IT staff in creating a data model to prepare CRIMES(the proprietary software used in the CTS system) data to transfer to the County Data Warehouse.

PPDS Data Exchange: Ciber will design a data interface exchange that sends CRIMES Subpoena information to the Portland Police Data System. In addition the interface exchange receives Police Officer work schedules that are imported into CRIMES from the Portland Police Data System.

- c. This exemption request is in accord with the requirements of Multnomah County Public Contract Review Board Administrative Rule 300-0050.

The Multnomah County Board of Commissioners Orders:

Board Order 02-045 be extended for an additional period of 18 months, from April 4, 2004 to October 3, 2005.

ADOPTED this 10th day of July, 2004.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON, ACTING
AS THE PUBLIC CONTRACT REVIEW BOARD

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By


John Thomas, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

ORDER NO. 04-095

Approving an Exemption Request to Extend Board Order 02-045 for an Additional Period of 18 Months

The Multnomah County Board of Commissioners Finds:

- a. The Board, acting as the Multnomah County Public Contract Review Board to review, pursuant to PCRB Rule 300-0050, a request from the District Attorney's Office to extend Board Order 02-045 for an additional period of 18 months without changing the original exemption amount of \$875,000.
- b. In April, 2002, The DA Office was granted Board Exemption 02-045 to contract with Ciber Inc. to replace the antiquated adult case tracking system (CTS) and to move the system off the County's mainframe. This exemption covers a two-year period ending April 3, 2004.

During the initial two year exemption period the DA Office has worked with Ciber Inc to develop the adult CTS system and successfully migrated off the County's mainframe system on schedule. During the next 18 month period the DA Office will continue to work with Ciber Inc. on two planned system modifications as listed below:

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- c. This exemption request is in accord with the requirements of Multnomah County Public Contract Review Board Administrative Rule 300-0050.

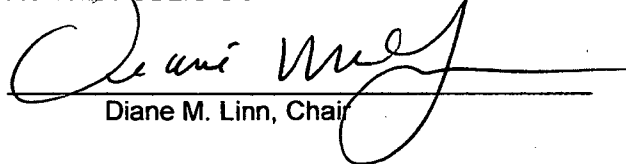
The Multnomah County Board of Commissioners Orders:

Board Order 02-045 is extended for an additional period of 18 months, from April 4, 2004 to October 3, 2005.

ADOPTED this 8th day of July, 2004.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON, ACTING
AS THE PUBLIC CONTRACT REVIEW BOARD


Diane M. Linn, Chair

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
John Thomas, Assistant County Attorney

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: C-2

Est. Start Time: 9:30 AM

Date Submitted: 06/18/04

Requested Date: July 8, 2004

Time Requested: N/A

Department: Non-Departmental

Division: District Attorney's Office

Contact/s: Scott Marcy

Phone: 503-988-3863

Ext.: 83863

I/O Address: 101/600

Presenters: Consent Calendar

Agenda Title: Amendment 7 to Government Revenue Contract (190 Agreement) 500167 with Tri-Met, Providing Continued Funding for One Full-time Deputy District Attorney to the Tri-Met Neighborhood-based Prosecution Office

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.

-
1. **What action are you requesting from the Board? What is the department/agency recommendation?** Approval.
 2. **Please provide sufficient background information for the Board and the public to understand this issue.** Continue funding for one FTE Deputy District Attorney to the Tri-Met Neighborhood-based Prosecution Office
 3. **Explain the fiscal impact (current year and ongoing).**

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**

❖ Do any personnel actions result from this budget modification? Explain.

❖ Is the revenue one-time-only in nature?

❖ If a grant, what period does the grant cover?

❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

❖ Why was the expenditure not included in the annual budget process?

❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?

❖ Why are no other department/agency fund sources available?

❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.

❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain:

❖ Who is the granting agency?

❖ Specify grant requirements and goals.

❖ Explain grant funding detail – is this a one time only or long term commitment?

❖ What are the estimated filing timelines?

❖ If a grant, what period does the grant cover?

❖ When the grant expires, what are funding plans?

❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues involved.

5. Explain any citizen and/or other government participation that has or will take place.

Required Signatures:

Department/Agency Director: _____



Date: 06/18/04

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:

MULTNOMAH COUNTY CONTRACT APPROVAL FORM

Pre-approved Contract Boilerplate (with County Attorney signature) ☐ Attached ☐ Not Attached Contract #: 500167
Amendment #: 7

CLASS I	CLASS II	CLASS III A
Contracts \$75,000 and less per 12 month period	Contracts over \$75,000 per 12 month period	<input type="checkbox"/> Government Contracts (190 Agreement)
<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Professional Services Contracts <input type="checkbox"/> PCRB Contracts <input type="checkbox"/> Maintenance Agreements <input type="checkbox"/> Licensing Agreements <input type="checkbox"/> Public Works Construction Contracts <input type="checkbox"/> Architectural & Engineering Contracts <input type="checkbox"/> Revenue Contracts <input type="checkbox"/> Grant Contracts <input type="checkbox"/> Non-Expenditure Contracts	<input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input type="checkbox"/> Revenue <div style="text-align: center;">CLASS III B</div> <input checked="" type="checkbox"/> Government Contracts (Non-190 Agreement) <input type="checkbox"/> Expenditure <input type="checkbox"/> Non-Expenditure <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Interdepartmental Contracts

Department: Nondepartmental Division: District Attorney's Office Date: 06/08/04
 Originator: Scott Marcy Phone: 503-988-3863 Bldg/Rm: 101/600
 Contact: Tida Niyomthong Phone: 503-988-4816 Bldg/Rm: 101/600

Description of Contract: Renewal of Intergovernmental Agreement between Multnomah County District Attorney's Office and Tri-County Metropolitan Transportation District of Oregon (Tri-Met) to continue funding one FTE deputy district attorney to the Tri-Met Neighborhood Based Prosecution Office.

RENEWAL: ☒ PREVIOUS CONTRACT #(S): _____
 RFP/BID: _____ RFP/BID DATE: _____
 EXEMPTION #: _____ ORS/AR #: _____
 Effective DATE: _____ EXPIRATION DATE: _____
 CONTRACTOR IS: ☐ MBE ☐ WBE ☐ ESB ☐ QRF State Cert# _____ or ☐ Self Cert ☐ Non-Profit ☐ N/A (Check all boxes that apply)

Contractor <u>Tri-Met</u>				Remittance address _____	
Attn: <u>Dan Caufield, Dir</u>				(If different) _____	
Address <u>4012 SE 17th Ave</u>					
City/State <u>Portland, OR</u>					
ZIP Code <u>97202</u>				Payment Schedule / Terms	
Phone <u>503-238-3805; Fax 503-962-4997</u>				<input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30 <input checked="" type="checkbox"/> Other \$ <u>Quarterly</u> <input type="checkbox"/> Other _____	
Employer ID# or SS# <u>93-0579353</u>				<input type="checkbox"/> Requirements Funding Info:	
Contract Effective Date <u>07/01/02</u>		Term Date <u>06/30/04</u>		Original Requirements Amount \$ _____	
Amendment Effect Date <u>07/01/04</u>		New Term <u>06/30/06</u>		Total Amt of Previous Amendments \$ _____	
Original Contract Amount \$ <u>62,619.00</u>				Requirements Amount Amendment: \$ _____	
Total Amt of Previous Amendments \$ <u>\$606,731.00</u>				Total Amount of Requirements \$ _____	
Amount of Amendment \$ <u>\$242,043.00</u>					
Total Amount of Agreement \$ <u>\$911,393.00</u>					

REQUIRED SIGNATURES:

Department Manager [Signature]
 Purchasing Manager _____
 County Attorney SEA
 County Chair [Signature]
 Sheriff _____
 Contract Administration _____

DATE 6-8-04
 DATE _____
 DATE 6-9-04
 DATE 7.8.04
 DATE _____

DATE _____
 APPROVED: MULTNOMAH COUNTY
 BOARD OF COMMISSIONERS
 TENDA # 02 DATE 07-08-04
 L. BORAH L. BOGSTAD, BOARD CLERK

INTERGOVERNMENTAL AGREEMENT

BETWEEN THE TRI-COUNTY COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON AND MULTNOMAH COUNTY CONTRACT NO. 04-0814

This Agreement is entered into between the Tri-County Metropolitan Transportation District of Oregon ("TriMet") and Multnomah County ("County"), by and through the Multnomah County District Attorney's Office.

RECITALS

WHEREAS, the Multnomah County District Attorney is prepared to provide a neighborhood-based prosecution project ("Project") in the area served by TriMet; and

WHEREAS, the Multnomah County District Attorney is prepared to provide management and staff resources necessary for the Project; and

WHEREAS, TriMet is prepared to provide funding for the Project; and

WHEREAS, TriMet and County have authority under ORS Chapter 190 to enter into this cooperative intergovernmental agreement;

NOW THEREFORE, in recognition of the foregoing Recitals, TriMet and County agree as follows:

AGREEMENTS

1. Purpose of Agreement

This Agreement is entered into to define the rights and responsibilities of the parties in respect to the "Project."

2. Term of Agreement

The term of this Agreement is from July 1, 2004 to June 30, 2006.

3. Responsibilities of County

The Multnomah County District Attorney shall be completely responsible for performance and management of the Project. The Project shall be substantially as outlined in the attached and incorporated Exhibit A.

County shall provide TriMet's Project Manager at least (30) days prior notice of its intent to reassign Multnomah County District Attorney personnel under this Agreement.

Selection and assignment of substituted personnel shall be determined jointly by County and TriMet Project Managers.

4. Responsibilities of TriMet

TriMet shall provide the funding as set forth in Paragraph 5.

5. Funding

For the period of July 1, 2004 through June 30, 2005, TriMet shall provide funding in the amount of \$119,233. For the period of July 1, 2005 through June 30, 2006, TriMet shall provide funding in the amount of \$122,810. Total funding under this Agreement shall not exceed \$242,043, without written modification to this Agreement executed by the parties.

Funds provided are to pay for salary, benefits and other expenses incurred by County for performance of the Project. County shall submit four equal quarterly billings for each year of the Agreement to TriMet's Finance Department, Accounts Payable, 4012 S.E. 17th Avenue, Portland, Oregon 97202 on the following schedule: September 30, December 30, March 1, June 30. Each billing shall contain a reference to Agreement 02-0829, and shall be copied to TriMet's Project Manager. County shall be compensated within thirty days after TriMet's receipt of an approved invoice.

7. Project Management

The individuals identified below are the designated Project Managers for coordination of this Agreement, unless another individual is designated by written notice to the other party. Notices and communications provided for under this Agreement shall be addressed to the Project Managers as follows:

TriMet

Dan Caufield
Dir., Operations Planning & Development
TriMet
4012 S.E. 17th
Portland, Oregon 97202
FAX: (503) 962-4997

County

Wayne Pearson
Deputy District Attorney
Multnomah County
600 NE Grand Avenue
Portland, Oregon 97232
FAX: (503) 988-3652

7. Indemnification

In accordance with the provisions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, including the limits of liability for public bodies set forth therein, County and TriMet mutually agree to defend, hold harmless and indemnify each other for their own negligence and that of their respective directors, officers, employees and agents, against any liability, settlements, costs, losses or expenses arising out of the performance of this Agreement.

8. Independent Contractors

County shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for in Paragraph 5. County shall have sole control and supervision over the manner in which the Project is performed,

subject only to consistency with the terms of this Agreement. Neither County nor its officers, employees or agents, are officers, employees or agents of TriMet as those terms are used in ORS 30.260, and shall not either explicitly or implicitly hold themselves out as such. Nothing in this Agreement shall be deemed to create a partnership, franchise or joint venture between the parties.

9. Termination

In addition to other termination provisions set forth in this Agreement, the parties agree:

- A. County and TriMet may terminate this Agreement, in whole or part, at any time by written mutual agreement.
- B. TriMet may terminate this Agreement upon providing 30 days prior written notice to County. In the event that TriMet terminates under this subparagraph B, County shall be entitled to a pro-rated payment based on the quarterly billing amount calculated by days, for services provided up to the effective date of termination. Within 45 days after termination, County shall submit to TriMet its final billing. TriMet shall not be liable for any amounts billed after 45 days.
- C. Either TriMet or County may terminate this Agreement for default. Prior to terminating for default, the non-breaching party shall provide written notice of the default to the other party, specifying the manner in which the party is in default and allowing the party no less than 15 business days in which to remedy the default. If the default is not remedied within the time specified in the notice, the non-breaching party may terminate all or any part of this Agreement.

10. Documents

The parties shall keep comprehensive records relating to this Agreement which shall be available for inspection by the other party upon request.

11. No Waiver

Either party's failure to object to a breach of this Agreement shall not constitute a waiver of that party's right to object to any additional breach, or to require specific performance of this Agreement.

12. No Third Party Beneficiary

County and TriMet are the only parties to this Agreement, and as such are the only parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to create or provide any legal right or benefit, direct, indirect or otherwise to any other party unless that party is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

13. Adherence to Law

The parties shall adhere to all applicable federal, state and local laws, regulations, rules and policies, including those relating to their own employees including all applicable employment laws, rules and regulations.

14. Workers Compensation

County, its subcontractors, if any, and all employers working under this contract are subject employers under the Oregon Workers Compensation law and shall comply with ORS 656.017 which requires them to provide workers compensation coverage for all subject workers, unless County, its subcontractors, if any, and all employers working under this contract are exempt under ORS 656.126.

County warrants that all persons engaged in contract work and subject to the Oregon Workers Compensation law are covered by a workers compensation plan or insurance that fully complies with Oregon law. County shall indemnify TriMet for any liability incurred by TriMet as a result of County's breach of warranty under this paragraph.

15. Law of Oregon

This Agreement shall be governed by Oregon law, and shall be deemed to incorporate by reference all requirements for public contracts as may be required by law.

16. Assignment

County may not assign, delegate or subcontract its rights or obligations hereunder without the prior written consent of TriMet.

17. Mediation

Should any dispute arise between the parties concerning this Agreement which is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this Agreement agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the parties.

18. Severability

If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be determined by a court to be invalid or unenforceable, the remainder of this Agreement and the application of those terms and provisions shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

19. Integration

This Agreement includes the entire agreement of the parties and supersedes any prior discussions or agreements regarding the same subject. This Agreement may be modified only by a written agreement signed by authorized representatives of the parties.

20. Authority

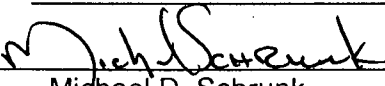
The representatives signing on behalf of the parties certify that they are duly authorized by the party for which they sign to make this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates hereinafter indicated.

MULTNOMAH COUNTY

By 
Diane Linn, County Chair
Multnomah County Board of Commissioners

Date: 7-8-04

By 
Michael D. Schrunck
District Attorney

Date: 6-8-04

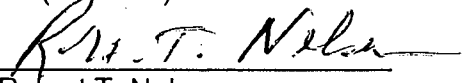
REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By SEA
Assistant County Attorney

Date: 6-9-04

TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON (TRIMET)

By 
Robert T. Nelson
Executive Director,
Operations

Date: 6-3-04

APPROVED : MULTNOMAH COUNTY
BOARD OF COMMISSIONERS
AGENDA # 02 DATE 07-08-04
DEBORAH L. BOGSTAD, BOARD CLERK

**EXHIBIT A
PROJECT SCOPE**

Duties of TriMet Deputy District Attorney

1. Must perform only transit-related work. Per procurement/accounting laws.
2. Provide consulting and assistance in the other counties of TriMet system.
3. Provide training to police, employees, as needed.
4. Participate in pro-active projects, community affairs, etc.
5. Be on-call, prepared to advise in handling of crime investigations, arrests, etc., respond to a scene.
6. Participate in TriMet meetings, etc., as needed.
7. Visit, observe TriMet operations, processes to develop orientation and familiarity. Recommend needed improvements relating to prosecutions of crimes.
8. Evaluate current legislation, develop improvements as pertain to transit security.

#1

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk
This form is a public record

MEETING DATE: 7-8-09

SUBJECT: Montecilla Library

AGENDA NUMBER OR TOPIC: Public Comment - Non Agenda

FOR: ☒ AGAINST: ☐ THE ABOVE AGENDA ITEM

NAME: Kathleen Warman

ADDRESS: 57588 Bay View Ridge

CITY/STATE/ZIP: Warren OR 97146

PHONE: _____ DAYS: _____ EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: Would like Commissioners

support to bring back this branch library

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#2

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7/8/04
SUBJECT: SAVE MONTAVILLA LIBRARY

AGENDA NUMBER OR TOPIC: _____

FOR: ☒ AGAINST: _____ THE ABOVE AGENDA ITEM
NAME: SANDRA MCDANIEL

ADDRESS: 1435 NE 73rd

CITY/STATE/ZIP: PORTLAND OR 97213

PHONE: _____ DAYS: 232 8304 EVES: 257-3346

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: To follow

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#3

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE:

7/8/84

SUBJECT:

Montavilla Library

AGENDA NUMBER OR TOPIC:

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME:

Maureen Wright

ADDRESS:

1505 SE MADISON ST

CITY/STATE/ZIP:

PORTLAND OR 97214

PHONE:

503 233 9383

EVES:

EMAIL:

FAX:

SPECIFIC ISSUE:

Montavilla Library

WRITTEN TESTIMONY:

To follow

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

CITY OF GASTON

116 FRONT ST. PO BOX 129 GASTON, OR 97119 (503) 985-3340 FAX (503) 985-1014

Testimony
Save Montavilla Library
June 11, 2004

Chair Linn and Multnomah County Commissioners:

At the request of "Save Montavilla Library," I have been asked to share the experience of the City of Gaston with the Gaston Community Library. Based on our experience over the last 14 years I strongly recommend that you embrace the energy, commitment and enthusiasm of volunteers and donors who desire to restore Montavilla Library. For the City of Gaston, without any hedges, reservations, or qualifications, I assure you that the Gaston Community Library is a valuable asset for our citizens and government.

Personally, I believe that the job of local government is to encourage and support efforts of the local citizens to provide services that enhance their lives. Services that are cost-effective, efficient and true to the nature of good government.

The Gaston Community is operated by a non-profit corporation, staffed entirely by volunteer, and runs on a very tight budget. The private public partnership between the City of Gaston and the Gaston Library started approximately 14 years ago when a citizen, who did not drive, spearheaded the need for a library. The City of Gaston, then as now, has no public transportation system. Every year the library grows stronger. Over the years, the leadership has rotated to new volunteers. Typically one person who loves libraries emerges as a natural leader. Our most recent lightning-rod is a retired school librarian who lives outside of Gaston. She and the Gaston Library Board of Directors hunt for inexpensive or free improvements to benefit the Library's patrons and our community. The imagination and drive of our dedicated volunteers inspires me.

The Gaston Library is one of our community's symbols of "spirit, pride and unity." The best news is from the first day that the idea stated and forward: the combined private public partnership between the Library and our government has only been a benefit to all parties concerned.

My understanding is that the Multnomah County Commissioners have been asked to enter into a private public partnership with the Montavilla Library that nearly exactly matches what the City of Gaston does. The City owns the building, pays the utilities and overhead; and leases the building for \$1 a year. The non-profit takes care of the other operating expenses.

Where do the other operating costs come from? The City of Gaston, as part of the Metropolitan Area Communications Commission, negotiated with Comcast, as part of its franchise agreement that our internet connection to the Library is free to library patrons. Recently, the Gaston Library received a sizeable gift dedicated to the Library from a private estate. One suggestion worth exploring for a possible revenue source is for the Montavilla Library to rent for cost-recovery purposes its vacant meeting rooms or offices not yet in service to the Library patrons.

Our experience shows, there is money available from private foundations, federal funds for capital projects such as the federal Community Development Block Grant Program; and endowments for the arts funds include libraries. Private and public funding sources find community-based volunteer-centered programs like Montavilla and Gaston Library extremely attractive for investments by foundations such as the Bill and Melinda Gates Philanthropy.

Many of our volunteers come from outside our City. They volunteer because they love libraries. Their love of libraries draws a groundswell of enthusiasm and increasingly better circumstances over time.

On a personal note, my grandparents lived in the general area of the Montavilla Library. They walked or biked to local destination, as they did not drive, and instilled in me a love for walking. The neighborhood-based Montavilla Library seems like a reasonable accommodation for elderly people, parents with children and non-drivers, who find travel beyond easy walking distance a personal or financial hardship.

Libraries are natural gathering places that build strong communities and break down barriers to loneliness and isolation that plague modern life. The Save the Montavilla Library public private partnership sounds like a win-win proposition for all Oregonians. When neighbors provide public services that helps more than your one County that helps all municipalities.

I was asked specifically "What is the downside or difficulty with this arrangement for a local government?" Truly, the answer is "none." I track overhead expenditures for the Library as a couple of separate line items. Infrequently over the last 14 years, there have been and occasional modest request for one-time expenditures approved by the Council for unanticipated expenses; but no requests have been made to our government since the Library received the private endowment a few years ago. As a local government, our job is easy. The cost is insignificant; but the public service benefits are immense. The tough job is the volunteers, who inspire us by their dedication, determination and creativity.

Washington County Cooperative Library Services offers a developing library program for small libraries and would be an excellent resource for all parties involved. The Gaston Community Library Board is another excellent resource for how to make a public private partnership succeed. I believe that collaboration between the Montavilla Library and Multnomah County would be highly successful and long-enduring model of a public private partnership to provide a local library.

Sincerely,

A handwritten signature in black ink that reads "Margaret E. Bell". The signature is fluid and cursive, with the first name "Margaret" being larger and more prominent than the last name "Bell".

Margaret E. Bell
City Recorder
City of Gaston

#4

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7/8/04

SUBJECT: MONTAVILLA LIBRARY

AGENDA NUMBER OR TOPIC: DEED RESTRICTION

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: THOMAS D. PAUGH

ADDRESS: 7014 E. BURNSIDE

CITY/STATE/ZIP: PORT. OR. 97215

PHONE: _____ DAYS: 503-257-3742 EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: RESTART MONTAVILLA LIBRARY

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Testimony
Save Montavilla Library
Multnomah County Board of Commissioners

I request Multnomah County Commissioners unanimously vote the following provisions into law. Please accept my signed petition as my public testimony. By my own hand, I removed any items within this one-page petition that I disagree with or that need further consideration.

1. **"Save the Montavilla Library" requests no significant money for its purposes from Multnomah County.** Multnomah County agrees to maintain ownership, insurance, over head costs (averaging less than \$70 a month for utilities since November 2003) and grounds' keeping services. Allow Montavilla Library to open immediately as a neighborhood Reading Room with a story hour for children and computer access provided by volunteers and donations; and as headquarters for "Save Montavilla Library," who will coordinate the volunteers.
2. **Restore the 1934 deed restriction into law for perpetuity (forever) so that Montavilla Neighborhood Library at its current site, 211 SE 80 Avenue can only be used for a neighborhood library.** This action is necessary because the government removed that original stipulation in violation of its 70 year old bargain with the original library-donors and Montavilla residents.
3. In the event that in 10 years, the County can no longer perform upon its agreement, ownership will transfer to "Save Montavilla Library" for the same restricted use in its current location or to be re-located based on the "Save the Montavilla Library's" sole discretion and criterion and in cooperation with Montavilla and Mt. Tabor Neighborhood Associations, other groups, and nearby residents.
4. **Allow 12 months for Save Montavilla Library to plan and implement long-range funding strategies.** Respond affirmatively with your votes to "Save Montavilla Library" and Montavilla and Mount Tabor Neighborhoods' offer to build a combined public private / partnership to finance and re-open the Montavilla Branch Library.
5. As their private contribution, citizens will provide grant-writing, constituent contact, and other expert and professional services to raise money and volunteer services. **Allow Montavilla Library to re-open the Montavilla Library as a neighborhood Reading Room with volunteers while permanent funding is sought.** Meanwhile, the Montavilla children of the 21st century can follow the historical traditions of their predecessors, who donated pennies and nickels to raise money during the 1930s Great Depression for the Montavilla Branch Library.

Signed: Darleen A. Paugh Date 6/30/4
Name Printed: Darleen A. Paugh Phone (optional) —
Address 7014 E. Burnside Email (optional) —
City Portland, Oregon 97215 Zip —

By my initials, I give my permission to list my name (as printed above) as a supporter of "Save Montavilla Library." No other contact information will appear on the web and in printed materials.

Testimony
Save Montavilla Library
Multnomah County Board of Commissioners

I request Multnomah County Commissioners unanimously vote the following provisions into law. Please accept my signed petition as my public testimony. By my own hand, I removed any items within this one-page petition that I disagree with or that need further consideration.

1. **"Save the Montavilla Library" requests no significant money for its purposes from Multnomah County.** Multnomah County agrees to maintain ownership, insurance, over head costs (averaging less than \$70 a month for utilities since November 2003) and grounds' keeping services. Allow Montavilla Library to open immediately as a neighborhood Reading Room with a story hour for children and computer access provided by volunteers and donations; and as headquarters for "Save Montavilla Library," who will coordinate the volunteers.
2. **Restore the 1934 deed restriction into law for perpetuity (forever) so that Montavilla Neighborhood Library at its current site, 211 SE 80 Avenue can only be used for a neighborhood library.** This action is necessary because the government removed that original stipulation in violation of its 70 year old bargain with the original library-donors and Montavilla residents.
3. In the event that in 10 years, the County can no longer perform upon its agreement, ownership will transfer to "Save Montavilla Library" for the same restricted use in its current location or to be re-located based on the "Save the Montavilla Library's" sole discretion and criterion and in cooperation with Montavilla and Mt. Tabor Neighborhood Associations, other groups, and nearby residents.
4. **Allow 12 months for Save Montavilla Library to plan and implement long-range funding strategies.** Respond affirmatively with your votes to "Save Montavilla Library" and Montavilla and Mount Tabor Neighborhoods' offer to build a combined public private / partnership to finance and re-open the Montavilla Branch Library.
5. As their private contribution, citizens will provide grant-writing, constituent contact, and other expert and professional services to raise money and volunteer services. **Allow Montavilla Library to re-open the Montavilla Library as a neighborhood Reading Room with volunteers while permanent funding is sought.** Meanwhile, the Montavilla children of the 21st century can follow the historical traditions of their predecessors, who donated pennies and nickels to raise money during the 1930s Great Depression for the Montavilla Branch Library.

Signed: Julie Beardall Date 6/30/04
Name Printed: Julie Beardall Phone (optional) _____
Address 4710 SE Stark #8 Email (optional) _____
City Portland Zip 97215

By my initials, I give my permission to list my name (as printed above) as a supporter of "Save Montavilla Library." No other contact information will appear on the web and in printed materials.

J. B.

#5

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk
This form is a public record

MEETING DATE: 7/8/04
SUBJECT: Montavilla Library

AGENDA NUMBER OR TOPIC: _____

FOR: ☒ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Joseph F. Johns

ADDRESS: PO Box 82036

CITY/STATE/ZIP: Beaverton OR 97008

PHONE: _____ DAYS: (503) 232-5335 EVES: _____

EMAIL: Joe.Johns@aol.com FAX: (503) 231-7177

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: Deal & Whittier

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

**TESTIMONY TO
SAVE MONTAVILLA LIBRARY**

JOSEPH JOHNS

Chair Person to Save the Sellwood – Moreland Library for

The Sellwood Moreland Improvement League (SMILE)

Activist for libraries and neighborhoods

July 8, 2004

Well, here we go again. Multnomah County came to the Sellwood Moreland Improvement meeting to announce the closing of our branch library. We said fine. Give us the paper work. One of the commissioners asked, “what paper work”? We responded and said a court order. You can image the expression on their faces. We told them we would buy the time to keep our Sellwood Moreland Branch Library open. We will master mind this responsibility on a grass roots level. Today you can see the results; The Sellwood Moreland Improvement League (SMILE) not only saved their branch library, they master mind this project so well, that they even convinced Multnomah County Board of Commissioner, to place a initiative on the ballot and the rest is history.

Montavilla Library is a symbol of the same public response for grass-roots involvement. You have the prove, that citizen input matters. You have a chance to build a stronger neighborhood economically, educational, a better social environment, reduction in crime and corruption. The saving of this precious library, will involve of every man, women and child in the Montavilla Community. You know by past experience, that the best solution, is to allow Montavilla Library to operate and function.

Commissioners, you know, you can be part of the problem or part of the solution. There is no in between. If history is right, Multnomah County Commissioners will be part of the solution. Everyday, we are reminded of the tremendous success of Sellwood Moreland Improvement League (SMILE) getting involved on a grass roots level. One of the reminders, that you can relate to, is the State of the County address by Chair Person Diane Linn, to the City Club of Portland. The excitement, enthusiasm, stimulation, and pleasure of the statistics and the honor to and for the County of Multnomah in Portland Oregon and their Library system. We are appealing to you to vote today to recommend this grass roots efforts of Montavilla Library's request. No one knows better than the grass-roots from neighborhoods and businesses, what the neighborhood needs. Remember, we do not close libraries. Let Montavilla Neighborhood Association and the businesses do what they need to do. On a gut-level, you know that Montavilla Library is a clear winner for the county taxpayers and the county itself. The Montavilla Neighborhood Association and Save the Montavilla Library group shows the exact ingredients as SMILE recipe for success. Please, Please support this Montavilla Library. What little help the Multnomah has to do will have an investment return of 10 to 20 times over. Restore the 1934 deed restriction. Lease the site to the non-profit, 501c, Montavilla Neighborhood Association for a \$1.00 a year. Maintain the tax-exempt status of the site. Pay any special assessments from the government. Follow the example of the City Of Gaston. Direct the director and the Multnomah County Library administration office to provide technical assistance and advise as needed to the Montavilla Community. *THANK YOU, THANK YOU AND THANK YOU.*

#6

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE:

7/8/04

SUBJECT:

Montavilla Library

AGENDA NUMBER OR TOPIC:

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME:

Barbara Allen

ADDRESS:

225 SE 80th Ave

CITY/STATE/ZIP:

97215

PHONE:

DAYS:

EVENINGS:

EMAIL:

FAX:

SPECIFIC ISSUE:

WRITTEN TESTIMONY:

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Dear Lisa Naito,

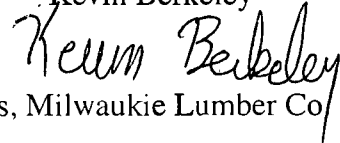
I am writing to add my voice to those who wish to reopen the Montavilla Library. The old ways of acquisition of knowledge is quickly fading do to television and the Internet, and I implore you to keep the love of the written word alive if for only a little while longer, the idea of a generation growing up not being brought back to the nostalgic memories brought upon by the smell of an old book breaks my heart as well as it should anybody with one.

Children of recent generations imaginations are decaying due to the onslaught of pop culture, and will continue to do so, but you could help hold back the floodgates by reopening the doors of this quaint library. And this is an important fight, after all Albert Einstein himself said, "Imagination is more important than knowledge." Why not endorse both?

In doing so I guarantee that you will be able to sleep just a little better at night, knowing you did the right thing. Thank you in advance.

Sincerely

Kevin Berkeley

A handwritten signature in cursive script that reads "Kevin Berkeley". The signature is written in dark ink and is positioned above the typed name and title.

Inside Sales, Milwaukie Lumber Co

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: R-1

Est. Start Time: 9:30 AM

Date Submitted: 06/14/04

Requested Date: July 8, 2004

Time Requested: 5 mins

Department: Business & Community Services **Division:** Land Use & Transportation Planning

Contact/s: Derrick Tokos & Karen Schilling

Phone: 503-988-3043

Ext.: 22682

I/O Address: 455/116

Presenters: Derrick Tokos

Agenda Title: Second Reading and Possible Adoption of a Proposed ORDINANCE Amending MCC Chapter 29, Building Regulations, Relating to Grading and Erosion Control to Correct Errors, Clarify the Types of Actions that Require a Permit, and Streamline the Review Process

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.

1. **What action are you requesting from the Board? What is the department/agency recommendation?** The request is for the Board of Commissioners to adopt an ordinance amending the Grading and Erosion Control (GEC) Code sections of Chapter 29 of the Multnomah County code, improving upon the most problematic aspects of the code as identified by the GEC Taskforce, Planning Commission, and planning staff, including (a) eliminating language that requires a permit for the placement of gravel on a driveway; (b) changing the "volume" based threshold used for determining when a permit is needed to one that considers area of disturbance and steepness of a slope; and (c) streamlining the review process by only requiring a permit when development is proposed in areas where "science" suggests a significant erosion risk exists.
2. **Please provide sufficient background information for the Board and the public to understand this issue.** Regulating the grading of property under county building codes is necessary to promote the public health, safety and general welfare, ensuring that appropriate steps are taken at the time of development to protect exposed soil surfaces from erosive forces. While the County's existing grading and erosion control codes have

provided some level of protection, they are dated in terms of current erosion control practices and contain erroneous references that must be corrected to avoid confusing the public and undermining the effectiveness of the program. A citizen taskforce, formed in 2000, prepared recommendations to revise the code, focusing on a reasonable threshold for requiring grading review and standards to be applied as part of that review. Several attempts have been made to make comprehensive revisions of the code without success. This is in part due to recommendations based on different methodologies, some of which could not satisfy the demands of state and regional requirements for limiting soil erosion and impacts to water quality, such as Metro Title 3 and Oregon Administrative Rule (OAR) 340 for the Tualatin Basin. This package of amendments is more limited, focusing on some of the most objectionable parts of the grading codes identified by the Taskforce, while satisfying County obligations to meet state and regional requirements. Taskforce, Planning Commission and planning staff recommendations incorporated in these amendments are consistent with current science and field practices. Key revisions are as follows:

- Revised §29.300 and §29.320, Purposes, correcting inaccurate references to Hillside Development Permits, Statewide Planning Goals, and certain Comprehensive Plan policies. References to the Balch Creek and Tualatin River Drainage Basin are deleted because the code language at issue is not limited to these drainages.
- Revised §29.301 and §29.321, Definitions, clarifying terminology and eliminating definitions unique to the County Hillside Development code which are not applicable to grading permits. Added a definition for gravel that is comparable to what is used in the Multnomah County Soil Survey. The definition for Land Disturbing Activities has been replaced with one for Ground Disturbing Activities, the latter of which is more permissive in that it is targeted to disturbance by motorized equipment (vs. any disturbance) and matches terminology used in the City of Portland's Erosion Control Code. Definitions for water body and watercourse have been modified, clarifying that the former is limited to natural features with the latter including natural or artificial features.
- Added new sections with the heading "Requirements for a Minimal Impact Project." These sections apply to non-exempt ground disturbing activities where a permit is not required. Projects that are regulated under this section are those that do not warrant the formal County review that occurs with a permit application but still need some basic erosion control. Site plan information is required so that we can understand the scale of the project and determine whether or not a permit is needed. Erosion control requirements are those listed in the technical guidance handbook that is used by many of the jurisdictions in the metropolitan area and are of a type that our planning staff can readily explain at the planning counter. The reason erosion control is needed, even when a permit is not required, is to reduce risk of non-compliance with OAR 340-041-455, requiring that erosion control measures be implemented to limit sediment transport to a maximum of one ton per acre per year within the Tualatin Basin, as calculated using the NRCS Universal Soil Loss Equation.

The requirement that storm run-off be managed is a pre-existing permit standard. We have clarified the language, and added a 500 square foot threshold for triggering this requirement that we understand to be consistent with the approach that is used by cities of Lake Oswego and Portland. Language is also being added listing a

range of options for ensuring that erosion control measures are installed, and provides some guidance for implementation.

- Revised §29.302 and §29.322, Permits Required, changing the thresholds that trigger a Grading and Erosion Control Permit from one that was volume based to one that considers surface disturbance (excluding gravel and asphalt) and steepness of slope. Unsupported fill slopes and proximity to water bodies are additional permit thresholds.
- Revised §29.303 and §29.339, Exempt Land Use Activities, eliminating a clause referring to development activities that have long since been completed. General Exemptions are deleted because the thresholds listed are redundant and the implementation of some form of erosion control is now required for all regulated activities. Most of the categorical exemptions listed in the existing code are being retained, and new exemptions have been added for routine road maintenance activities conducted by organizations that operate under Limit 10, Section 4d of the Endangered Species Act (e.g. ODOT) and for test pits and borings for septic suitability or geotechnical evaluation. The Limit 10 exemption is added because it is as strict as what the County requires, so no review is needed. Test pits and borings of the type described expose small amounts of soil, so erosion control should not be needed
- Revised §29.305, §29.306, §29.324, and §29.325, clarifying ambiguous language and listing the types of information that must be submitted to obtain a grading and erosion control permit.
- Other sections of the County codes are revised to ensure that cross references are accurate and the grading codes have been re-numbered to facilitate future revisions.

3. **Explain the fiscal impact (current year and ongoing).** These changes will likely mean that fewer grading and erosion control permits will be required; however, these permits do not generate a substantial amount of revenue; therefore, no significant financial impacts are anticipated.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain. Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**

- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain:

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. **Explain any legal and/or policy issues involved.** There are known legal issues. By correcting errors, clarifying the types of actions that require a permit, and streamlining the review process, these revisions should make the erosion control code more effective. Key problems with the existing code, identified by the citizen Taskforce, included the placement of gravel triggering a permit and the 50 cubic yard "volume" based approach to requiring a permit. Both of these have been eliminated and a science based approach is being used that considers the slope of the ground and area disturbed. These amendments should result in fewer projects requiring formal review, freeing up staff to work with landowners to ensure that erosion control measures are properly installed.

The Multnomah County Comprehensive Framework Plan supports these amendments, identifying the protection of the public health, safety, and welfare as a goal of the Land Use Planning Program that is achieved in part by regulating design and construction techniques to ensure "on-site" or "off-site" public harm attributed to soil erosion is avoided, and that drainage of storm water is appropriately managed so as to not adversely affect water quality.

5. **Explain any citizen and/or other government participation that has or will take place.** Because these revisions are to building code, not land use codes, no formal action was required by the Planning Commission. However, the concepts behind these changes have been presented to the Planning Commission at workshops held December 2, 2002 and May 5, 2003 and at a Taskforce meeting held April 29, 2003 to ensure that they were comfortable with the approach.

Required Signatures:

Department/Agency Director: Robert A. Maestre

Date: 06/14/04

Budget Analyst

By: _____

Date:

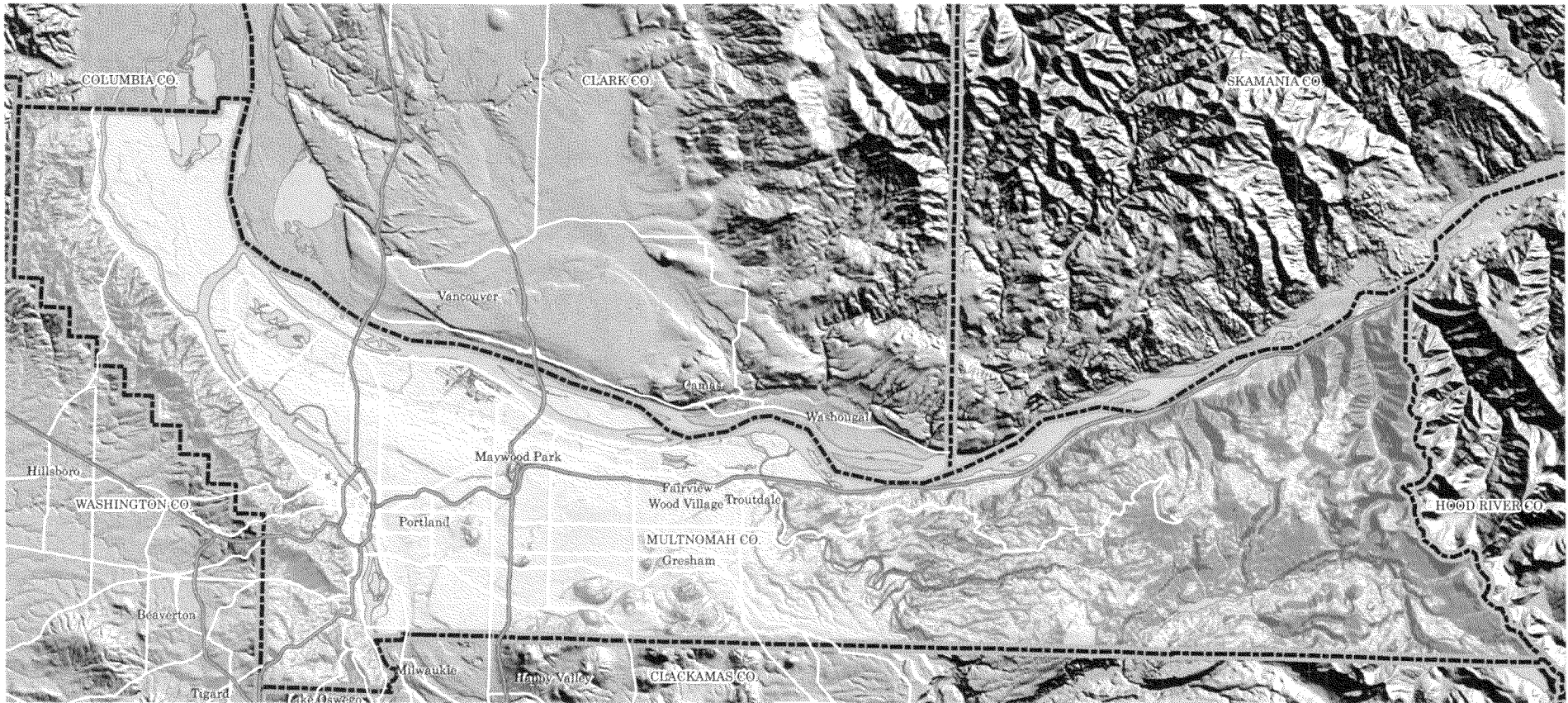
Dept/Countywide HR

By: _____

Date:

Slope Class Map

Multnomah County, Oregon - Land Use and Transportation







DISCLAIMER: This map is for reference use only. Data provided are derived from multiple sources with varying levels of accuracy. Multnomah County GIS disclaims all responsibility for the accuracy or completeness of the data shown herein.



0 2.5 5 10 Miles

Legend - Percent Slope

-  0 - 10 %
-  10 - 25 %
-  25 - 40 %
-  40+ %

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending MCC Chapter 29, Building Regulations, Relating to Grading And Erosion Control to Correct Errors, Clarify the Types of Actions that Require a Permit, and Streamline the Review Process

(Language ~~stricken~~ is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Regulating the grading of property under county building codes is necessary to promote the public health, safety and general welfare, ensuring that appropriate steps are taken at the time of development to protect exposed soil surfaces from erosive forces.
- b. While the County's existing grading and erosion control codes have provided some level of protection, they are dated in terms of current erosion control practices and contain erroneous references that must be corrected to avoid confusing the public and undermining the effectiveness of the program.
- c. A citizen taskforce, formed in 2000, prepared recommendations to revise the code, focusing on a reasonable threshold for requiring grading review and standards to be applied as part of that review. Recommendations incorporated into these revised codes are consistent with current science and field practices.
- d. These amendments improve upon the most problematic aspects of the Grading and Erosion Control codes as identified by the taskforce, Planning Commission, and planning staff, including:
 - (1) eliminating language that required a permit for the placement of gravel on a driveway;
 - (2) changing the volume based threshold used for determining when a permit is needed to one that considers area of disturbance and steepness of a slope; and
 - (3) streamlining the review process by only requiring a permit when development is proposed in areas where "science" suggests a significant erosion risk exists.
- e. Although no formal action was taken, or required for these changes, the concepts behind them have been presented to the Planning Commission at workshops held December 2, 2002 and May 5, 2003 and taskforce at a meeting held April 29, 2003 to ensure that they were comfortable with the approach.
- f. The Multnomah County Comprehensive Framework Plan supports these revisions, identifying the protection of the public health, safety, and welfare as a goal of the Land Use Planning Program that is achieved in part by regulating design and construction techniques to ensure "on-site" or "off-site" public harm attributed to soil erosion is avoided, and that drainage of storm water is appropriately managed so as to not adversely affect water quality.

Multnomah County Ordains as follows:

Section 1. §29.300 is renumbered and amended as follows:

§ 29.300330- PURPOSES.

The purposes of the ~~Hillside Development~~ Grading and Erosion Control Subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated areas of the county, all in accordance with ORS 215, ~~LCDC Statewide Planning Goal No. 7 and~~ OAR 340-41-455 for the Tualatin River Basin, and the County Comprehensive Framework Plan Policy No. ~~4437~~. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;
- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment;
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and
- (F) Control stormwater discharges and protect streams, ponds, and wetlands ~~within the Tualatin River and Balch Creek Drainage Basins.~~

Section 2. §29.301 is renumbered and amended as follows:

§ 29.301331 EROSION CONTROL RELATED DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

CERTIFIED ENGINEERING GEOLOGIST. ~~Any person who has obtained certification by the state as an engineering geologist.~~

CUT.

- (1) An excavation;
- (2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
- (3) The material removed in excavation work.

DEVELOPMENT DISTURBED AREA. The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.

DRAINAGE AREA. The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.

DRAINAGEWAY. Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.

EARTH MOVEMENT. Any type of land surface failure resulting in the downslope movement of material. The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.

EROSION. The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.

EXCAVATION. Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

FILL.

(1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting there from.

(2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.

(3) The material used to make a fill.

~~———— ***GEOTECHNICAL ENGINEER.*** A civil engineer, licensed to practice in the state, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.~~

~~———— ***GEOTECHNICAL REPORT.*** Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.~~

GRADING. Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

GRAVEL. Aggregate composed of hard and durable stones or pebbles, crushed or uncrushed, more than half of which is retained on a No. 4 sieve (2 mm).

GROUND DISTURBING ACTIVITY. Any activity that exposes soil through the use of motorized equipment.

~~———— ***HDP FORM 1.*** The form required for specified developments subject to the Hillside Development and Erosion Control Subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a certified engineering geologist or geotechnical engineer.~~

~~———— ***LAND-DISTURBING ACTIVITIES.*** Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land-disturbing activities include: excavations or fills, site grading, and soil storage.~~

MULCH. Organic Mmaterials, such as straw, bark, jute, coconut fibers, or nut shells spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

ORDINARY HIGH WATER MARK. Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.

SLOPE.

- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

~~**SLOPE HAZARD MAP.** A series of maps (Figures 1A through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the director, Department of Environmental Services.~~

SPOIL MATERIAL. Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

STREAM. Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (such as, swales) shall be considered streams when hydrologic and hydraulic analyses performed pursuant to a development proposal predict formation of a defined channel after development.

STREAM PROTECTION. Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.

VEGETATION. All plant growth, especially trees, shrubs, grasses and mosses.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover;

- (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
- (4) Netting with seeding if the final grade has not stabilized.

WATER BODY. Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds. Rivers, streams, sloughs, drainages, including intermittent streams and seeps, ponds, lakes, aquifers, wetlands, and coastal waters.

WATERCOURSE. Natural and artificial features which transport surface water. WATERCOURSE includes a river, stream, creek, slough, ditch, canal, or drainageway. A channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial.

Section 3. §29.333 is added as follows:

§ 29.333 REQUIREMENTS FOR A MINIMAL IMPACT PROJECT

The following are the minimum erosion control requirements for all ground disturbing activities where a permit is not otherwise required under §29.30 or exempt under §29.30 this subchapter:

(A) Prior to initiating work, persons proposing ground disturbing activities shall provide to the County two copies of a map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Persons conducting ground disturbing activities are to utilize erosion control measures prescribed in the current edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook." Measures are to be installed prior to commencement of grading work and are to be maintained, in working order, through all phases of development.

(C) Persons creating new impervious surfaces exceeding 500 square feet shall install a stormwater drainage system. The system shall be designed to ensure that the rate of runoff for the 10 year 24 hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse.

(D) The planning director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, field inspections by County staff, post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site.

Section 4. §29.302 is renumbered and amended as follows:

§ 29.302-336 PERMITS REQUIRED.

The following activities require a Grading and Erosion Control permit, subject to § 29.305 and § 29.306:

(A) Grading and erosion control permit. All persons proposing site grading All ground disturbing activities where:

(1) Where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 50 cubic yards; More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or

(2) Which obstructs or alters a drainage course; or Areas disturbed are within 200' by horizontal measurement from the top of the bank of a water body or from the boundary of National Wetlands Inventory mapped wetlands associated with a water body, whichever distance is greater; or

(3) Which takes place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water, or within the wetlands associated with a watercourse or water body, whichever distance is greater, shall obtain a grading and erosion control permit as prescribed by this Subdistrict, unless exempted by §§ 29.302(B)(2) through (6) or (C) of this subchapter. Development projects subject to a hillside development permit do not require a separate grading and erosion control permit. Slopes before development are greater than 10 percent (10 Horizontal; 1 Vertical); or

(4) Unsupported finished slopes exceed a 33 percent (3 Horizontal; 1 Vertical) grade and five feet in height.

(B) Grading and erosion control permit. All persons proposing land disturbing activities within the Tualatin River and Balch Creek Drainage Basins shall first obtain a grading and erosion control permit, except as provided by § 29.302(C) of this subchapter.

(B) Hydrologic scour attributed to development resulting in visible erosion, turbidity, or sediment deposition within a water body.

(C) Development projects subject to a hillside development permit do not require a separate grading and erosion control permit.

Section 5. §29.303 is renumbered and amended as follows:

§ 29.303-339 EXEMPT LAND USES AND ACTIVITIES.

The following are exempt from the provisions of this subchapter:

(A) Prior development. Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site specific requirements applicable herein.

(B) General exemptions. Outside the Tualatin River and Balch Creek Drainage Basins, all land disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and

the public welfare. A person performing such activities need not apply for a permit pursuant to this Subdistrict if:

- ~~_____ (1) Natural and finished slopes will be less than 25%;~~
- ~~_____ (2) The disturbed or filled area is 20,000 square feet or less;~~
- ~~_____ (3) The volume of soil or earth materials to be stored is 50 cubic yards or less;~~
- ~~_____ (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;~~
- ~~_____ (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and~~
- ~~_____ (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.~~

~~_____ (C) Categorical exemptions. Notwithstanding divisions (A) and (B)(1) through (6) of this section, the following activities are exempt from the permit requirements, except that in the Tualatin River Drainage Basin, activities which effect water quality shall require a permit pursuant to OAR 340-41-455(3):~~

~~_____ (1A) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet. Test pits or borings excavated for purposes of geotechnical evaluation or septic system suitability.~~

~~_____ (2B) Cemetery graves, but not cemetery soil disposal sites.~~

~~_____ (3C) Excavations for wells, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).~~

~~_____ (4D) Mineral extraction activities as regulated by the county zoning code, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).~~

~~_____ (5E) _____ Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.~~

~~_____ (6F) Routine agricultural crop-management practices.~~

~~_____ (7G) Residential gardening and landscape maintenance at least 100 feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.~~

~~_____ (8H) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.~~

~~_____ (9I) Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry. ('90 Code § 9.40.020) (Ord. 847, passed 1996)~~

(J) Grading activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act,

Section 6. §29.304 is renumbered and amended as follows:

§ 29.304342 APPLICATION INFORMATION REQUIRED.

An application for development subject to the requirements of this Subdistrict shall include two copies of ~~include~~ the following:

(A) A map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Calculations ~~An estimate~~ the volume of depths and ~~the extent and location~~ of all proposed cuts and fills.

(C) ~~The location of planned and existing sanitary drainfields and drywells.~~ Documents stamped by an Oregon licensed Professional Engineer demonstrating that:

(1) Stormwater runoff attributed to the development will be managed on-site for a storm of ten-year, 24 hour design frequency or, is to be discharged to a watercourse in or adjacent to the property at pre-developed rates;

(2) Surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian or other agencies authorized to review waste disposal systems; and

(3) Any new discharges into public right-of-ways have complied with the governing agencies discharge review process;

(D) Narrative, map or plan information necessary to demonstrate compliance with applicable provisions of the county zoning code. The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.

Section 7. §29.305 is renumbered and amended as follows:

§ 29.305345 GRADING AND EROSION CONTROL PERMIT STANDARDS.

Approval of development plans on sites subject to a grading and erosion control permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) *Design standards for grading and erosion control.*

(1) *Grading standards.*

(a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The director may require additional studies or information or work regarding fill materials and compaction;

(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;

(c) Cuts and fills shall not endanger or disturb adjoining property;

(d) The proposed drainage system shall have adequate capacity to ~~bypass all sheet flow through the~~ handle stormwater attributed to development on-site for from a storm of ten-year design frequency and maintain the existing flood carrying capacity of all watercourses ~~passing through~~ or adjacent to the property;

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the existing flood carrying capacity for the altered portion of the stream.

(2) *Erosion control standards.*

(a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*" and the "*City of Portland Stormwater Quality Facilities, A Design ~~Guidance~~ Manual (1995)*." ~~Land~~Ground-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland: unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.

(b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

(c) Development plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;

(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland;

2. The buffer required in subsection (e)1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*" and the "*City of Portland Stormwater Quality Facilities, A Design ~~Guidance~~ Manual (1995)*" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

(g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

(h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

(i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

(j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

(k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

(l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

1. Energy absorbing devices to reduce runoff water velocity;
2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
3. Dispersal of water runoff from developed areas over large undisturbed areas.

(m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

(n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

~~(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the Erosion Control Plans Technical Guidance Handbook (January, 1991). All land disturbing activities within the basin shall be confined to the period between May 1 and October 1 of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October 1 the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December 1 the same year the development was begun.~~

(B) *Responsibility.*

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such

sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

(C) *Implementation.*

(1) *Performance bond.* A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) *Inspection and enforcement.* The director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subdistrict shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the ~~Hillside Development Permit~~ or Grading and Erosion Control Permit, work may be stopped until appropriate correction measures are completed.

(D) *Final approvals.* A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

Section 8. § 29.306 is renumbered as follows

29.306-348 PERMIT FEE.

A fee for a grading and erosion control permit is imposed and the amount will be set by Board resolution.

Section 9. §29.320 is renumbered and amended as follows:

§ 29.320-350- PURPOSES.

The purposes of the Grading and Erosion Control ordinance are to promote the public health, safety and general welfare, and minimize erosion and related environmental damage in the West of Sandy River Plan Area of unincorporated Multnomah County, all in accordance with ORS 215, ~~LCDC~~ Statewide Planning Goal No. 6 and the County Comprehensive Framework Plan Policies ~~13 and 14~~ and 37. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;

- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment;
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and
- (F) Control stormwater discharges and protect streams, ponds, and wetlands.

Section 10. §29.321 is renumbered and amended as follows:

§ 29.321351 EROSION CONTROL RELATED DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

~~———— **CERTIFIED ENGINEERING GEOLOGIST.** Any person who has obtained certification by the state as an engineering geologist.~~

CUT.

- (1) An excavation;
- (2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
- (3) The material removed in excavation work.

~~———— **DEVELOPMENT.** Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetation in a Water Resource Area or Habitat Area on a lot or parcel. (Title 3)~~

DEVELOPMENT-DISTURBED AREA. The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.

DRAINAGE AREA. The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.

DRAINAGEWAY. Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.

EARTH MOVEMENT. Any type of land surface failure resulting in the downslope movement of material. The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.

EROSION. The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.

EXCAVATION. Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

FILL.

(1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting there from.

(2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.

(3) The material used to make a fill.

~~**GEOTECHNICAL ENGINEER.** A civil engineer, licensed to practice in the state, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.~~

~~**GEOTECHNICAL REPORT.** Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.~~

GRADING. Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

GRAVEL. Aggregate composed of hard and durable stones or pebbles, crushed or uncrushed, more than half of which is retained on a No. 4 sieve (2 mm).

GROUND DISTURBING ACTIVITY. Any activity that exposes soil through the use of motorized equipment.

~~**HDP FORM 1.** The form required for specified developments subject to the Hillside Development and Erosion Control Subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a certified engineering geologist or geotechnical engineer.~~

~~**LAND DISTURBING ACTIVITIES.** Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land disturbing activities include: excavations or fills, site grading, and soil storage.~~

MULCH. Organic Mmaterials, such as straw, bark, jute, coconut fibers, or nut shells spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

ORDINARY HIGH WATER MARK. Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.

SLOPE.

- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

~~***SLOPE HAZARD MAP.*** A series of maps (Figures 1A through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the director, Department of Environmental Services.~~

SPOIL MATERIAL. Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

STREAM. Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (such as, swales) shall be considered streams when hydrologic and hydraulic analyses performed pursuant to a development proposal predict formation of a defined channel after development.

STREAM PROTECTION. Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.

VEGETATION. All plant growth, especially trees, shrubs, grasses and mosses.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover;
- (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
- (4) Netting with seeding if the final grade has not stabilized.

~~***WATER BODY.*** Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds. Rivers, streams, sloughs, drainages, including intermittent streams and seeps, ponds, lakes, aquifers, wetlands, and coastal waters.~~

~~***WATERCOURSE.*** Natural and artificial features which transport surface water. WATERCOURSE includes a river, stream, creek, slough, ditch, canal, or drainageway. A channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial.~~

Section 11. §29.353 is added as follows:

§ 29.353 REQUIREMENTS FOR A MINIMAL IMPACT PROJECT

The following are the minimum erosion control requirements for all ground disturbing activities where a permit is not otherwise required under §29.327 or exempt under §29.328 this subchapter:

(A) Prior to initiating work, persons proposing ground disturbing activities shall provide to the County two copies of a map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Persons conducting ground disturbing activities are to utilize erosion control measures prescribed in the current edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook." Measures are to be installed prior to commencement of grading work and are to be maintained, in working order, through all phases of development.

(C) Persons creating new impervious surfaces exceeding 500 square feet shall install a stormwater drainage system. The system shall be designed to ensure that the rate of runoff for the 10 year 24 hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse.

(D) The planning director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, field inspections by County staff, post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site.

Section 12. §29.322 is renumbered and amended as follows:

§ 29.322356 PERMITS REQUIRED.

The following activities require a Grading and Erosion Control permit, subject to § 29.325 and §29.326:

(A) Grading and erosion control permit. All persons proposing land disturbing activities or development ~~All ground disturbing activities where:~~

(1) ~~Where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 10 cubic yards; More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or~~

(2) ~~Which obstructs or alters a drainage course; or Areas disturbed are within 200' by horizontal measurement from the top of the bank of a water body or from the boundary of National Wetlands Inventory mapped wetlands associated with a water body, whichever distance is greater; or~~

(3) ~~Which takes place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water, or within the wetlands associated with a watercourse or water body, whichever distance is greater, shall obtain a grading and erosion control permit as prescribed by this subdistrict, unless exempted by §§ 29.323(B)(2) through (6) or (C) of this subchapter. Development projects subject to a hillside development permit do~~

~~not require a separate grading and erosion control permit. Slopes before development are greater than 10 percent (10 Horizontal: 1 Vertical); or~~

~~(4) Unsupported finished slopes exceed a 33 percent (3 Horizontal: 1 Vertical) grade and five feet in height.~~

~~(B) Grading and erosion control permit. All persons proposing land disturbing activities within the Tualatin River and Balch Creek Drainage Basins shall first obtain a grading and erosion control permit, except as provided by § 29.323(C) of this subchapter.~~

~~(B) Hydrologic scour attributed to development resulting in visible erosion, turbidity, or sediment deposition within a water body.~~

~~(C) Development projects subject to a hillside development permit do not require a separate grading and erosion control permit.~~

Section 13. §29.323 is renumbered and amended as follows:

§ 29.323359 EXEMPT LAND USES AND ACTIVITIES.

The following are exempt from the provisions of this subchapter:

~~(A) Prior development. Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site specific requirements applicable herein.~~

~~(B) General exemptions. Outside the Tualatin River and Balch Creek Drainage Basins, all land disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this Subdistrict if:~~

~~(1) Natural and finished slopes will be less than 25%;~~

~~(2) The disturbed or filled area is 20,000 square feet or less;~~

~~(3) The volume of soil or earth materials to be stored is 10 cubic yards or less;~~

~~(4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;~~

~~(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and~~

~~(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.~~

~~(C) Categorical exemptions. Notwithstanding divisions (A) and (B)(1) through (6) of this section, the following activities are exempt from the permit requirements:~~

~~(1A) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished~~

height greater than five feet. Test pits or borings excavated for purposes of geotechnical evaluation or septic system suitability.

- (2B) Cemetery graves, but not cemetery soil disposal sites.
- (3C) Excavations for wells, ~~except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).~~
- (4D) Mineral extraction activities as regulated by the county zoning code.
- (5E) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.
- (6F) Routine agricultural ~~crop~~ management practices.
- (7G) Residential gardening and landscape maintenance at least 100 feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.
- (8H) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.
- (9I) Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry.
- (J) Grading activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act.

Section 14. §29.324 is renumbered and amended as follows:

§ 29.324362 APPLICATION INFORMATION REQUIRED.

An application for development subject to the requirements of this subdistrict shall include two copies of the following:

(A) A map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Calculations ~~An estimating the volume of depths and the extent and location of all~~ proposed cuts and fills.

(C) ~~The location of planned and existing sanitary drainfields and drywells. Documents~~ stamped by an Oregon licensed Professional Engineer demonstrating that:

(1) Stormwater runoff attributed to the development will be managed on-site for a storm of ten-year, 24 hour design frequency or, is to be discharged to a watercourse in or adjacent to the property at pre-developed rates;

(2) Surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian or other agencies authorized to review waste disposal systems; and

(3) Any new discharges into public right-of-ways have complied with the governing agencies discharge review process;

(D) Narrative, map or plan information necessary to demonstrate compliance with applicable provisions of the county zoning code. The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.

Section 15. §29.325 is renumbered and amended as follows:

§ 29.325365 GRADING AND EROSION CONTROL PERMIT STANDARDS.

Approval of development plans on sites subject to a grading and erosion control permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) Design standards for grading and erosion control.

(1) Grading standards.

(a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The director may require additional studies or information or work regarding fill materials and compaction;

(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;

(c) Cuts and fills shall not endanger or disturb adjoining property;

(d) The proposed drainage system shall have adequate capacity to ~~bypass all sheet flow through the~~ handle stormwater attributed to development on-site for ~~from~~ a storm of ten-year design frequency and maintain the existing flood carrying capacity of all watercourses passing through or adjacent to the property;

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the existing flood carrying capacity for the altered portion of the stream.

(2) Erosion control standards.

(a) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

(b) Development plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;

(c) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(d) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland;

2. The buffer required in subsection (d)1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook" and the "City of Portland Stormwater Quality Facilities, A Design Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

(e) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

(f) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

(g) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

(h) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

(i) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

(j) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

(k) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

1. Energy absorbing devices to reduce runoff water velocity;
2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
3. Dispersal of water runoff from developed areas over large undisturbed areas.

(l) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

(m) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be

prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

(B) Responsibility

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

(C) Implementation.

(1) Performance bond. A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) Inspection and enforcement. The director may take steps to ensure compliance with the requirements of this sub-section, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subdistrict shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the ~~Hillside Development Permit~~ or Grading and Erosion Control Permit, work may be stopped until appropriate correction measures are completed.

(D) Final approvals. A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

Section 16. § 33.6183 is amended as follows

33.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

- (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;
- (b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305-345 when applicable;
- (c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and
- (d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 17. § 34.6183 is amended as follows

34.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

- (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;
- (b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305-345 when applicable;
- (c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and
- (d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 18. § 35.6183 is amended as follows

35.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

(a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;

(b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through ~~29.305-345~~ when applicable;

(c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and

(d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 19. § 36.6183 is amended as follows

36.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

(a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;

(b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 ~~350~~ through ~~29.305-365~~ when applicable;

(c) The facility shall comply with Flood Hazard regulations of MCC ~~29.600-620~~ through ~~29.611-630~~ when applicable; and

(d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 20. § 36.2060 is amended as follows

36.2060 DIMENSIONAL REQUIREMENTS.

(I) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 21. § 36.2660 is amended as follows

36.2660 DIMENSIONAL REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 22. § 36.2855 is amended as follows

36.2855 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 23. § 36.3155 is amended as follows

36.3155 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 24. § 36.3355 is amended as follows

36.3355 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

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Section 25. § 36.3455 is amended as follows

36.3455 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 26. § 36.3550 is amended as follows

36.3550 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

FIRST READING:

June 24, 2004

SECOND READING AND ADOPTION:

July 8, 2004

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By Sandra N. Duffy
Sandra N. Duffy, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1042

Amending MCC Chapter 29, Building Regulations, Relating to Grading And Erosion Control to Correct Errors, Clarify the Types of Actions that Require a Permit, and Streamline the Review Process

(Language ~~stricken~~ is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Regulating the grading of property under county building codes is necessary to promote the public health, safety and general welfare, ensuring that appropriate steps are taken at the time of development to protect exposed soil surfaces from erosive forces.
- b. While the County's existing grading and erosion control codes have provided some level of protection, they are dated in terms of current erosion control practices and contain erroneous references that must be corrected to avoid confusing the public and undermining the effectiveness of the program.
- c. A citizen taskforce, formed in 2000, prepared recommendations to revise the code, focusing on a reasonable threshold for requiring grading review and standards to be applied as part of that review. Recommendations incorporated into these revised codes are consistent with current science and field practices.
- d. These amendments improve upon the most problematic aspects of the Grading and Erosion Control codes as identified by the taskforce, Planning Commission, and planning staff, including:
 - (1) eliminating language that required a permit for the placement of gravel on a driveway;
 - (2) changing the volume based threshold used for determining when a permit is needed to one that considers area of disturbance and steepness of a slope; and
 - (3) streamlining the review process by only requiring a permit when development is proposed in areas where "science" suggests a significant erosion risk exists.
- e. Although no formal action was taken, or required for these changes, the concepts behind them have been presented to the Planning Commission at workshops held December 2, 2002 and May 5, 2003 and taskforce at a meeting held April 29, 2003 to ensure that they were comfortable with the approach.
- f. The Multnomah County Comprehensive Framework Plan supports these revisions, identifying the protection of the public health, safety, and welfare as a goal of the Land Use Planning Program that is achieved in part by regulating design and construction techniques to ensure "on-site" or "off-site" public harm attributed to soil erosion is avoided, and that drainage of storm water is appropriately managed so as to not adversely affect water quality.

Multnomah County Ordains as follows:

Section 1. §29.300 is renumbered and amended as follows:

§ 29.300330- PURPOSES.

The purposes of the ~~Hillside Development Grading~~ and Erosion Control Subdistrict are to promote the public health, safety and general welfare, and minimize public and private losses due to earth movement hazards in specified areas and minimize erosion and related environmental damage in unincorporated areas of the county, all in accordance with ORS 215, ~~LCDC Statewide Planning Goal No. 7 and~~ OAR 340-41-455 for the Tualatin River Basin, and the County Comprehensive Framework Plan Policy No. 1437. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;
- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment;
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and
- (F) Control stormwater discharges and protect streams, ponds, and wetlands ~~within the Tualatin River and Balch Creek Drainage Basins.~~

Section 2. §29.301 is renumbered and amended as follows:

§ 29.301331 EROSION CONTROL RELATED DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

~~**CERTIFIED ENGINEERING GEOLOGIST.** Any person who has obtained certification by the state as an engineering geologist.~~

CUT.

- (1) An excavation;
- (2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
- (3) The material removed in excavation work.

~~**DEVELOPMENT DISTURBED AREA.** The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.~~

~~**DRAINAGE AREA.** The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.~~

DRAINAGEWAY. Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.

EARTH MOVEMENT. Any type of land surface failure resulting in the downslope movement of material. The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.

EROSION. The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.

EXCAVATION. Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

FILL.

(1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting there from.

(2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.

(3) The material used to make a fill.

~~———— ***GEOTECHNICAL ENGINEER.*** A civil engineer, licensed to practice in the state, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.~~

~~———— ***GEOTECHNICAL REPORT.*** Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.~~

GRADING. Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

GRAVEL. Aggregate composed of hard and durable stones or pebbles, crushed or uncrushed, more than half of which is retained on a No. 4 sieve (2 mm).

GROUND DISTURBING ACTIVITY. Any activity that exposes soil through the use of motorized equipment.

~~———— ***HDP FORM 1.*** The form required for specified developments subject to the Hillside Development and Erosion Control Subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a certified engineering geologist or geotechnical engineer.~~

~~———— ***LAND-DISTURBING ACTIVITIES.*** Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land disturbing activities include: excavations or fills, site grading, and soil storage.~~

MULCH. Organic Materials, such as straw, bark, jute, coconut fibers, or nut shells spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

ORDINARY HIGH WATER MARK. Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.

SLOPE.

- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

~~**SLOPE HAZARD MAP.** A series of maps (Figures 1A through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the director, Department of Environmental Services.~~

SPOIL MATERIAL. Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

STREAM. Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (such as, swales) shall be considered streams when hydrologic and hydraulic analyses performed pursuant to a development proposal predict formation of a defined channel after development.

STREAM PROTECTION. Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.

VEGETATION. All plant growth, especially trees, shrubs, grasses and mosses.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover;

- (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
- (4) Netting with seeding if the final grade has not stabilized.

WATER BODY. ~~Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds. Rivers, streams, sloughs, drainages, including intermittent streams and seeps, ponds, lakes, aquifers, wetlands, and coastal waters.~~

WATERCOURSE. ~~Natural and artificial features which transport surface water. WATERCOURSE includes a river, stream, creek, slough, ditch, canal, or drainageway. A channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial.~~

Section 3. §29.333 is added as follows:

§ 29.333 REQUIREMENTS FOR A MINIMAL IMPACT PROJECT

The following are the minimum erosion control requirements for all ground disturbing activities where a permit is not otherwise required under §29.30 or exempt under §29.30 this subchapter:

(A) Prior to initiating work, persons proposing ground disturbing activities shall provide to the County two copies of a map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Persons conducting ground disturbing activities are to utilize erosion control measures prescribed in the current edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook." Measures are to be installed prior to commencement of grading work and are to be maintained, in working order, through all phases of development.

(C) Persons creating new impervious surfaces exceeding 500 square feet shall install a stormwater drainage system. The system shall be designed to ensure that the rate of runoff for the 10 year 24 hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse.

(D) The planning director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, field inspections by County staff, post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site.

Section 4. §29.302 is renumbered and amended as follows:

§ 29.302-336 PERMITS REQUIRED.

The following activities require a Grading and Erosion Control permit, subject to § 29.305 and § 29.306:

(A) Grading and erosion control permit. All persons proposing site grading All ground disturbing activities where:

(1) Where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 50 cubic yards; More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or

(2) Which obstructs or alters a drainage course; or Areas disturbed are within 200' by horizontal measurement from the top of the bank of a water body or from the boundary of National Wetlands Inventory mapped wetlands associated with a water body, whichever distance is greater; or

(3) Which takes place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water, or within the wetlands associated with a watercourse or water body, whichever distance is greater, shall obtain a grading and erosion control permit as prescribed by this Subdistrict, unless exempted by §§ 29.302(B)(2) through (6) or (C) of this subchapter. Development projects subject to a hillside development permit do not require a separate grading and erosion control permit. Slopes before development are greater than 10 percent (10 Horizontal: 1 Vertical); or

(4) Unsupported finished slopes exceed a 33 percent (3 Horizontal: 1 Vertical) grade and five feet in height.

(B) Grading and erosion control permit. All persons proposing land disturbing activities within the Tualatin River and Balch Creek Drainage Basins shall first obtain a grading and erosion control permit, except as provided by § 29.302(C) of this subchapter.

(B) Hydrologic scour attributed to development resulting in visible erosion, turbidity, or sediment deposition within a water body.

(C) Development projects subject to a hillside development permit do not require a separate grading and erosion control permit.

Section 5. §29.303 is renumbered and amended as follows:

§ 29.303339 EXEMPT LAND USES AND ACTIVITIES.

The following are exempt from the provisions of this subchapter:

(A) Prior development. Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site specific requirements applicable herein.

(B) General exemptions. Outside the Tualatin River and Balch Creek Drainage Basins, all land disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and

the public welfare. A person performing such activities need not apply for a permit pursuant to this Subdistrict if:

- ~~_____ (1) _____ Natural and finished slopes will be less than 25%;~~
- ~~_____ (2) _____ The disturbed or filled area is 20,000 square feet or less;~~
- ~~_____ (3) _____ The volume of soil or earth materials to be stored is 50 cubic yards or less;~~
- ~~_____ (4) _____ Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;~~
- ~~_____ (5) _____ Impervious surfaces, if any, of less than 10,000 square feet are to be created; and~~
- ~~_____ (6) _____ No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.~~

~~_____ (C) _____ Categorical exemptions. Notwithstanding divisions (A) and (B)(1) through (6) of this section, the following activities are exempt from the permit requirements, except that in the Tualatin River Drainage Basin, activities which effect water quality shall require a permit pursuant to OAR 340-41-455(3):~~

~~_____ (1A) _____ An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished height greater than five feet. Test pits or borings excavated for purposes of geotechnical evaluation or septic system suitability.~~

~~_____ (2B) _____ Cemetery graves, but not cemetery soil disposal sites.~~

~~_____ (3C) _____ Excavations for wells, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).~~

~~_____ (4D) _____ Mineral extraction activities as regulated by the county zoning code, except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).~~

~~_____ (5E) _____ Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.~~

~~_____ (6F) _____ Routine agricultural erop-management practices.~~

~~_____ (7G) _____ Residential gardening and landscape maintenance at least 100 feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.~~

~~_____ (8H) _____ Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.~~

~~_____ (9I) _____ Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry. ('90 Code § 9.40.020) (Ord. 847, passed 1996)~~

(J) Grading activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act.

Section 6. §29.304 is renumbered and amended as follows:

§ 29.304342 APPLICATION INFORMATION REQUIRED.

An application for development subject to the requirements of this Subdistrict shall include two copies of ~~include~~ the following:

(A) A map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Calculations ~~An estimate~~ the volume of depths and ~~the extent and location of~~ all proposed cuts and fills.

(C) ~~The location of planned and existing sanitary drainfields and drywells. Documents stamped by an Oregon licensed Professional Engineer demonstrating that:~~

(1) Stormwater runoff attributed to the development will be managed on-site for a storm of ten-year, 24 hour design frequency or, is to be discharged to a watercourse in or adjacent to the property at pre-developed rates;

(2) Surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian or other agencies authorized to review waste disposal systems; and

(3) Any new discharges into public right-of-ways have complied with the governing agencies discharge review process;

(D) Narrative, map or plan information necessary to demonstrate compliance with applicable provisions of the county zoning code. The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.

Section 7. §29.305 is renumbered and amended as follows:

§ 29.305345 GRADING AND EROSION CONTROL PERMIT STANDARDS.

Approval of development plans on sites subject to a grading and erosion control permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) *Design standards for grading and erosion control.*

(1) *Grading standards.*

(a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The director may require additional studies or information or work regarding fill materials and compaction;

(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;

(c) Cuts and fills shall not endanger or disturb adjoining property;

(d) The proposed drainage system shall have adequate capacity to ~~bypass all sheet flow through the~~ handle stormwater attributed to development on-site for ~~from a storm of ten-year design frequency and maintain the existing flood carrying capacity of all watercourses passing through~~ on or adjacent to the property;

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the existing flood carrying capacity for the altered portion of the stream.

(2) *Erosion control standards.*

(a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*" and the "*City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)*." ~~Land~~Ground-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland: unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.

(b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

(c) Development plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;

(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland;

2. The buffer required in subsection (e)1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "*Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)*" and the "*City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)*" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

(g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

(h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

(i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

(j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

(k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

(l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

1. Energy absorbing devices to reduce runoff water velocity;
2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
3. Dispersal of water runoff from developed areas over large undisturbed areas.

(m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

(n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

~~(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the Erosion Control Plans Technical Guidance Handbook (January, 1991). All land disturbing activities within the basin shall be confined to the period between May 1 and October 1 of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October 1 the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December 1 the same year the development was begun.~~

(B) *Responsibility.*

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such

sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

(C) *Implementation.*

(1) *Performance bond.* A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) *Inspection and enforcement.* The director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subdistrict shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the ~~Hillside Development Permit or Grading and Erosion Control Permit~~, work may be stopped until appropriate correction measures are completed.

(D) *Final approvals.* A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

Section 8. § 29.306 is renumbered as follows

29.306-348 PERMIT FEE.

A fee for a grading and erosion control permit is imposed and the amount will be set by Board resolution.

Section 9. §29.320 is renumbered and amended as follows:

§ 29.320-350- PURPOSES.

The purposes of the Grading and Erosion Control ordinance are to promote the public health, safety and general welfare, and minimize erosion and related environmental damage in the West of Sandy River Plan Area of unincorporated Multnomah County, all in accordance with ORS 215, ~~LCDC~~ Statewide Planning Goal No. 6 and the County Comprehensive Framework Plan Policies ~~13 and 14~~ and 37. This subdistrict is intended to:

- (A) Protect human life;
- (B) Protect property and structures;

- (C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;
- (D) Control erosion, production and transport of sediment;
- (E) Regulate land development actions including excavation and fills, drainage controls and protect exposed soil surfaces from erosive forces; and
- (F) Control stormwater discharges and protect streams, ponds, and wetlands.

Section 10. §29.321 is renumbered and amended as follows:

§ 29.321351 EROSION CONTROL RELATED DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

~~**CERTIFIED ENGINEERING GEOLOGIST.** Any person who has obtained certification by the state as an engineering geologist.~~

CUT.

- (1) An excavation;
- (2) The difference between a point on the original ground surface and the point of lowest elevation on the final grade;
- (3) The material removed in excavation work.

~~**DEVELOPMENT.** Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. Any other activity that results in the removal of more than 10 percent of the existing vegetation in a Water Resource Area or Habitat Area on a lot or parcel. (Title 3)~~

DEVELOPMENT-DISTURBED AREA. The total area of alteration of the naturally occurring ground surface resulting from construction activities whether permanent or temporary.

DRAINAGE AREA. The subject property together with the watershed (acreage) contributing water runoff to and receiving water runoff from the subject property.

DRAINAGEWAY. Any natural or artificial stream, swale, creek, river, ditch, channel, canal or other open water-course.

EARTH MOVEMENT. Any type of land surface failure resulting in the downslope movement of material. The term includes, but is not limited to, soil creep, mudflow, rockslides, block failures, and massive landslides.

EROSION. The wearing away or removal of earth surface materials by the action of natural elements or forces including, but not limited to, wind, water or gravity.

EXCAVATION. Any act by which earth, sand, gravel, rock or any similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, including the conditions resulting therefrom.

FILL.

(1) Any act by which earth, sand, gravel, rock or similar material is pushed, placed, dumped, stacked, pulled, transported, or in any way moved to a new location above the existing natural surface of the ground or on the top of a stripped surface, including the condition resulting there from.

(2) The difference in elevation between a point on the original ground surface and the point of higher elevation on a finished grade.

(3) The material used to make a fill.

~~———— **GEOTECHNICAL ENGINEER.** A civil engineer, licensed to practice in the state, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.~~

~~———— **GEOTECHNICAL REPORT.** Any information required in addition to Form 1 which clarifies the geotechnical conditions of a proposed development site. Examples of this would be reports on test hole borings, laboratory tests or analysis of materials, or hydrologic studies.~~

GRADING. Any stripping, cutting, filling, stockpiling or any combination thereof, including the land in its cut or filled condition.

GRAVEL. Aggregate composed of hard and durable stones or pebbles, crushed or uncrushed, more than half of which is retained on a No. 4 sieve (2 mm).

GROUND DISTURBING ACTIVITY. Any activity that exposes soil through the use of motorized equipment.

~~———— **HDP FORM 1.** The form required for specified developments subject to the Hillside Development and Erosion Control Subdistrict. It contains a geotechnical reconnaissance and stability questionnaire which must be filled out and certified by a certified engineering geologist or geotechnical engineer.~~

~~———— **LAND DISTURBING ACTIVITIES.** Any act which alters earth, sand, gravel, or similar materials and exposes the same to the elements of wind, water, or gravity. Land disturbing activities include: excavations or fills, site grading, and soil storage.~~

MULCH. Organic materials, such as straw, bark, jute, coconut fibers, or nut shells spread over the surface of the ground, especially freshly graded or exposed soils, to prevent physical damage from erosive agents such as storm water, precipitation or wind, and which shield soil surfaces until vegetative cover or other stabilization measures can take effect.

ORDINARY HIGH WATER MARK. Features found by examining the bed and banks of a stream and ascertaining where the presence and action of waters are so common and usual, and so long maintained in all ordinary years, as to mark upon the land a character distinct from that of the abutting upland, particularly with respect to vegetation. For streams where such features cannot be found, the channel bank shall be substituted. In braided channels and alluvial fans, the ordinary high water mark shall be measured to include the entire stream feature.

SLOPE.

- (1) Any ground whose surface makes an angle from the horizontal; or
- (2) The face of an embankment or cut section.

~~—— ***SLOPE HAZARD MAP.*** A series of maps (Figures 1A through 6A.) prepared by Shannon & Wilson, Inc., dated September, 1978, and on file in the Office of the director, Department of Environmental Services.~~

SPOIL MATERIAL. Any rock, sand, gravel, soil or other earth material removed by excavation or other grading activities.

STREAM. Areas where surface waters flow sufficient to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, stormwater runoff devices or other entirely artificial watercourses unless they are used to convey Class 1 or 2 streams naturally occurring prior to construction. Those topographic features resembling streams but which have no defined channels (such as, swales) shall be considered streams when hydrologic and hydraulic analyses performed pursuant to a development proposal predict formation of a defined channel after development.

STREAM PROTECTION. Activities or conditions which avoid or lessen adverse water quality and turbidity effects to a stream.

TOPOGRAPHIC INFORMATION. Surveyed elevation information which details slopes, contour intervals and drainageways. Topographic information shall be prepared by a registered land surveyor or a registered professional engineer qualified to provide such information and represented on maps with a contour interval not to exceed ten feet.

VEGETATION. All plant growth, especially trees, shrubs, grasses and mosses.

VEGETATIVE PROTECTION. Stabilization of erosive or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, producing long-term vegetative cover;
- (2) Short-term seeding, producing temporary vegetative cover;
- (3) Sodding, producing areas covered with a turf or perennial sod-forming grass; or
- (4) Netting with seeding if the final grade has not stabilized.

~~***WATER BODY.*** Areas permanently or temporarily flooded which may exceed the deepwater boundary of wetlands. Water depth is such that water, and not the air, is the principal medium in which prevalent organisms live. Water bodies include rivers, creeks, lakes, and ponds. Rivers, streams, sloughs, drainages, including intermittent streams and seeps, ponds, lakes, aquifers, wetlands, and coastal waters.~~

~~***WATERCOURSE.*** Natural and artificial features which transport surface water. WATERCOURSE includes a river, stream, creek, slough, ditch, canal, or drainageway. A channel in which a flow of water occurs, either continuously or intermittently with some degree of regularity. Watercourses may be either natural or artificial.~~

Section 11. §29.353 is added as follows:

§ 29.353 REQUIREMENTS FOR A MINIMAL IMPACT PROJECT

The following are the minimum erosion control requirements for all ground disturbing activities where a permit is not otherwise required under §29.327 or exempt under §29.328 this subchapter:

(A) Prior to initiating work, persons proposing ground disturbing activities shall provide to the County two copies of a map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Persons conducting ground disturbing activities are to utilize erosion control measures prescribed in the current edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook." Measures are to be installed prior to commencement of grading work and are to be maintained, in working order, through all phases of development.

(C) Persons creating new impervious surfaces exceeding 500 square feet shall install a stormwater drainage system. The system shall be designed to ensure that the rate of runoff for the 10 year 24 hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse.

(D) The planning director may take steps to ensure compliance with the requirements of this subsection, including but not limited to, field inspections by County staff, post construction certification of the work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site.

Section 12. §29.322 is renumbered and amended as follows:

§ 29.322356 PERMITS REQUIRED.

The following activities require a Grading and Erosion Control permit, subject to § 29.325 and §29.326:

(A) Grading and erosion control permit. All persons proposing land disturbing activities or development. All ground disturbing activities where:

(1) Where the volume of soil or earth material disturbed, stored, disposed of or used as fill exceeds 10 cubic yards; More than 10,000 square feet of surface area is disturbed (excluding the placement of gravel, or asphalt) at any one time; or

(2) Which obstructs or alters a drainage course; or Areas disturbed are within 200' by horizontal measurement from the top of the bank of a water body or from the boundary of National Wetlands Inventory mapped wetlands associated with a water body, whichever distance is greater; or

(3) Which takes place within 100 feet by horizontal measurement from the top of the bank of a watercourse, the mean high watermark (line of vegetation) of a body of water, or within the wetlands associated with a watercourse or water body, whichever distance is greater, shall obtain a grading and erosion control permit as prescribed by this subdistrict, unless exempted by §§ 29.323(B)(2) through (6) or (C) of this subchapter. Development projects subject to a hillside development permit do

not require a separate grading and erosion control permit. Slopes before development are greater than 10 percent (10 Horizontal: 1 Vertical); or

(4) Unsupported finished slopes exceed a 33 percent (3 Horizontal: 1 Vertical) grade and five feet in height.

~~_____ (B) Grading and erosion control permit. All persons proposing land disturbing activities within the Tualatin River and Balch Creek Drainage Basins shall first obtain a grading and erosion control permit, except as provided by § 29.323(C) of this subchapter.~~

_____ (B) Hydrologic scour attributed to development resulting in visible erosion, turbidity, or sediment deposition within a water body.

_____ (C) Development projects subject to a hillside development permit do not require a separate grading and erosion control permit.

Section 13. §29.323 is renumbered and amended as follows:

§ 29.32359 EXEMPT LAND USES AND ACTIVITIES.

The following are exempt from the provisions of this subchapter:

~~_____ (A) Prior development. Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site specific requirements applicable herein.~~

~~_____ (B) General exemptions. Outside the Tualatin River and Balch Creek Drainage Basins, all land disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this Subdistrict if:~~

~~_____ (1) Natural and finished slopes will be less than 25%;~~

~~_____ (2) The disturbed or filled area is 20,000 square feet or less;~~

~~_____ (3) The volume of soil or earth materials to be stored is 10 cubic yards or less;~~

~~_____ (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet;~~

~~_____ (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and~~

~~_____ (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.~~

~~_____ (C) Categorical exemptions. Notwithstanding divisions (A) and (B)(1) through (6) of this section, the following activities are exempt from the permit requirements:~~

~~_____ (1A) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation, nor exempt any excavation having an unsupported finished~~

height greater than five feet. Test pits or borings excavated for purposes of geotechnical evaluation or septic system suitability.

———(2B) Cemetery graves, but not cemetery soil disposal sites.

———(3C) Excavations for wells, ~~except that sites in the Tualatin Basin shall require Erosion Control Plans for spoils or exposed areas consistent with OAR 340-41-455(3).~~

———(4D) Mineral extraction activities as regulated by the county zoning code.

———(5E) Exploratory excavations under the direction of certified engineering geologists or geotechnical engineers.

———(6F) Routine agricultural ~~erop~~-management practices.

———(7G) Residential gardening and landscape maintenance at least 100 feet by horizontal measurement from the top of the bank of a watercourse, or the mean high watermark (line of vegetation) of a body of water or wetland.

———(8H) Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazards.

———(9I) Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry.

(J) Grading activities attributed to routine road maintenance when undertaken by an organization operating under Limit 10, Section 4d of the Endangered Species Act.

Section 14. §29.324 is renumbered and amended as follows:

§ 29.324362 APPLICATION INFORMATION REQUIRED.

An application for development subject to the requirements of this subdistrict shall include two copies of the following:

(A) A map, drawn to scale, showing the property line locations, area of disturbance, ground topography (contours), roads and driveways, existing structures, trees with eight-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s), erosion control measures, existing sanitary drainfields, existing drywells, and trees proposed for removal.

(B) Calculations. ~~An estimating the volume of depths and the extent and location of all~~ proposed cuts and fills.

(C) The location of planned and existing sanitary drainfields and drywells. Documents stamped by an Oregon licensed Professional Engineer demonstrating that:

(1) Stormwater runoff attributed to the development will be managed on-site for a storm of ten-year, 24 hour design frequency or, is to be discharged to a watercourse in or adjacent to the property at pre-developed rates;

(2) Surcharges to sanitary drainfields have been reviewed by the City of Portland Sanitarian or other agencies authorized to review waste disposal systems; and

(3) Any new discharges into public right-of-ways have complied with the governing agencies discharge review process;

(D) Narrative, map or plan information necessary to demonstrate compliance with applicable provisions of the county zoning code. The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.

Section 15. §29.325 is renumbered and amended as follows:

§ 29.325365 GRADING AND EROSION CONTROL PERMIT STANDARDS.

Approval of development plans on sites subject to a grading and erosion control permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) Design standards for grading and erosion control.

(1) Grading standards.

(a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The director may require additional studies or information or work regarding fill materials and compaction;

(b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;

(c) Cuts and fills shall not endanger or disturb adjoining property;

(d) The proposed drainage system shall have adequate capacity to ~~bypass all sheet flow through the~~ handle stormwater attributed to development on-site for ~~from a storm of ten-year design frequency and maintain the existing flood carrying capacity of all watercourses passing through~~ on or adjacent to the property;

(e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the existing flood carrying capacity for the altered portion of the stream.

(2) Erosion control standards.

(a) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

(b) Development plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;

(c) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

(d) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100 feet of a wetland;

2. The buffer required in subsection (d)1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook" and the "City of Portland Stormwater Quality Facilities, A Design Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;

(e) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

(f) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

(g) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

(h) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

(i) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

(j) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

(k) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

1. Energy absorbing devices to reduce runoff water velocity;
2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
3. Dispersal of water runoff from developed areas over large undisturbed areas.

(l) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

(m) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be

prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

(B) Responsibility

(1) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;

(2) It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

(C) Implementation.

(1) Performance bond. A performance bond may be required to assure the full cost of any required erosion and sediment control measures. The bond may be used to provide for the installation of the measures if not completed by the contractor. The bond shall be released upon determination the control measures have or can be expected to perform satisfactorily. The bond may be waived if the director determines the scale and duration of the project and the potential problems arising therefrom will be minor.

(2) Inspection and enforcement. The director may take steps to ensure compliance with the requirements of this sub-section, including but not limited to, inspections, peer review of engineering analysis (at the applicant's expense), post construction certification of work, and the posting of a notice providing County contact information in the event that questions arise concerning work occurring on-site. The requirements of this subdistrict shall be enforced by the planning director. If inspection by county staff reveals erosive conditions which exceed those prescribed by the ~~Hillside Development Permit~~ or Grading and Erosion Control Permit, work may be stopped until appropriate correction measures are completed.

(D) Final approvals. A certificate of occupancy or other final approval shall be granted for development subject to the provisions of this subdistrict only upon satisfactory completion of all applicable requirements.

Section 16. § 33.6183 is amended as follows

33.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

- (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;
- (b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305-345 when applicable;
- (c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and
- (d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 17. § 34.6183 is amended as follows

34.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

- (a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;
- (b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through 29.305-345 when applicable;
- (c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and
- (d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 18. § 35.6183 is amended as follows

35.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

(a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;

(b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 through ~~29.305-345~~ when applicable;

(c) The facility shall comply with Flood Hazard regulations of MCC 29.600 through 29.611 when applicable; and

(d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 19. § 36.6183 is amended as follows

36.6183 APPROVAL CRITERIA FOR LANDS NOT ZONED EXCLUSIVE FARM USE.

To be approved all applications for Planning Director Review, Community Service Review or Building Permit Review of a wireless communications facility (WCF) shall demonstrate compliance with the following:

(A) General and Operating Requirements

(4) Environmental Resource Protection. All wireless communication facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all WCFs:

(a) The facility shall comply with Significant Environmental Concern regulations when applicable, including the conditions of an SEC permit for any excavation or removal of materials of archaeological, historical, prehistorical or anthropological nature;

(b) The facility shall comply with Grading and Erosion Control regulations of MCC 29.300 ~~350~~ through ~~29.305-365~~ when applicable;

(c) The facility shall comply with Flood Hazard regulations of MCC ~~29.600-620~~ through ~~29.611-630~~ when applicable; and

(d) Alteration or disturbance of native vegetation and topography shall be minimized.

Section 20. § 36.2060 is amended as follows

36.2060 DIMENSIONAL REQUIREMENTS.

(I) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 21. § 36.2660 is amended as follows

36.2660 DIMENSIONAL REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 22. § 36.2855 is amended as follows

36.2855 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 23. § 36.3155 is amended as follows

36.3155 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 24. § 36.3355 is amended as follows

36.3355 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 25. § 36.3455 is amended as follows

36.3455 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

Section 26. § 36.3550 is amended as follows

36.3550 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.300.

FIRST READING:

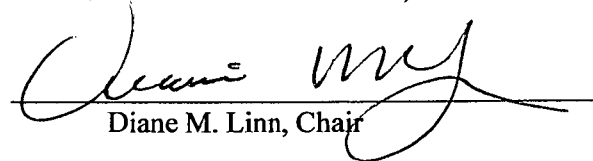
June 24, 2004

SECOND READING AND ADOPTION:

July 8, 2004

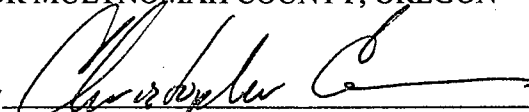


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Christopher D. Crean, Assistant County Attorney

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: R-2

Est. Start Time: 9:30 AM

Date Submitted: 06/24/04

Requested Date: July 8, 2004

Time Requested: 5 Minutes

Department: Business and Community Services **Program:** Land Use & Transportation

Contact/s: Gary Clifford / Karen Schilling

Phone: 503-988-3043

Ext.: 26782

I/O Address: 455/116

Presenters: Gary Clifford

Agenda Title: First Reading and Possible Adoption of an ORDINANCE Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan and Declaring an Emergency

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.**

1. **What action are you requesting from the Board? What is the department/agency recommendation?** Adopt the ordinance related to regulations for Radio Frequency Transmission Facilities and the South Waterfront Plan in compliance with Metro's Functional Plan as recommended by the Portland Planning Commission and adopted by the Portland City Council.
2. **Please provide sufficient background information for the Board and the public to understand this issue.** On October 11, 2001 the Board adopted Ordinance 967 (effective date January 1, 2002) adopting, in summary, the Portland Comprehensive Plan and zoning ordinance. The County and the City of Portland have been engaged in agreements enabling the City of Portland to provide planning services to achieve compliance with the Metro Functional Plan for those areas outside the City limits, but within the urban growth boundary and urban service boundary of Portland. Since the adoption of Ordinance 967 and subsequently

Ordinance 997, the attached ordinances have been passed by the City Council and therefore the County must adopt them pursuant to our intergovernmental agreement to keep the code up to date. Multnomah County and the City of Portland entered into an Intergovernmental Agreement (IGA) to transfer land use planning responsibilities on January 1, 2002. The IGA lays out a process requiring the County to ensure that any City Council adopted amendments to the City comprehensive plan, zoning code and other regulations adopted by the County Board of Commissioners will be considered by the County Board of Commissioners at the earliest possible meeting. It also states "The County Board of Commissioners shall enact all comprehensive plan and code amendments so that they take effect on the same date specified by the City's enacting ordinance" (unless adopted by emergency). The City will have taken action on all of the above items by the hearing date of this ordinance. If the County does not adopt these amendments, the IGA will be void and the County will be required to resume responsibility for planning and zoning administration within the affected areas.

3. **Explain the fiscal impact (current year and ongoing).** NA
4. **Explain any legal and/or policy issues.** State law requires a notice be placed in a newspaper of general circulation 10 days prior (06/28/04) to the BCC hearing. We request adoption of this ordinance by emergency to closely follow the City of Portland adoption dates (06/18/04 & 6/20/04) as stated in the IGA. Portland failed to provide the County notice of these items in time for the County to adopt them to coincide with the City's adoption date. The County Attorney's office was involved in the drafting of the original IGA and has been involved in coordinating our compliance effort through adoption of these code amendments.
5. **Explain any citizen and/or other government participation that has or will take place.** The City included the County affected property owners in their noticing for these code revisions when required pursuant to the IGA and directed them to the City legislative process.

Required Signatures:

Department/Agency Director:

Robert A. Maestre

Date: 06/26/04

Budget Analyst

By:

Date:

Dept/Countywide HR

By:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan and Declaring an Emergency

The Multnomah County Board of Commissioners Finds:

- a. The Board of County Commissioners (Board) adopted Resolution A in 1983 which directed the County services towards rural services rather than urban.
- b. In 1996, Metro adopted the Functional Plan for the region, mandating that jurisdictions comply with the goals and policies adopted by the Metro Council.
- c. In 1998, the County and the City of Portland (City) amended the Urban Planning Area Agreement to include an agreement that the City would provide planning services to achieve compliance with the Functional Plan for those areas outside the City limits, but within the Urban Growth Boundary and Portland's Urban Services Boundary.
- d. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within unincorporated areas inside the Urban Growth Boundary for which the City provides urban planning and permitting services. The Board intends to exempt these areas from the requirements of MCC 37.0710, and will instead consider the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by intergovernmental agreement (County Contract #4600002792) (IGA).
- e. On June 24, 2004, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments in compliance with Metro's Functional Plan by Ordinance 1041.
- f. Since the adoption of Ordinance 1041, the City's Planning Commission recommended land use code, plan and map amendments to the City Council through duly noticed public hearings.
- g. The City notified affected County property owners as required by the IGA.

- h. The City Council adopted the land use code, plan and map amendments, set out in Section 1 below and attached as Exhibits 1 through 4. The IGA requires that the County adopt these amendments for the City planning and zoning administration within the affected areas.

Multnomah County Ordains as follows:

Section 1. The County Comprehensive Framework Plan, community plans, rural area plans, sectional zoning maps and land use code chapters are amended to include the City land use code, plan and map amendments, attached as Exhibits 1 through 4 and effective on the same date as the respective Portland ordinance:

Exhibit No.	Description	Effective / Hearing Date
1	Ordinance amending Portland Zoning Code to clarify regulations for Radio Frequency Transmission Facilities; Title 33 (PDX Ord. #178480)	6/18/04
2	Code Maintenance 2004 Part 1B: Amendments Related to Radio Frequency Transmission Facilities	6/18/04
3	Ordinance amending Portland Zoning code to implement the South Waterfront Plan (PDX Ord. #178425)	6/20/04
4	Code Maintenance 2004 Part 2 of 2: South Waterfront Related Amendments	6/20/04

Section 2. In accordance with ORS 215.427(3), the changes resulting from Sections 1 of this ordinance shall not apply to any decision on an application that is submitted before the applicable effective date of this ordinance and that is made complete prior to the applicable effective date of this ordinance or within 180 days of the initial submission of the application.

Section 3. In accordance with ORS 92.040(2), for any subdivisions for which the initial application is submitted before the applicable effective date of this ordinance, the subdivision application and any subsequent application for construction shall be governed by the County's land use regulations in effect as of the date the subdivision application is first submitted.

Section 4. Any future amendments to the legislative matters listed in Section 1 above, are exempt from the requirements of MCC 37.0710. The Board acknowledges, authorizes and agrees that the Portland Planning Commission will act instead of the Multnomah Planning Commission in the subject unincorporated areas using the City's own procedures, to include notice to and participation by County citizens. The Board

Page 3 of 4 – Ordinance Amending Land Use Code, Plans and Maps

EXHIBIT LIST FOR ORDINANCE

1. Ordinance amending Portland Zoning Code to clarify regulations for Radio Frequency Transmission Facilities; Title 33 (PDX Ord. #178480)
2. Code Maintenance 2004 Part 1B: Amendments Related to Radio Frequency Transmission Facilities
3. Ordinance amending Portland Zoning code to implement the South Waterfront Plan (PDX Ord. #178425)
4. Code Maintenance 2004 Part 2 of 2: South Waterfront Related Amendments

Prior to adoption, this information is available electronically or for viewing at the Multnomah County Board of Commissioners and Agenda website (www.co.multnomah.or.us/cc/WeeklyAgendaPacket/). To obtain the adopted ordinance and exhibits electronically, please contact the Board Clerk at 503-988-3277. These documents may also be purchased on CD-Rom from the Land Use and Transportation Program. Contact the Planning Program at 503-988-3043 for further information.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1043

Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Plan and Map Revisions in Compliance with Metro's Functional Plan and Declaring an Emergency

The Multnomah County Board of Commissioners Finds:

- a. The Board of County Commissioners (Board) adopted Resolution A in 1983 which directed the County services towards rural services rather than urban.
- b. In 1996, Metro adopted the Functional Plan for the region, mandating that jurisdictions comply with the goals and policies adopted by the Metro Council.
- c. In 1998, the County and the City of Portland (City) amended the Urban Planning Area Agreement to include an agreement that the City would provide planning services to achieve compliance with the Functional Plan for those areas outside the City limits, but within the Urban Growth Boundary and Portland's Urban Services Boundary.
- d. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within unincorporated areas inside the Urban Growth Boundary for which the City provides urban planning and permitting services. The Board intends to exempt these areas from the requirements of MCC 37.0710, and will instead consider the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by intergovernmental agreement (County Contract #4600002792) (IGA).
- e. On June 24, 2004, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments in compliance with Metro's Functional Plan by Ordinance 1041.
- f. Since the adoption of Ordinance 1041, the City's Planning Commission recommended land use code, plan and map amendments to the City Council through duly noticed public hearings.
- g. The City notified affected County property owners as required by the IGA.

- h. The City Council adopted the land use code, plan and map amendments, set out in Section 1 below and attached as Exhibits 1 through 4. The IGA requires that the County adopt these amendments for the City planning and zoning administration within the affected areas.

Multnomah County Ordains as follows:

Section 1. The County Comprehensive Framework Plan, community plans, rural area plans, sectional zoning maps and land use code chapters are amended to include the City land use code, plan and map amendments, attached as Exhibits 1 through 4 and effective on the same date as the respective Portland ordinance:

Exhibit No.	Description	Effective / Hearing Date
1	Ordinance amending Portland Zoning Code to clarify regulations for Radio Frequency Transmission Facilities; Title 33 (PDX Ord. #178480)	6/18/04
2	Code Maintenance 2004 Part 1B: Amendments Related to Radio Frequency Transmission Facilities	6/18/04
3	Ordinance amending Portland Zoning code to implement the South Waterfront Plan (PDX Ord. #178425)	6/20/04
4	Code Maintenance 2004 Part 2 of 2: South Waterfront Related Amendments	6/20/04

Section 2. In accordance with ORS 215.427(3), the changes resulting from Sections 1 of this ordinance shall not apply to any decision on an application that is submitted before the applicable effective date of this ordinance and that is made complete prior to the applicable effective date of this ordinance or within 180 days of the initial submission of the application.

Section 3. In accordance with ORS 92.040(2), for any subdivisions for which the initial application is submitted before the applicable effective date of this ordinance, the subdivision application and any subsequent application for construction shall be governed by the County's land use regulations in effect as of the date the subdivision application is first submitted.

Section 4. Any future amendments to the legislative matters listed in Section 1 above, are exempt from the requirements of MCC 37.0710. The Board acknowledges, authorizes and agrees that the Portland Planning Commission will act instead of the Multnomah Planning Commission in the subject unincorporated areas using the City's own procedures, to include notice to and participation by County citizens. The Board

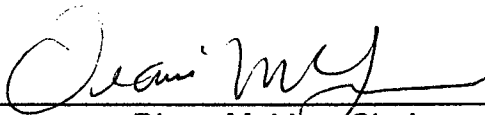
will consider the recommendations of the Portland Planning Commission when legislative matters for County unincorporated areas are before the Board for action.

Section 5. An emergency is declared in that it is necessary for the health, safety and general welfare of the people of Multnomah County for this ordinance to take effect concurrent with the City code, plan and map amendments. Under section 5.50 of the Charter of Multnomah County, this ordinance will take effect in accordance with Section 1.

FIRST READING AND ADOPTION: July 8, 2004



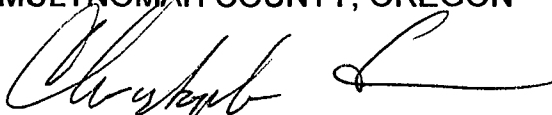
BOARD OF COUNTY COMMISSIONERS,
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Christopher D. Crean, Assistant County Attorney

EXHIBIT LIST FOR ORDINANCE

1. Ordinance amending Portland Zoning Code to clarify regulations for Radio Frequency Transmission Facilities; Title 33 (PDX Ord. #178480)
2. Code Maintenance 2004 Part 1B: Amendments Related to Radio Frequency Transmission Facilities
3. Ordinance amending Portland Zoning code to implement the South Waterfront Plan (PDX Ord. #178425)
4. Code Maintenance 2004 Part 2 of 2: South Waterfront Related Amendments

Prior to adoption, this information is available electronically or for viewing at the Multnomah County Board of Commissioners and Agenda website (www.co.multnomah.or.us/cc/WeeklyAgendaPacket/). To obtain the adopted ordinance and exhibits electronically, please contact the Board Clerk at 503-988-3277. These documents may also be purchased on CD-Rom from the Land Use and Transportation Program. Contact the Planning Program at 503-988-3043 for further information.

Ordinance No. 178480 As Amended

*Amend Title 33, Planning and Zoning to clarify the regulations for Radio Frequency Transmission Facilities without changing policy or intent of the original regulations. (Ordinance)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. The City Council adopted a new Zoning Code in November 1990, to be implemented on January 1, 1991.
2. During the adoption of the new Zoning Code, the Council recognized that the new code would occasionally need "fine-tuning" to resolve unanticipated issues. The Council additionally recognized that minor amendments to the Code would periodically be required in order to maintain compliance with existing policy.
3. Code Maintenance 2004 is the fifth annual package of amendments and is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. As in the past, the amendment package consists primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing existing land use policy or intent. The Code Maintenance process has also been used to implement portions of other legislative planning projects when additional time is needed to complete the work needed on Zoning Code amendments.
4. Code Maintenance 2004 is part of the City's 2003/4 Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. In Resolution 36162, the City Council directed the Bureau of Development Services (BDS) to undertake Code Maintenance 2004 and to seek a recommendation on the amendments from the Planning Commission.
5. The proposed amendments in the Code Maintenance 2004 package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from BDS, Bureau of Planning, and other City agencies. In developing the initial Code Maintenance 2004 list, the model of the FY 2002-2003 Regulatory Improvement Workplan was followed. Initial ideas were developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts, and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.

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6. On January 7, 2004, Notice of the Proposed Amendment was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. Notice was also mailed to Metro on this date, in compliance with Urban Growth Management Functional Plan requirements. Updated notices on the proposed Code Maintenance project were mailed to DLCD and Metro on February 5, 2004 and April 26, 2004.
7. Notice of the Planning Commission hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on January 23, 2004. A Measure 56 Notice, as required by ORS 227.186, was mailed to property owners whose property value may be affected by Code Maintenance 2004 amendments on February 4, 2004.
8. On February 24, 2004, the Planning Commission held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
9. On March 9, 2004, the Planning Commission held a hearing to take additional public testimony on the Code Maintenance 2004 package. The Commission also had a work session to further discuss the proposed amendments and consider public testimony. At the end of the work session, the Commission voted unanimously to forward the Code Maintenance 2004 package, as amended, to the City Council with a recommendation that it be adopted.
10. The Planning Commission's recommended amendments on Code Maintenance 2004 were initially presented to the City Council in two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning* and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*.
11. Notice of the City Council hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on April 23, 2004.
12. On May 20, 2004, the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the Planning Commission's recommendation, and public testimony was received.
13. At the conclusion of the May 20th hearing the Council voted to adopt *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The Council also directed staff to separate Part 1 of 2 into two new documents and present them at an additional hearing on June 2, 2004. As divided, Part 1A contains all of the code amendments previously contained in Part 1, except for the amendments relating to radio frequency transmission facilities. Part 1A is being adopted by a separate ordinance. This ordinance is Part 1B and contains the code amendments and findings pertaining to radio frequency transmission facilities. Dividing Part 1 into two separate parts and ordinances has not changed the

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substance of the proposed code amendments, which were considered and recommended to the City Council by the Planning Commission.

14. On June 2, 2004 the Portland City Council held a second hearing on portions of the Code Maintenance 2004 project. Staff from BDS presented *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities* and public testimony was received.
15. The changes being made to the Radio Frequency Transmission Facilities regulations as part of the Code Maintenance project are relatively limited. A more comprehensive review of these regulations would provide the opportunity to establish a city-wide tower location policy, to develop effective co-location strategies by and between service providers that may reduce the proliferation of monopoles, and to create new development standards for monopoles that address their aesthetics and reduce their visual impacts.

Statewide Planning Goals Findings

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because Code Maintenance 2004 has a limited scope the amendments adopted by this ordinance address only some of the topics in the Statewide Planning Goals. Only the state goals addressed below apply.

16. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement. Portland Comprehensive Plan findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal in the following ways:
 - The initial Code Maintenance 2004 list was developed and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.
 - On January 23, 2004, BDS sent notice to all neighborhood associations and coalitions in the City of Portland, as well as other interested persons, to inform them of Open House events on February 4, 2004 and February 12, 2004. The purpose of the Open House events was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Four people attended the Open House held on February 4th and zero people attended on February 12th.

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- In the notice mailed on January 23, 2004, BDS also informed all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, of a Planning Commission public hearing on the Code Maintenance 2004 project. The hearing was also publicized in *The Oregonian* newspaper.
- On February 2, 2004, BDS published a document entitled, *Code Maintenance 2004: Proposed Report and Recommendation*. The report was made available to the public and mailed to all those requesting a copy. A copy of the document was also delivered to all neighborhood coalition offices.
- Beginning on January 26, 2004 information about Code Maintenance 2004 was available on the Bureau of Development Services web site. On January 26, 2004 the list of proposed amendments was posted on the web site and since then, all materials associated with Code Maintenance 2004 were added to the web site at the same time they were published.
- On February 13, 2004, BDS published a document entitled *Code Maintenance 2004: Addendum to Proposed Report and Recommendation* as well as a draft of this ordinance and a draft Impact Analysis Report.
- On February 24, 2004 BDS published a document entitled *Code Maintenance 2004: Second Addendum to Proposed Report and Recommendation* and on March 9, 2004 BDS published a document entitled *Code Maintenance 2004: Third Addendum to Proposed Report and Recommendation*.
- On February 24, 2004, the Planning Commission held a public hearing during which citizens discussed and commented on the *Proposed Report and Recommendation*. On March 9, 2004, the Planning Commission held a second hearing and public work session to further discuss the amendments.
- During their deliberations on the Code Maintenance 2004 package, the Planning Commission decided to remove two proposed amendments for further consideration. These amendments relate to accessory structures and accessory dwelling units. During their deliberations the Planning Commission also made several very minor changes to the proposed amendments. Upon completing their deliberations, the Planning Commission voted unanimously to forward a recommendation to City Council to adopt the Code Maintenance package as modified. The two documents *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments* contained the Commission's full recommendation on Code Maintenance 2004.
- On April 23, 2004, BDS sent notice to all neighborhood associations and coalitions and business associations in the City of Portland, as well as other

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interested persons, to inform them of a City Council public hearing on the Code Maintenance 2004 project.

- On April 26, 2004 BDS published two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 32 and Title 33, Planning and Zoning, and Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The required Impact Analysis Report was included in these documents.
 - On May 20, 2004 the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
 - At the conclusion of the May 20th hearing the Council voted to adopt *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The Council also directed staff to separate Part 1 of 2 into two new documents and present them at an additional hearing on June 2, 2004.
 - On June 2, 2004 the Portland City Council held a second hearing on portions of the Code Maintenance 2004 project. Staff from BDS presented *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities* and public testimony was received.
17. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions, and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because they clarify existing language in Title 33, Planning and Zoning, which implements the policies of Portland's *Comprehensive Plan*. Portland *Comprehensive Plan* findings on Goal 1, Metropolitan Coordination, and its related policies and objectives, also support this goal.
18. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. The amendments are consistent with this goal because the amendments do not change policy or intent of any of the existing regulations pertaining to open space, scenic and historic areas, and natural resources.
19. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not substantially change policy or intent of any of the existing regulations pertaining to economic development. The amendments are supportive of this goal because they reduce land use reviews and the cost associated with them. Portland *Comprehensive Plan* findings on Goal 5, Economic Development, and its related policies and objectives also support this goal.

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20. **Goal 11, Public Facilities and Services**, requires planning and development of timely, orderly and efficient public service facilities that serve as a framework for urban and rural development. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to public facilities and services. The amendments are supportive of this goal by clarifying the regulations for Radio Frequency Transmission Facilities and making them consistent for all service providers. Portland Comprehensive Plan findings on Goals 11, Public Facilities, and related policies and objectives also support this goal.
21. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. The amendments are consistent with this goal in that they do not affect the placement of the urban growth boundary, and as they do not change policy or intent of any of the existing regulations pertaining to urbanization. Portland Comprehensive Plan findings on Goal 2, Urban Development, and its related policies and objectives also support this goal.
22. **Goal 15, Willamette River Greenway**, requires the protection, conservation, enhancement, and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of land along the Willamette River. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the Willamette River Greenway.
23. **Goals 16, 17, 18, and 19** deal with **Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources**, respectively, and are not applicable to Portland as none of these resources is present within the City limits.

Metro Urban Growth Management Functional Plan Findings

Metro has adopted an Urban Growth Management Functional Plan (UGMFP) that requires local jurisdictions to adopt and amend comprehensive plans and land use regulations that are not inconsistent with its provisions. Because Code Maintenance 2004 has a limited scope, the amendments adopted by this ordinance address only some of the titles in the UGMFP. Only the titles addressed below apply.

24. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement has been implemented through citywide analysis based on calculated capacities from land use designations. These amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1.

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25. **Title 2, Regional Parking Policy**, regulates the amount of parking permitted by use for jurisdictions in the region. The amendments are consistent with this title because they do not change policy or intent of any of the existing regulations pertaining to regional parking policy. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations.
26. **Title 6, Regional Accessibility**, recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept. The City of Portland's responses to the requirements of this title were prepared through the Transportation System Plan and Land Division Code Rewrite Project. The amendments in Code Maintenance 2004 are not inconsistent with this title because they do not change policy or intent of the existing regulations related to regional accessibility.
27. **Title 8, Compliance Procedures**, outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are consistent with this Title because the required notices and findings have been provided to Metro in a timely manner.

Portland Comprehensive Plan Goals Findings

28. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.
29. This ordinance amends Title 33, Planning and Zoning, of the Portland City Code. The Council finds that following *Comprehensive Plan* goals, policies and objectives apply to the amendments and the amendments satisfy the applicable goals, policies and objectives for the reasons stated below.
30. During the course of public hearings, the Bureau of Development Services, the Planning Commission, and the City Council provided all interested parties opportunities to identify, either orally or in writing, any other *Comprehensive Plan* goal, policy or objective that might apply to the amendments. No additional provisions were identified.
31. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to metropolitan coordination. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. The amendments support this goal because they ensure that City land use

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regulations are consistent with policies and regulations of other City bureaus and State and Federal law.

32. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban development. The amendments clarify regulations related to the siting of Radio Frequency Transmission Facilities and reduce the need for land use reviews. These changes make the development process more predictable and less expensive, which supports new opportunities for jobs creation. The amendments also support the placement of Radio Frequency Transmission Facilities within the public right-of-way, which helps to retain the character of established neighborhoods.
33. **Goal 3, Neighborhoods**, calls for preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the stability and diversity of neighborhoods. The amendments also support the placement of Radio Frequency Transmission Facilities within the public right-of-way, which helps to preserve and reinforce the stability of the city's neighborhoods.
34. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development and support the growth and expansion of the cellular phone industry. The amendments support this goal because they reduce the need for land use reviews, provide equal level of regulations for all cellular phone service providers and make the city's threshold for regulations equivalent to those specified by the Federal Communications Commission.
35. **Goal 6, Transportation**, calls for the development of a balanced, equitable and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation. The amendments further the Goal 6 intent to support a strong and diverse economy in that they remove existing impediments to the placement of Radio Frequency Transmission Facilities within the public right-of way.
36. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. The amendments are consistent with this goal because they do not change policy or intent of

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existing regulations relating to environment. The amendments include word and structural changes that improve the clarity and implementation of existing regulations.

37. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process. Findings on the Statewide Planning Goal 1, Citizen Involvement, also support this goal.
38. **Goal 10, Plan Review and Administration**, requires that Portland's Comprehensive Plan and its implementing ordinances undergo a periodic review. These amendments are supportive of this goal because, beginning in 2000, the city has undertaken Code Maintenance projects as part of that periodic review process with the specific goals of clarifying the Zoning Code, eliminating conflicts, and reducing need for land use reviews.
39. **Policy 10.10 Amendments to the Zoning and Subdivision Regulations** calls for amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban area. **Objective 10.10.C** seeks to improve the Zoning Code by: using clear language, maintaining a clear, logical organization; using a format and page layout that eases use of the document by lay-people as well as professional; and using tables and drawings to add clarity and to shorten the text. The primary purpose of the Code Maintenance 2004 amendments supports this policy and objective because the package as a whole improves clarity, enhances readability, reduces conflicts, and supports the structure and format of the Zoning Code.
40. **Goal 11 A, Public Facilities, General**, calls for provision of a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to public facilities. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. The amendments support this goal because they clarify language or reduce the need for land use reviews that are often affect Radio Frequency Transmission Facilities.
41. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. The amendments make word and structural changes that improve the clarity and implementation of existing policy and regulations. The amendments that support Goal 12 and its relevant policies because they encourage the placement of Radio Frequency Transmission Facilities within the public right-of-way on existing utility poles.

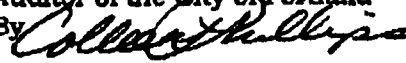
NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities*, dated May 28, 2004;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities*, dated May 28, 2004;
- c. Adopt as legislative intent and as further findings the commentary in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1B: Amendments Related to Radio Frequency Transmission Facilities*, dated May 28, 2004; and
- d. The Bureau of Planning shall initiate a legislative planning process and, in collaboration with the Office of Cable Communications and the Bureau of Development Services, will comprehensively examine the land use policies and Zoning Code regulations related to Radio Frequency Transmission Facilities. The Council also directs the Bureau of Planning to develop proposals for changes to the policies and regulations, to present those proposals to the Portland Planning Commission, and to bring forward their recommendation for consideration by the City Council.

Section 2. The Council declares an emergency exists because numerous required land use reviews will be eliminated by adoption of these amendments. Delay in adopting the amendments will significantly add to the cost of doing business in Portland for cellular phone service providers by requiring unnecessary land use reviews. Therefore, this ordinance shall be in full force and effect June 18, 2004.

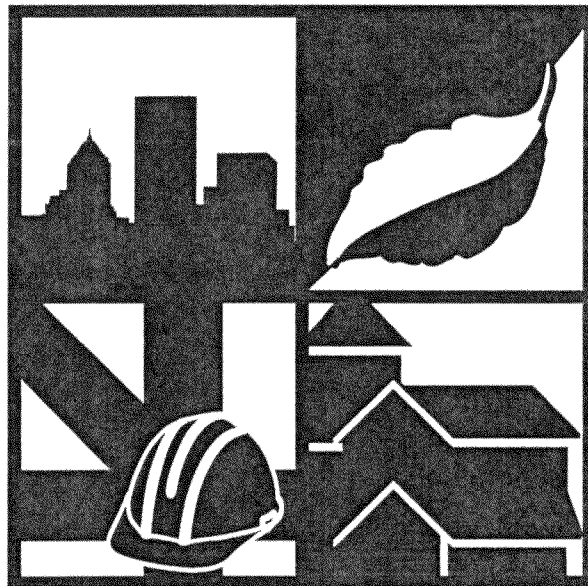
PASSED BY THE COUNCIL, JUN 09 2004

Mayor Vera Katz
Commissioner Randy Leonard
Susan Hartnett, Bureau of Development Services
May 26, 2004

GARY BLACKMER
Auditor of the City of Portland
By 
Deputy

**Code Maintenance 2004 Part 1B:
Amendments Related to Radio Frequency
Transmission Facilities**

Adopted by Ordinance 178480



**City of Portland
Bureau of Development Services
Code Services Division**

June 18, 2004

Part 2

Ordinance No. 1 78425

***Amend Title 33, Planning and Zoning, to implement the South Waterfront Plan and clarify the development regulations without changing the original policy or intent (Ordinance; amend Title 33)**

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. The City Council adopted a new Zoning Code in November 1990, to be implemented on January 1, 1991.
2. During the adoption of the new Zoning Code, the Council recognized that the new code would occasionally need "fine-tuning" to resolve unanticipated issues. The Council additionally recognized that minor amendments to the Code would periodically be required in order to maintain compliance with existing policy.
3. The City Council adopted the South Waterfront Plan in October 2002 and directed that specific Zoning Code amendments be made in order to fully implement the Plan.
4. Code Maintenance 2004 is the fifth annual package of amendments and is part of a continuing effort to improve the clarity and structure of the Portland Zoning Code. As in the past, the amendment package consists primarily of technical amendments intended to correct and clarify the Zoning Code in order to improve its administration, without changing existing land use policy or intent. The Code Maintenance process has also been used to implement portions of other legislative planning projects when additional time is needed to complete the work needed on Zoning Code amendments.
5. Code Maintenance 2004 is part of the City's 2003/4 Regulatory Improvement Workplan (RIW), which was adopted by City Council in August 2003. In Resolution 36162, the City Council directed the Bureau of Development Services (BDS) to undertake Code Maintenance 2004 and to seek a recommendation on the amendments from the Planning Commission.
6. The proposed amendments in the Code Maintenance 2004 package were suggested by a range of interested stakeholders, including neighborhood advocates, development services customers, business owners, environmental advocates, land use consultants, and staff from BDS, Bureau of Planning, and other City agencies. In developing the initial Code Maintenance 2004 list, the model of the FY 2002-2003 Regulatory Improvement Workplan was followed. Initial ideas were developed from a database of requested amendments. The list was expanded and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review

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process. Meetings with community and business groups, email contacts, and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.

7. On January 7, 2004, Notice of the Proposed Amendment was mailed to the Department of Land Conservation and Development (DLCD) in compliance with the post-acknowledgement review process required by OAR 660-18-020. Notice was also mailed to Metro on this date, in compliance with Urban Growth Management Functional Plan requirements. Updated notices on the proposed Code Maintenance project were mailed to DLCD and Metro on February 5, 2004 and April 26, 2004.
8. Notice of the Planning Commission hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on January 23, 2004. A Measure 56 Notice, as required by ORS 227.186, was mailed to property owners whose property value may be affected by Code Maintenance 2004 amendments on February 4, 2004.
9. On February 24, 2004, the Planning Commission held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the proposal, and public testimony was received.
10. On March 9, 2004, the Planning Commission held a hearing to take additional public testimony on the Code Maintenance 2004 package. The Commission also had a work session to further discuss the proposed amendments and consider public testimony. At the end of the work session, the Commission voted unanimously to forward the Code Maintenance 2004 package, as amended, to the City Council with a recommendation that it be adopted.
11. The Planning Commission's recommended amendments on Code Maintenance 2004 are contained to two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The findings in this ordinance pertain to *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*.
12. Notice of the City Council hearing on Code Maintenance 2004 as required by PCC 33.740, Legislative Procedure, was mailed on April 23, 2004.
13. On May 20, 2004, the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the Planning Commission's recommendation, and public testimony was received.

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Statewide Planning Goals Findings

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. Because Code Maintenance 2004 has a limited scope the amendments adopted by this ordinance address only some of the topics in the Statewide Planning Goals. Only the state goals addressed below apply.

14. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement. Portland Comprehensive Plan findings on Goal 9, Citizen Involvement, and its related policies and objectives also support this goal. The amendments are supportive of this goal in the following ways:
- The initial Code Maintenance 2004 list was developed and modified through outreach efforts that were focused on the City's neighborhood association network, business associations, and other individuals and groups involved in or affected by the development review process. Meetings with community and business groups, email contacts and the Regulatory Improvement web site were vehicles for public input into the RIW including the Code Maintenance list of ideas.
 - On January 23, 2004, BDS sent notice to all neighborhood associations and coalitions in the City of Portland, as well as other interested persons, to inform them of Open House events on February 4, 2004 and February 12, 2004. The purpose of the Open House events was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Four people attended the Open House held on February 4th and zero people attended on February 12th.
 - In the notice mailed on January 23, 2004, BDS also informed all neighborhood association and coalitions, and business associations in the City of Portland, as well as other interested persons, of a Planning Commission public hearing on the Code Maintenance 2004 project. The hearing was also publicized in *The Oregonian* newspaper.
 - On February 2, 2004, BDS published a document entitled, *Code Maintenance 2004: Proposed Report and Recommendation*. The report was made available to the public and mailed to all those requesting a copy. A copy of the document was also delivered to all neighborhood coalition offices.
 - Beginning on January 26, 2004 information about Code Maintenance 2004 was available on the Bureau of Development Services web site. On January 26, 2004 the list of proposed amendments was posted on the web site and since then, all materials associated with Code Maintenance 2004 were added to the web site at the same time they were published.

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- On February 13, 2004, BDS published a document entitled *Code Maintenance 2004: Addendum to Proposed Report and Recommendation* as well as a draft of this ordinance and a draft Impact Analysis Report.
 - On February 24, 2004 BDS published a document entitled *Code Maintenance 2004: Second Addendum to Proposed Report and Recommendation* and on March 9, 2004 BDS published a document entitled *Code Maintenance 2004: Third Addendum to Proposed Report and Recommendation*
 - On February 24, 2004, the Planning Commission held a public hearing during which citizens discussed and commented on the *Proposed Report and Recommendation*. On March 9, 2004, the Planning Commission held a second hearing and public work session to further discuss the amendments.
 - During their deliberations on the Code Maintenance 2004 package, the Planning Commission decided to remove two proposed amendments for further consideration. These amendments relate to accessory structures and accessory dwelling units. During their deliberations the Planning Commission also made several very minor changes to the proposed amendments. Upon completing their deliberations, the Planning Commission voted unanimously to forward a recommendation to City Council to adopt the Code Maintenance package as modified. The two documents *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments* contain the Commission's full recommendation on Code Maintenance 2004.
 - On April 23, 2004, BDS sent notice to all neighborhood associations and coalitions and business associations in the City of Portland, as well as other interested persons, to inform them of a City Council public hearing on the Code Maintenance 2004 project.
 - On April 26, 2004 BDS published two documents: *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 1 of 2: Amendments to Title 33, Planning and Zoning*, and *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*. The required Impact Analysis Report was included in these documents.
 - On May 20, 2004 the Portland City Council held a hearing on the Code Maintenance 2004 project. Staff from BDS presented the recommendation, and public testimony was received.
15. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions, and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because they clarify

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existing language in Title 33, Planning and Zoning, which implement the policies of Portland's *Comprehensive Plan*. Portland *Comprehensive Plan* findings on Goal 1, Metropolitan Coordination also support this goal.

16. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. The amendments are consistent with this goal because the amendments do not change policy or intent of any of the existing regulations pertaining to open space, scenic and historic areas, and natural resources. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
17. **Goal 6, Air, Water and Land Resource Quality**, requires the maintenance and improvement of the quality of air, water and land resources, including the handling of solid wastes. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to air, water and land resource quality. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan. Portland *Comprehensive Plan* findings on Goal 8, Environment, and its related policies and objectives also support this goal.
18. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to recreational needs. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages greenway development that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
19. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because they do not substantially change policy or intent of any of the existing regulations pertaining to economic development. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area.
20. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to housing.

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The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development, which is expected to include significant housing for a range of incomes, in this area.

21. **Goal 12, Transportation**, requires provision of a safe, convenient and economic transportation system. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to transportation. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
22. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use. Urban growth boundaries shall be established to identify and separate urbanizable land from rural land. The amendments are consistent with this goal in that they do not affect the placement of the urban growth boundary, and as they do not change policy or intent of any of the existing regulations pertaining to urbanization. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is the last largely undeveloped area in Portland's Central City.
23. **Goal 15, Willamette River Greenway**, requires the protection, conservation, enhancement, and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of land along the Willamette River. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to the Willamette River Greenway. A specific amendment is supportive of this goal because it adopts a map that locates the top of bank line as directed by the City Council in their action on the South Waterfront Plan. Another specific amendment clarifies the timing of improvements for the South Waterfront greenway area and encourages greenway development that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
24. **Goals 16, 17, 18, and 19 deal with Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources, respectively, and are not applicable to Portland as none of these resources is present within the City limits.**

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Metro Urban Growth Management Functional Plan Findings

Metro has adopted an Urban Growth Management Functional Plan (UGMFP) that requires local jurisdictions to adopt and amend comprehensive plans and land use regulations that are not inconsistent with its provisions.

25. **Title 1, Requirements for Housing and Employment Accommodation,** requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement has generally been implemented through citywide analysis based on calculated capacities from land use designations. The amendments do not change policy or intent of existing regulations relating to the regional requirements for housing and employment accommodation, and therefore, do not affect the City's ability to meet Title 1. Specific amendments are consistent with this title because they clarify the regulations in the South Waterfront Subdistrict and encourage development, which is expected to include significant housing for a range of incomes, in this area.
26. **Title 2, Regional Parking Policy,** regulates the amount of parking permitted by use for jurisdictions in the region. The amendments are consistent with this title because they do not change policy or intent of any of the existing regulations pertaining to regional parking policy.
27. **Title 3, Water Quality and Flood Management Conservation,** calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to water quality and flood management conservation.
28. **Title 4, Retail in Employment and Industrial Areas,** calls for retail development that supports Employment and Industrial areas, and that does not serve a larger market area. The amendments are consistent with this title because they do not change policy or intent of existing regulations relating to retail in employment and industrial areas.
29. **Title 5, Neighbor Cities and Rural Reserves,** defines Metro's policy regarding areas outside of the Urban Growth Boundary. This title does not apply because this ordinance, and the amendments it adopts, applies within the urban growth boundary.
30. **Title 6, Regional Accessibility,** recommends street design and connectivity standards that better serve pedestrian, bicycle and transit travel and that support the 2040 Growth Concept. The City of Portland's responses to the requirements of this title were prepared through the Transportation System Plan and Land Division Code Rewrite Project. The amendments in Code Maintenance 2004 are not inconsistent with this title because they do not change policy or intent of the existing regulations related to regional accessibility.

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31. **Title 7, Affordable Housing**, recommends that local jurisdictions implement tools to facilitate development of affordable housing. The amendments are not inconsistent with this title because they do not change policy or intent of existing regulations relating to the development of affordable housing.
32. **Title 8, Compliance Procedures**, outlines compliance procedures for amendments to comprehensive plans and implementing ordinances. The amendments are consistent with this Title because the required notices and findings have been provided to Metro in a timely manner.

Portland Comprehensive Plan Goals Findings

33. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.
34. This ordinance amends Title 33, Planning and Zoning, of the Portland City Code. The Council finds that following *Comprehensive Plan* goals, policies and objectives apply to the amendments and the amendments satisfy the applicable goals, policies and objectives for the reasons stated below.
35. During the course of public hearings, the Bureau of Development Services, the Planning Commission, and the City Council provided all interested parties opportunities to identify, either orally or in writing, any other *Comprehensive Plan* goal, policy or objective that might apply to the amendments. No additional provisions were identified.
36. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to metropolitan coordination. The amendments are limited to word and structural changes that improve the clarity and implementation of existing regulations.
37. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban development. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is the last largely undeveloped area in Portland's Central City.

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38. **Goal 3, Neighborhoods**, calls for preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the stability and diversity of neighborhoods. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in this area, which is expected to create a new neighborhood in the last largely undeveloped area of Portland's Central City.
39. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments include word and structural changes that improve the clarity and implementation of existing regulations. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development, which is expected to include significant housing for a range of incomes, in this area.
40. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development. The amendments are supportive of this goal because they clarify the regulations in the South Waterfront Subdistrict and encourage development in the area.
41. **Goal 6, Transportation**, calls for the development of a balanced, equitable and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
42. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to environment. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.

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43. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process. Findings on the Statewide Planning Goal 1, Citizen Involvement, also support this goal.
44. **Goal 10, Plan Review and Administration**, requires that Portland's Comprehensive Plan and its implementing ordinances undergo a periodic review. Beginning in 2000, the city has undertaken Code Maintenance projects as part of that periodic review process.
45. **Policy 10.10 Amendments to the Zoning and Subdivision Regulations** calls for amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban area. **Objective 10.10.C** seeks to improve the Zoning Code by: using clear language, maintaining a clear, logical organization; using a format and page layout that eases use of the document by lay-people as well as professional; and using tables and drawings to add clarity and to shorten the text. The primary purpose of the Code Maintenance 2004 amendments supports this policy and objective because the package as a whole improves clarity, enhances readability, reduces conflicts, and supports the structure and format of the Zoning Code. The South Waterfront related amendments are consistent with the purposes of Code Maintenance projects.
46. **Goal 11 A, Public Facilities, General**, calls for provision of a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to public facilities. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.
47. **Goal 11 F, Parks and Recreation**, calls for maximizing the quality, safety and usability of parklands and facilities through the efficient maintenance and operation of park improvements, preservation of parks and open space, and equitable allocation of active and passive recreation opportunities for the citizens of Portland. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to parks and recreation. A specific amendment to the Central City Plan District clarifies the timing of improvements for the South Waterfront greenway area and encourages development of the greenway that protects and enhances the natural resources of the area while serving the transportation and recreation needs of the community. The amendment is consistent with and will better implement the South Waterfront Plan.

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NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*, dated March April 26, 2004;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*, dated April 26, 2004; and
- c. Adopt as legislative intent and as further findings the commentary in Exhibit A, *Code Maintenance 2004 Portland Planning Commission Report and Recommendation Part 2 of 2: South Waterfront Related Amendments*, dated April 26, 2004.

Section 2. The Council declares an emergency exists because significant public and private funds and effort have been expended in pursuing development of the South Waterfront District since the South Waterfront Plan, which specifically calls for the adoption of a top of bank map, was adopted in October 2002. Delay in adopting the top of bank map will prevent the timely approval of building permits for development that is supportive of the South Waterfront Plan and the signed Development Agreement for the area.

PASSED BY THE COUNCIL, MAY 20 2004

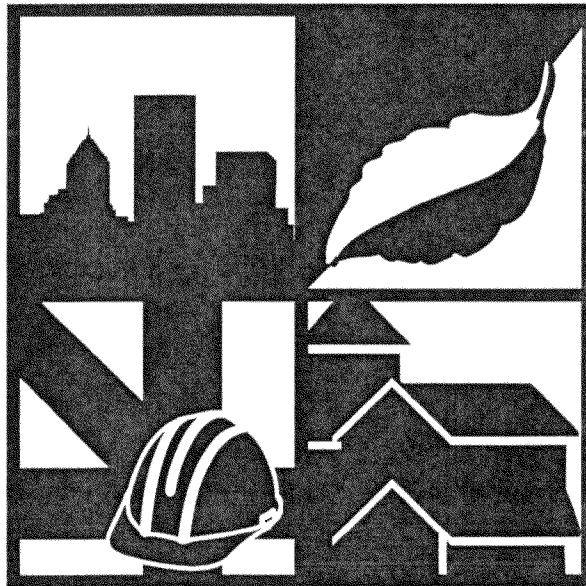
Mayor Vera Katz
Commissioner Randy Leonard
Susan Hartnett, Bureau of Development Services
May 11, 2004

GARY BLACKMER
Auditor of the City of Portland

By *Susan Parsons*
Deputy

**Code Maintenance 2004 Part 2 of 2:
South Waterfront Related Amendments**

Adopted by Ordinance 178425



**City of Portland
Bureau of Development Services
Code Services Division**

May 20, 2004

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: R-3

Est. Start Time: 9:35 AM

Date Submitted: 06/16/04

Requested Date: July 8, 2004

Time Requested: 2 Minutes

Department: Non-Departmental

Division: Chair's Office

Contact/s: Chair Diane Linn, Andy Smith

Phone: 503/988-3308

Ext.: 85772

I/O Address: 503/600

Presenters: Andy Smith

Agenda Title: Second Reading and Possible Adoption of a Proposed ORDINANCE Amending Multnomah County Code Section 19.002, Library Board, to Add Youth Board Members

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.**

-
- 1. What action are you requesting from the Board? What is the department/agency recommendation?** Recommend Board approval of the Ordinance.
 - 2. Please provide sufficient background information for the Board and the public to understand this issue.** The current Library Board consists of 15 members. This Ordinance increases that number to 17 and includes two youth representative positions (youth between the ages of 13 and 17). Adding two youth members will increase the diversity of Board membership and allow for youth participation in Library policy formation.
 - 3. Explain the fiscal impact (current year and ongoing).** No current year/ongoing fiscal impact.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain:

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.

- ❖ Is the revenue one-time-only in nature?
 - ❖ If a grant, what period does the grant cover?
 - ❖ When the grant expires, what are funding plans?
- NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)**

If a contingency request, explain:

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

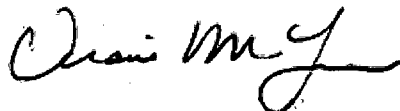
If grant application/notice of intent, explain:

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues involved. No legal and/or policy issues involved.
5. Explain any citizen and/or other government participation that has or will take place. Ordinance language is based on recommendations from the current Library Board.

Required Signatures:

Department/Agency Director: _____



Date: 06/16/04

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

Amending MCC § 19.002, Library Board, To Add Youth Board Members

(Language ~~stricken~~ is deleted; double underlined language is new.)

Multnomah County Ordains as follows:

MCC 19.002 is amended as follows:

§ 19.002 Library Board.

(A) The library board is hereby created. The board shall consist of ~~45~~17 members, including two youth members, to be appointed by the Chair subject to approval by the Board.

(B) Membership Terms.

(1) Generally. The term of office of the board members shall be four years and their terms shall commence on July 1 in the year of their appointment. Of the first 15 board members appointed, three members shall initially hold office for one year, four for two years, four for three years and four for four years. The Chair shall designate the initial individual terms. At the expiration of the term of any members of the library board, the Chair shall appoint a new member or may reappoint a member for the term of four years, subject to Board approval. If a vacancy occurs during a term of office, the Chair shall appoint a new member for the unexpired term, subject to Board approval. No person shall hold appointment as a member for more than two full consecutive terms, but any person may be appointed again to the library board after an interval of one year.

(2) Youth Members. Youth board members must be between the ages of 13 and 17 at the time of their appointment. The term of office of youth board members shall be two years. Of the first youth members appointed, one youth member shall initially hold office for one year. The Chair shall designate the initial individual terms. If a vacancy occurs during a term of office, the Chair shall appoint a new member for the unexpired term, subject to Board

approval. No person shall hold appointment as a youth member for more than one term. Other than the limitations placed herein, youth members share equally in all other powers and responsibilities afforded members of the library board.

FIRST READING:

June 24, 2004

SECOND READING AND ADOPTION:

July 8, 2004

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Katie A. Lane, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1044

Amending MCC § 19.002, Library Board, To Add Youth Board Members

(Language ~~stricken~~ is deleted; double underlined language is new.)

Multnomah County Ordains as follows:

MCC 19.002 is amended as follows:

§ 19.002 Library Board.

(A) The library board is hereby created. The board shall consist of ~~15-17~~ members, including two youth members, to be appointed by the Chair subject to approval by the Board.

(B) Membership Terms.

(1) Generally. The term of office of the board members shall be four years and their terms shall commence on July 1 in the year of their appointment. Of the first 15 board members appointed, three members shall initially hold office for one year, four for two years, four for three years and four for four years. The Chair shall designate the initial individual terms. At the expiration of the term of any members of the library board, the Chair shall appoint a new member or may reappoint a member for the term of four years, subject to Board approval. If a vacancy occurs during a term of office, the Chair shall appoint a new member for the unexpired term, subject to Board approval. No person shall hold appointment as a member for more than two full consecutive terms, but any person may be appointed again to the library board after an interval of one year.

(2) Youth Members. Youth board members must be between the ages of 13 and 17 at the time of their appointment. The term of office of youth board members shall be two years. Of the first youth members appointed, one youth member shall initially hold office for one year. The Chair shall designate the initial individual terms. If a vacancy occurs during a term of office, the Chair shall appoint a new member for the unexpired term, subject to Board

approval. No person shall hold appointment as a youth member for more than one term. Other than the limitations placed herein, youth members share equally in all other powers and responsibilities afforded members of the library board.

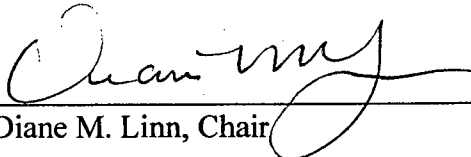
FIRST READING:

June 24, 2004

SECOND READING AND ADOPTION:

July 8, 2004

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By


Katie A. Lane, Assistant County Attorney

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: R-4

Est. Start Time: 9:38 AM

Date Submitted: 06/30/04

Requested Date: July 8, 2004

Time Requested: 2 Minutes

Department: Non-Departmental

Division: County Attorney

Contact/s: Matt Ryan

Phone: 503-988-3138

Ext.: 83138

I/O Address: 503/500

Presenters: Matt Ryan

Agenda Title: Authorizing Settlement of *Multnomah County v. Wallace*, Multnomah County Circuit Court Case No. 0304-04596

NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.

1. What action are you requesting from the Board? What is the department/agency recommendation?

Approve settlement of condemnation litigation case *Multnomah County v. Wallace* for an additional \$46,700.00 over County's initial offer of \$21,200.00 for the acquisition of the property interests described in the County's complaint. The Settlement also provides for the County to do some limited construction improvements on defendant's property and to reimburse defendant for costs incurred to install a disabled parking space if such installation was required because of the County's Road Project.

2. Please provide sufficient background information for the Board and the public to understand this issue.

The County Land Use and Transportation Program (LUTP) is conducting a public works road project in Gresham. The LUTP has determined the property interests identified in the complaint in this lawsuit are necessary for the road project. This Board approved the filing of this condemnation action on January 16, 2003 by BCC Resolution No. 03-013.

The County and defendant have been working with Judge Lamar to mediate this case. Defendant's experts included a private engineer who reviewed the proposed County

project. The defendant's engineer identified impacts including water drainage, access and additional costs to repave and reconfigure the driveway ramp and a portion of the parking area, which in the engineer's opinion were directly related to the County's road project.

The County found much of the defendant engineer's analysis and review to be helpful and facilitate the construction of the project and agreed to pay for his time. The County addressed the defendant engineer's concerns raised in his report; which also added to the total compensation award to defendant. Additionally, the settlement offer includes an increase in the compensation for the property interests acquired and for the impacts to the remainder property. Finally the County agreed to reimburse defendant for reasonable actual costs incurred if he is required to install an ADA related accommodation such as a disabled parking space because of the County's road project.

The proposed settlement presents an acceptable resolution of the lawsuit as opposed to pursuing the matter through litigation and trial, which would trigger substantial costs (including potential obligation to pay attorney fees if the court award is even slightly more money than the County's final offer) and as well necessitate extensive time commitments to prepare and try the matter.

3. Explain the fiscal impact (current year and ongoing).

N/A

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

If grant application/notice of intent, explain:

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**

- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues involved.

On December 18, 2003, the Board adopted Resolution 03-171 delegating authority to the County Attorney to initiate or appeal any legal action, matter or proceeding in any court or tribunal when approved by the Board.

5. Explain any citizen and/or other government participation that has or will take place.

See No. 2 above.

Required Signatures:



Department/Agency Director:

Date: 06/30/04

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: R-5

Est. Start Time: 9:40 AM

Date Submitted: 06/28/04

Requested Date: Thursday, July 8, 2004

Time Requested: 60-90 minutes

Department: Non-Departmental

Division: Chair's Office

Contact/s: Agnes Sowle, County Attorney

Phone: (503) 988-3138

I/O Address: 503/500

Presenters: Chair Diane Linn, Agnes Sowle, John Kauffman, Director of Elections

Agenda Title: PUBLIC HEARING and RESOLUTION Determining the Boundaries of a Willamette Electric People's Utility District (PUD) and Calling an Election on District Formation and Related Matters

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.**

1. **What action are you requesting from the Board? What is the department/agency recommendation?** Adopt Resolution determining PUD boundaries and calling election.
2. **Please provide sufficient background information for the Board and the public to understand this issue.** On April 26 an electors' petition was filed with the County Elections Division for formation of Willamette Electric People's Utility District. Elections certified the petition on April 27. The Board must determine PUD boundaries within ten days of the last hearing date under ORS 261.161. A hearing on the boundaries is being held as noticed and the record will be closed at that time.

The record contains the report from the Oregon Department of Energy dated June 22, 2004, and all written communications received by the Clerk of the Board on this matter. The Board has reviewed the entire record. ORS chapter 261 requires the Board to hold a hearing, and based on that hearing and the Department of Energy report, correct deficiencies in the boundaries and refer the initiative to establish a PUD to the voters. The map attached to the resolution shows the proposed boundaries. Based on testimony presented by the Multnomah County Director of Elections, November 2, 2004, is the earliest practical date to submit the question of district formation and special levy to the electors within the proposed district at a special election, as required by ORS 261.171.

3. Explain the fiscal impact (current year and ongoing). N/A

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain: N/A

- ❖ What revenue is being changed and why?
- ❖ What budgets are increased/decreased?
- ❖ What do the changes accomplish?
- ❖ Do any personnel actions result from this budget modification? Explain.
- ❖ Is the revenue one-time-only in nature?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: N/A

- ❖ Why was the expenditure not included in the annual budget process?
- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain: N/A

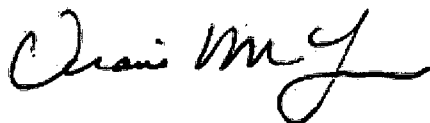
- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues. Complies with ORS 261.161.

5. Explain any citizen and/or other government participation that has or will take place. The County noticed and held the public hearing on July 8.

Required Signatures:

Department/Agency Director:



Date: 6/28/2004

BOGSTAD Deborah L

From: KINOSHITA Carol
Sent: Wednesday, June 09, 2004 2:37 PM
To: SOWLE Agnes
Cc: KAUFFMAN John; BOGSTAD Deborah L
Subject: Willamette Electric PUD

FYI - Kathy, Assistant to Mike Grainey, Director of the Oregon Department of Energy, advised they received Willamette's petition on 4/29 (they have 60 days from receipt to report to us); the hearing is scheduled for 6/15 at 7 pm in the Children's Service Center (formerly a school) in the cafeteria at 531 SE 14th Street, Portland. Their public comment deadline is 6/18, and the report may be finished by 6/24 or 25.

I've sent the attached notice and copy of the petition (without signature pages) to the Oregonian to publish notice on 6/21 and 6/28 of the Board hearing on 7/8.



WillamettePUD-p
ub.doc (35 KB)

Carol Kinoshita, *Legislative Paralegal*
503.988.3138 fx: 503.988.3377
Office of Multnomah County Attorney
501 SE Hawthorne Blvd., Ste. 500,
Portland, OR 97214 (interoffice: 503/500)
Link to Multnomah County Code & Charter:
<http://www2.co.multnomah.or.us/counsel/code/index.shtml>

For Publication in the Oregonian
(attn: Dyma - Public Notice; ph: 503-221-8478; fx: 503-221-8273
on **Monday, June 21, 2004** and
Second publication on **Monday, June 28, 2004**

MULTNOMAH COUNTY BOARD OF COUNTY COMMISSIONERS

NOTICE OF PUBLIC HEARING

Time: 9:30 a.m. JULY 8, 2004

Place: Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland, Oregon 97214

Purpose: To Consider the Boundaries of the Proposed Willamette Electric People's
Utility District. The electors' petition (attached) describes the proposed
boundaries as:

The area currently included in Multnomah County
voting precincts 3274, 4022, 4027, 4041, 4049, 4065,
4106 and 4167, as more particularly described in the
petition.

The electors' petition describes the purposes of the levy as:

To finance an engineer's report and the election under
ORS 261.355(1).

*Public Testimony will be Limited to 3 Minutes per Person;
Written Testimony is Encouraged.*

*Submit Written Testimony to:
Deborah Bogstad, Board Clerk
deborah.l.bogstad@co.multnomah.or.us
501 SE Hawthorne Blvd., Suite 600
Portland, OR 97214*

- end -

Please **advise cost before typesetting** and send proof with cost sheet, Affidavit of Publications
and the bill to:

*Office of County Attorney, Attn: Carol Kinoshita
501 SE Hawthorne Blvd., Suite 500
Portland, OR 97214
(503) 988-3138, fax (503) 988-3377*

Thank You!

BOGSTAD Deborah L

From: SOWLE Agnes
Sent: Tuesday, June 22, 2004 10:29 AM
To: #ALL CHAIR'S OFFICE; #ALL DISTRICT 1; #ALL DISTRICT 2; #ALL DISTRICT 3; #ALL DISTRICT 4
Cc: BOGSTAD Deborah L
Subject: FW: Willamette PUD

Here is the Oregon Department of Energy Report on the proposed Willamette Electric PUD. The County's hearing on the PUD is scheduled during next week's meeting. We will also request copies of all of the written testimony the DOE received and give a full copy to Deb. Let me know if you have any questions.

*Agnes Sowle
Multnomah County Attorney
501 SE Hawthorne Blvd., Ste. 500
Portland, OR 97214
(503)988-3138*

-----Original Message-----

From: KINOSHITA Carol
Sent: Tuesday, June 22, 2004 8:41 AM
To: SOWLE Agnes
Subject: FW: Willamette PUD

-----Original Message-----

From: Erin M McDermott [<mailto:Erin.M.Mcdermott@state.or.us>]
Sent: Tuesday, June 22, 2004 7:17 AM
To: KINOSHITA Carol
Subject: Willamette PUD



Willamette
PUD.doc (159 KB)

**REPORT ON THE PROPOSED
WILLAMETTE ELECTRIC PEOPLES' UTILITY DISTRICT
BY THE
OREGON DEPARTMENT OF ENERGY
JUNE 22, 2004**

**Report on the
Proposed Willamette Electric People's Utility District**

**By the
Oregon Department of Energy**

June 22, 2004

Introduction

This is the Oregon Department of Energy's report on the proposed Willamette Electric People's Utility District (PUD). Under ORS 261.151, the Department of Energy must hold a hearing and issue a report not less than 30 days and not more than 60 days after receipt of a petition to form a PUD.

The statute provides that the report should be concise and should address the availability and cost of power or water resources, potential tax consequences and any other information relevant to the proposed formation of the PUD. In preparing the report, the Department of Energy is to obtain the advice and the assistance of the Public Utility Commission. A copy of the report is to be provided to the county governing body.

This report is not intended to take the place of a detailed feasibility or engineering study. The time provided by law for the Department of Energy to conduct a hearing and to issue a report precludes a more in-depth analysis which an engineering study or a detailed feasibility study could provide. Upon completion of this report the Department of Energy has no further role in this process.

The Department of Energy consulted with the Public Utility Commission in the preparation of this report as required by law. The contents and conclusion of the report, however, are solely those of the Department of Energy. The Public Utility Commission provided a letter through its Assistant Attorney General on a prior PUD proposal, which it also submitted in this proceeding. The letter discusses the role of the Commission to protect regulated ratepayers in the event of an attempted condemnation by a publicly-owned utility of utility property owned by an investor-owned utility. A copy of that letter is included as an attachment to this report.

Background

A petition to form the Willamette Electric PUD was filed with Multnomah County, certified by the county and received by the Department of Energy on April 29, 2004.

The proposed area of the PUD would include a small portion of Northeast and Southeast Portland. The area of the proposed PUD is generally bounded by the Willamette River on the West, the Steel Bridge, Oregon Street and Lloyd Boulevard on the North, as far as 52nd Street on the East, and Holgate Street on the South. A complete description of the boundary is attached as an appendix to this report.

Currently, the electricity providers in Multnomah County covered by the proposed PUD are Portland General Electric (PGE) for most customers and PacifiCorp for a few customers. PacifiCorp also has some substations and other facilities in the area which would be covered by the proposed PUD.

Pursuant to ORS 261.113, the PUD chief petitioners also propose the question of whether the proposed PUD would be authorized to impose a one-time special levy of 3 mills per one thousand dollars of assessed valuation (equal to \$3 per million of assessed valuation) to finance an engineer's report and the election under ORS 261.355(1)

Summary of the Hearing

The Department of Energy held a hearing on June 15, 2004, at the Children's Service Center Building in Portland, Oregon. Approximately, 50 people attended the hearing. Twenty-four people testified at the hearing. A list of those who testified is attached.

In addition, written comment was accepted through Friday, June 18, 2004. Nearly thirty written comments were received. A list of those who provided written comments is also attached.

Supporters of the proposed PUD explained the purpose of forming a PUD and their reasons for supporting it. These reasons included, among others, the following:

PUD supporters believe that there are many advantages which would result from local control over electricity service which a PUD would provide; there are potential advantages in the price of electricity through access to BPA power; there are reduced operating costs by a PUD being a non-profit governmental entity; and there are tax savings to the customers of a PUD from the absence of corporate income taxes which a PUD would not have to pay. In addition, the PUD supporters believe that the PUD could acquire through condemnation any generating and distribution assets it needed to serve its load. They also believe that the absence of privately-held stock would assure that decisions made by a PUD on electricity service are made only with the interests of consumers in mind.

The PUD supporters also believe that the PUD would have financial advantages over an investor-owned utility by being able to issue tax-exempt bonds and to acquire resources through condemnation at "book value". In addition, they believe that removing PGE ratepayers from the Enron corporate entity is in the interests of electric ratepayers and consumers. In the case of PGE, PUD proponents believe that a

bankruptcy court could order sale of PGE assets to pay off Enron creditors and that the interest of ratepayers would not be considered in such a sale. They also believe that questions of funds withheld for income taxes but not paid by Enron provide additional reasons to form a PUD. They also believe that the pending sale of PGE to the Texas Pacific Group would be no better than ownership by Enron.

Opponents of the proposed PUD also provided a number of reasons for their opposition. These reasons included, among others the following:

PUD opponents expressed concern about the impact of forming a PUD on PGE customers who are not in the area covered by the proposed PUD; and the impact on the local economy of replacing a private business with a governmental entity including loss of tax base, elimination of private sector jobs, loss of charitable contributions, loss of public purpose funding and other adverse impacts. PUD opponents also believe that forming a PUD sends an anti-business message by replacing a private business with a governmental entity; and the PUD would lack independent regulatory oversight which the Oregon Public Utility Commission currently provides over investor-owned utilities.

Those opposing formation of the PUD also stated that they believed it was unlikely that a new PUD would have access to BPA power at less than market rates; and that the PUD would need to incur a large amount of indebtedness to acquire utility assets. They also expressed concern about the likelihood that a new PUD would have to acquire resources on the volatile open market, which could result in higher rates. They also believe that a PUD does not have condemnation authority over generating power facilities. Concern was also expressed that there would be insufficient private activity bond authority available for a new PUD to issue tax-exempt bonds to finance the acquisition of utility assets needed to provide electric service.

In addition, they believe that the PUD is so small that the technical problems in breaking off the PUD from PGE's system would be extremely difficult and expensive. In fact, PGE argues that because the PUD area is so small and based solely on political boundaries that it would be more difficult to separate electrical systems and transmission lines than forming a county PUD would have caused.

Discussion of Major Issues

Access to BPA Power

Consumer-owned utilities in the Northwest, including PUDs, have traditionally had access to wholesale power from the Bonneville Power Administration (BPA). In the past, such utilities have usually had the option to contract with BPA for as much power as they have needed.

It is not clear whether the proposed slice agreement will be adopted by BPA, but it is likely that BPA will have difficulty in acquiring additional low-cost resources to serve a new load formed by a new PUD. Moreover, BPA's wholesale rates have increased

substantially in the last few years as a result of supply and price problems in the wholesale market. These factors make it difficult to determine whether any substantial rate benefit would occur if a new PUD had access to BPA power for a substantial part of its resource load.

Access to BPA power at BPA's lowest cost-based rate is also uncertain. Currently until October 1, 2006, any new publicly-owned utility would have access to BPA power at prices above BPA's lowest cost-based rate. The higher rate charged by BPA is intended to reflect the additional costs of serving new utility customers. BPA is also considering alternative pricing policies that could affect the price at which a new PUD could buy power from BPA.

Acquisition of Other Resources

ORS 261.305 provides that people's utility districts have the power "...to acquire, develop, and otherwise provide for a supply of water for domestic and municipal purposes, waterpower, and electric energy, or electric energy generated from any utility, and to distribute, sell, or otherwise dispose of water, water power, and electric energy within or without the territory of such districts."

While a PUD can provide either water or electricity service, the PUD proponents indicated that their intent at this time is to provide electric service. The information provided by people who spoke at the hearing both in favor and against formation of a new PUD dealt only with issues regarding electric service.

PGE and PacifiCorp oppose the formation of a PUD in its service areas. Both PGE and PacifiCorp indicated that they would not willingly sell or transfer their facilities, including generating resources and distribution assets, to a new PUD. Thus, the PUD would be required to acquire assets from PGE and PacifiCorp through condemnation. In the absence of agreement between the new PUD and PGE or PacifiCorp, a court would need to determine the value of any property acquired by the new PUD through condemnation.

Valuation of such assets would require a detailed engineering and appraisal study. In addition, while the PUD proponents believe that a PUD would have authority to acquire power generating resources through condemnation, both PGE and Pacific dispute that the PUD would have such authority. Resolution of the limits of PUD condemnation authority would likely also require a determination by a court.

If the new PUD did not try to acquire PacifiCorp's or PGE's generating assets, it could purchase power on the open market or finance new generating facilities. The open market is very volatile and the price of power, especially for long-term contracts, is very uncertain. The costs of financing new generating resources directly by a PUD are also uncertain. Issuance of bonds by a PUD poses a number of questions requiring further study. These include whether bonds would be tax-exempt or taxable, at what cost such

bonds could be issued, the impact on other public debt issued by state and local governments in Oregon and other issues.

The PUD supporters offered a preliminary feasibility study prepared by D. Hittle and Associates for the recently proposed Clackamas PUD as evidence that a new PUD would be able to become operational, acquire energy resources and could operate at lower rates than PGE. PGE in response offered a study by Sam Van Vactor of Economic Insight, Inc., indicating that a new PUD would likely be unable to acquire power without paying substantially more than PGE now pays to provide service to its existing customers.

To assure that energy conservation and renewable resources play a key part of resource acquisition by Portland General Electric and Pacificorp, Oregon's restructuring law provides that these two investor-owned utilities pay a 3% public purpose charge to fund energy conservation, renewable resources and other public purposes. A new PUD would not be obligated to pay this 3% public purpose charge. However, the PUD may choose to fund through its rates an equivalent amount of energy conservation and renewable resources, although it would not be required by law to do so. Some publicly-owned utilities dedicate more than 3% to energy conservation and renewable resources; while others pay less.

The disagreements, uncertainties and questions cannot be easily answered without a detailed financial analysis of different scenarios, and an analysis of which scenarios are most likely to bound the range of uncertainty. The analysis required to answer these questions is beyond the scope of this report and cannot be undertaken in the time provided by law to complete this report.

Tax Consequences

Under Oregon law, a PUD has the power to issue revenue bonds (ORS 261.355) and general obligation bonds (ORS 261.360) upon receiving voter approval. Revenues from the bonds may be used for any purpose authorized by law. General obligation bonds must not exceed two and one-half percent (.025) of the real market value of all taxable property within the district.

ORS 261.385 provides that a PUD may also levy and collect property taxes prior to receipt of operating revenues. In any one year, the tax cannot exceed one-twentieth of one percent of the true cash value of all taxable property within the PUD. Over 10 years, the tax cannot exceed in the aggregate one-fourth of one percent of the true cash value of property within the PUD.

A PUD may have access to tax-exempt bond financing for capital acquisition and possibly for some operating costs. Current federal limits on state and local tax-exempt financing make it difficult to determine to what extent a new PUD could use tax-exempt bonds for its financing. Moreover, the U.S. Treasury continues to seek further

restrictions from Congress on the use of tax-exempt bonds by state and local governments, making the future access to this form of financing uncertain.

Taxable bonds, which incur higher interest charges than tax-exempt bonds, could also be issued by a new PUD, but whether they would be less expensive than the current costs of capital of PGE and PacifiCorp is uncertain, given the long history of access to the capital markets of both utilities with a variety of financial instruments.

A PUD pays no state or federal income taxes, but a PUD is subject to property tax assessment under ORS 261.050 to the same extent as property of an investor-owned utility is taxed.

Conclusion

In order to fully evaluate the economic advantages and disadvantages of forming a new PUD, many questions must be analyzed thoroughly. There are also factors which could vary greatly and have significant impact on whether a PUD would have access to a supply of power at reasonable rates. For example, whether a new PUD would have access to BPA power to meet most of its load, how much BPA rates will increase, whether a PUD could condemn PGE's or Pacificorp's resources and if so, at what price, what the cost of financing capital for a new PUD would be and to what extent tax-exempt bonds could be used are all factors which could impact the cost of electric service by a new PUD compared to the cost of service currently provided.

In addition, non-economic questions, such as the value of local control, the benefits of private enterprise, the role of government and other issues involving value judgements as well as economic considerations must be examined. Many of these issues were raised and discussed at the hearing and in the written comments filed in this record.

The resolution of the questions raised and the differing perspectives and differing opinions cannot be readily resolved, without more extended study and analysis of these issues. Questions such as the valuation of utility property, what utility property is subject to condemnation, access to BPA power, and the availability or lack of tax-exempt financing are all complex issues requiring extended review and analysis.

Because these issues require extensive investigation and analysis to resolve, no definitive conclusion as to the impact on rates of forming a PUD can be made under the limited time provided by state law to issue this report. In addition, other questions such as the role of private businesses compared to a publicly-owned utility system present value judgements for the voters.

The Department of Energy makes no recommendations as to whether the proposed Willamette Electric PUD should or should not be formed. That is a decision for the voters to make, after evaluating many issues including the issues raised in this report.



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

April 11, 2003

Michael Grainey, Director
Office of Energy
625 Marion Street NE, Suite 1
Salem, Oregon 97301-3742

Re: Oregon Office of Energy Report on PUD Formation in Multnomah County

Dear Mr. Grainey;

The Public Utility Commission of Oregon has asked me, as its chief counsel, to submit comments in the Oregon Office of Energy's report regarding PUD formation in Multnomah County. The Commission made its request to me because members of the Oregon Legislative Assembly asked the agency for comments.

The Commission does not have a position regarding the formation of a PUD in Multnomah County, but it has asked me to discuss PUC statutes that may come into play and positions the Commission has taken in the past regarding condemnations by consumer-owned utilities of property owned by investor-owned utilities. The condemnations have involved distribution and generation assets. I will discuss each separately.

Distribution Assets

A Multnomah County PUD would need to acquire the distribution assets that Portland General Electric Company and PacifiCorp now use to serve their customers within the county. In cases in which a consumer-owned utility is condemning distribution assets of a utility regulated by the PUC, and thereby is also taking responsibility to serve some customers, the Commission's duty is to protect remaining customers of the regulated utility.

Under ORS 757.480, a public utility, such as PGE or PacifiCorp, may not dispose of property with a value in excess of \$100,000 unless it has the consent of the Commission. If a Multnomah County PUD condemns assets of an investor-owned utility, then the statute may not apply, as the court's award may supercede the Commission's authority. On the other hand, if there is a settlement, then it would be up to the Commission to approve the price.

There have been two recent court cases involving condemnation by consumer-owned utilities of distribution assets of PacifiCorp, one case in the Halsey area and the other in

Hermiston. The Commission was involved in both cases, taking the position that fair market value, not book value, is the appropriate standard for courts to apply in such cases. In both cases, the market value of the distribution assets was in fact well above book value. When the utility receives more than book value, the Commission's policy is to award the vast majority of the excess (i.e. the capital gain) to the remaining customers. That is precisely what the Commission did after PacifiCorp received settlements well in excess of book value for the Halsey and Hermiston assets.

The Commission gives the vast majority of the capital gain on sales of distribution assets to customers because they pay rates based on the utility's book value. If market value is below book value, customers "lose" because they return the higher book value to the utility, as well as a return on the higher book value. Conversely, when a utility sells an asset that has a market value that is above book value, customers "win" by having the Commission use the capital gain to reduce rates.

Generation Assets

The PUC was also an intervenor in a case in which Emerald People's Utility District attempted to condemn four PacifiCorp hydro-electric facilities on the North Umpqua. The Commission intervened in that case, and along with PacifiCorp, successfully prevented the condemnation. *Emerald People's Utility Dist. v. PacifiCorp*, 100 Or App 79, on reconsideration, 101 Or App 48, review denied 310 Or 121 (1990). The Commission opposed the condemnation because PacifiCorp would have had to replace low-cost hydro-electric resources with more expensive resources, thereby raising the company's rates. The Court prohibited the condemnation, finding that it was not in the public interest, as it would have lowered Emerald's already low rates and would have increased PacifiCorp's comparatively high rates.

If a Multnomah County PUD is formed, and it wishes to condemn generation assets that either PGE or PacifiCorp uses to serve its customers, and if the utilities have to replace those resources with more expensive ones, then the Commission will likely oppose such a condemnation because it would not be in the interest of customers whom the Commission must protect.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Paul A. Graham
Attorney-in-Charge
Regulated Utility & Business Section

cc: Lee Beyer, Commission
Roy Hemmingway, Commission
Joan Smith, Commission
John Savage, Utility Director – PUC
Lee Sparling, Utility – PUC
Marc Hellman, ERFA – PUC

Legal Description of the Boundaries of the Proposed Willamette Electric PUD

The following legal description of the boundaries of the proposed Willamette PUD is taken from the petition filed to form the PUD.

“A portion of Multnomah County, within the City of Portland, as follows: starting at the midpoint of the Steel Bridge, south along the centerline of the Willamette River to the midpoint of the Ross Island Bridge, then east along the centerline of Ross island bridge to the east bank of the Willamette River, then south along the east bank of the Willamette River to a westerly extension of SE Holgate Blvd, then east along the centerline of SE Holgate Blvd (and its westerly extension) to the centerline of SE 42nd Ave, then north along the centerline of SE 42nd Ave to the centerline of SE Powell Blvd, then east along the centerline of SE Powell Blvd to the centerline of SE 52nd Ave, then north along the centerline of SE 52nd Ave to the centerline of SE Division St, then west along the centerline of SE Division St to the centerline of SE 50th Ave, then north along the centerline of SE 50th Ave to the centerline of SE Hawthorne Blvd, then west along the centerline of SE Hawthorne Blvd to the centerline of SE 49th Ave, then north along the centerline of SE 49th Ave to the centerline of SE Stark St, then west along the centerline of SE Stark St to the centerline of 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of SE Ankeny Street, then east along the centerline of SE Ankeny St to the centerline of 32nd Ave, then north along the centerline of 32nd Ave to the centerline of Interstate-84, then west along the centerline of Interstate-84 to the centerline of Interstate-5, then north along the centerline of Interstate-5 to the centerline of Lloyd Blvd, then west along the centerline of Lloyd Blvd to the centerline of NE Oregon St, then west along the centerline of NE Oregon St to the midpoint of the Steel Bridge.”

“It is the intent of the Chief Petitioners that the description above specifies the area currently included Multnomah County voting precincts 3274, 4022, 4027, 4041, 4049, 4065, 4106 and 4167.”

List of Those Who Made Statements at the Hearing

Jeff Cropp
Fergus Pilon
Jeff Shupe
Dan Meek
Pamela Lesh
Steve Hawke
Jim Piro
Paul Capell
Bernie Bottomly
Kris Nelson
Anne Snyder
Gary Coe
Chris Kerchum
Thor Hinkley
Dave Johnson
Sam Van Vactor
Liz Trojan
Ernest Delmazzo
Bob Hedlund
Christopher Henry
Eulia Mishima
Theressa Mason
Nancy Newell
Norris Tomlinson

List of Those Who Provided a Written Statement

Bill Miller, IBEW Local 125
Walter E. Pollock
Jeff Cropp
Fergus Pilon
D. Hittle Associates, Clackamas PUD Feasibility Study
Dan Meek
Pamela Lesh
Stephen Hawke
Jim Piro
Kris Nelson
Anne Snyder
Gary Coe
Chris Kerchum
Thor Hinkley
Dave Johnson
Sam Van Vactor
Liz Trojan
Ernest Delmazzo
Eulia Mishima
Theressa Mason
Norris Tomlinson
Gary Duell
Wayne Lei
Annette L. Mattson
Randall Edwards, State Treasurer
Gregory R. Mowe
Curt Sommer
Bernie Bottomly
Ron Eachus
Jim Litchfield

From: "Curt Sommer" <csommer@spitfire.net>
To: "Kathy D Stuttaford" <Kathy.D.Stuttaford@state.or.us>
Date: 6/17/04 7:34PM
Subject: RE: Willamette Elec PUD

This is what I would like to submit to this perfunctory exercise that PGE will use to try and distort and confuse voters regarding this issue.

Curt Sommer

-----Original Message-----

From: Kathy D Stuttaford [mailto:Kathy.D.Stuttaford@state.or.us]
Sent: Thursday, June 17, 2004 11:39 AM
To: csommer@spitfire.net
Subject: Willamette Elec PUD

Comments will be accepted through June 18, 2004. You can mail, fax or e-mail your comments

Oregon Department of Energy
625 Marion St. NE
Salem, OR 973013737
Fax 503 373-7806

ATTACHMENT:
CLATSOP COUNTY PUD
Feasibility Study

Clackamas County Peoples' Utility District

P.U.D. Feasibility Study

Clackamas P.U.D. Feasibility Study
Political Committee
P.O. Box 614
West Linn, OR 97068

TEL: 503-786-0393
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E-MAIL: info@clackamaspower.com
INTERNET: www.clackamaspower.com



Willamette Falls and Sullivan Hydroelectric Facility.

Estimated Comparative Savings with CPUD Under Alternative Power Supply Cases

Operation Year	Year	Estimated Savings with CPUD (100% Purchased Power) ¹			Estimated Savings with CPUD (With Hydro Acquisition) ²		
		(\$000)	(¢/kWh)	(%)	(\$000)	(¢/kWh)	(%)
1	2006	\$ 13,400	0.38	5.1%	\$ 26,650	0.75	10.2%
2	2007	41,740	1.16	15.2%	54,640	1.52	19.8%
3	2008	51,100	1.40	17.6%	63,980	1.75	22.1%
4	2009	57,580	1.55	18.9%	71,200	1.91	23.3%
5	2010	68,180	1.80	21.2%	81,630	2.16	25.4%
6	2011	75,060	1.95	22.2%	89,260	2.32	26.4%
7	2012	87,650	2.24	24.6%	101,710	2.59	28.5%
8	2013	95,850	2.40	25.5%	110,660	2.77	29.5%
9	2014	109,460	2.70	27.7%	124,130	3.06	31.4%
10	2015	120,640	2.92	29.0%	136,000	3.29	32.7%
Total - First Ten Years		\$ 720,660			\$ 859,860		
Net Present Value ³		\$ 498,432			\$ 600,040		

¹ See Table 13. Percent savings is relative to estimated PGE revenues.

² Based on CPUD Total Revenue Required assuming acquisition of hydroelectric facilities as shown in Table 11 compared to Estimated PGE Revenues shown in Table 13. Percent savings is relative to estimated PGE revenues.

³ Cumulative present value to 2004 of estimated savings with CPUD over the first ten years of operation, 2006 through 2015. Assumes a 5% discount rate.

REPORT

**Preliminary Feasibility Study
Clackamas People's Utility District
Electric Facilities Acquisition and
Establishment of New Electric Utility**

April 25, 2004

Prepared for

**Clackamas P.U.D. Feasibility Study PAC
West Linn, Oregon**

by

DHITTLE
& ASSOCIATES, INC.

Engineers and Consultants

Report
Clackamas People's Utility District
Preliminary Feasibility Study

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Clackamas People's Utility District

Preliminary Feasibility Study

Acquisition of Electric System Facilities

Section 1

Introduction and Conclusions

Introduction

Most of the residents and businesses in Clackamas County, Oregon (County) presently receive electric service from Portland General Electric Company (PGE), an investor-owned electric utility owned by Enron Corporation. In addition to PGE, the City of Canby, through its municipally-owned utility system, provides service to electric consumers in Canby. Concern with ownership issues affecting PGE and the relatively high cost of electric service in the County, as well as an interest in more local control regarding electric service has prompted local citizens to investigate the technical and economic feasibility of establishing a People's Utility District (PUD) to provide electric service in the County, exclusive of the City of Canby.

A PUD is a body of local government that provides certain utility services, such as electricity, in a specified community area. As granted in the Oregon Constitution, PUDs are formed or exist in areas where a majority of the public has sought local ownership and control of the utility. A PUD can usually offer lower costs to its customers than investor-owned utilities because:

- A PUD's products and services are sold at cost-based rates;
- PUDs have access to loans bearing tax-exempt interest rates;
- PUDs are not subject to income taxes;
- PUDs have access to preference power from the federal Columbia River power system.

The PUD Board of Directors, elected by the consumer/owners of the PUD, is comprised of residents of the PUD community.

In March 2004, D. Hittle & Associates, Inc. was retained by the Clackamas PUD Feasibility Study Political Action Committee to provide a preliminary feasibility study of the proposed Clackamas PUD (CPUD). The purpose of this study is to provide a limited initial assessment of various technical and economic issues associated with the establishment of CPUD to acquire certain PGE-owned electric facilities and provide electric service in the County.

The proposed service territory of CPUD would initially comprise all areas of the County presently served by PGE. This area includes the entire county with the exception of the City of Canby, areas adjacent to Canby that receive electric service from the Canby Utility Board, and townships with less than 10 electors in which PGE power generation facilities are not located. Nearly all the electric load is located in the western half of the County with the highest concentrations of load in the northwest corner. In addition to the unincorporated portions of the County, CPUD, as proposed, would provide electric service in Barlow, Estacada, Gladstone, Happy Valley, Johnson City, part of Lake Oswego, Milwaukie, Molalla, Oregon City, part of Portland, Sandy, part of Tualatin, and West Linn. In total, CPUD would serve approximately 160,000 electric customers making it the largest PUD in Oregon and approximately the same size, but slightly smaller than Clark Public Utilities, the PUD¹ that serves Vancouver and Clark County, Washington.

A major element in establishing electric service by CPUD would be the acquisition of electric facilities in the County presently owned by PGE. These facilities would include certain transmission lines, substations, overhead and underground distribution lines, transformers, service drops, meters and streetlights. In addition, PGE owns and operates several hydroelectric generating facilities in the County that CPUD may be able to acquire and use to supply a portion of its total power supply requirement.

Although adjacent utilities will often have the capability to interconnect with each other at certain locations and under certain conditions, the wires of these utilities are generally physically separated from each other. PGE's electric system serves a multi-county territory in and around the greater Portland area and has not been configured to serve counties or cities as separate electric systems. Consequently, some reconfiguration of the existing transmission and distribution system, primarily in the vicinity of the County boundary, will eventually be needed to operate the PGE and CPUD systems separate of each other. Initially, however, separation of the systems could be accomplished administratively through a combination of wholesale and retail metering in conjunction with contractual arrangements for delivery of power over the other utility's lines². This administrative approach to separation would be preferred as a lower cost alternative to accomplishing separation of the systems, particularly in the early years of CPUD operation.

As with most Pacific Northwest electric utilities, the most significant annual operating expense that CPUD will incur is the cost of wholesale power. Upon fulfillment of certain criteria primarily related to establishing ownership of its distribution system, CPUD will be entitled to purchase power from the Bonneville Power Administration (BPA). BPA markets the power generated by the federal Columbia River power system and as such, provides the

¹ PUDs in Washington are Public Utility Districts.

² Arrangements of this type were used extensively for a number of years following the formation of Emerald PUD in 1983 and were also used when the City of Hermiston acquired its electric system from PacifiCorp in 2001. In both of these cases, new facilities were constructed over a period of time to eventually obtain physical separation of the electric systems, although Emerald PUD and PacifiCorp still have a few of their respective customers served off the other utility's lines.

majority of the power used by the Northwest's publicly owned electric utilities³ and approximately 45 percent of all electric power used in the Pacific Northwest.

In addition to BPA, a number of other opportunities for near-term power supply could be available to CPUD including power purchases from PGE, acquisition of hydroelectric facilities in the County and subsequent self-generation, and power purchases from other utilities, independent generating facilities and power marketers. In the future, CPUD will most likely continue to purchase power from BPA but will also be able to construct new generating facilities of its own, participate jointly with other utilities in new generation facilities and contract to purchase power from other suppliers. A significant advantage in establishing CPUD will be the opportunity for its elected Directors to establish conservation and power supply policies locally. The Directors can implement appropriate conservation programs and can choose to develop or pursue participation in development of any kind of power generation technology including wind, geothermal and other renewable energy generation systems, waste-to-energy systems, biomass-fueled generation systems, cogeneration and distributed generation.

Even with acquisition of PGE's hydroelectric generation facilities in the County, a significant portion of CPUD's total power supply will be generated outside the County. It is expected that CPUD will take delivery of bulk power over the BPA transmission system, which extends throughout the Northwest and is relied upon extensively by essentially all of the region's electric utilities.

Over the past decade, the electric utility industry has undergone significant changes as various deregulation and restructuring efforts have been undertaken around the country. Deregulation in California in the late 1990's dramatically impacted power prices throughout the western United States. Traditionally, electric utilities have had the obligation to provide generation, transmission and distribution services to the individual customers within their exclusive service territories. In some cases, these services were unbundled and potentially provided by one or more different companies. Many of the long-term investment risks previously undertaken by electric utilities, such as building power plants, are being made by other entities with the intention that the open market will establish the price of power output.

With the changes in the electric utility industry come both opportunities and potential risks. Many more wholesale power supply options now exist than were available to utilities just a few years ago. In the late 1990's, competition among power suppliers along with federally mandated wholesale transmission access lowered the cost of power to many utilities. However, in 2000 and 2001 power costs on the West Coast reached unprecedented heights due to a number of factors including market abuse and price fixing by wholesale marketers. This created significant concern about the future of deregulation of the electric utility industry and most deregulation efforts across the country were either curtailed or deferred. The State of Oregon implemented SB 1149 in March 2002 providing certain electric customers with access to power suppliers other than their connected distribution utility.

³ Publicly owned electric utilities in the Pacific Northwest, referred to as BPA preference customers, purchasing all or a portion of their respective power supply requirement from BPA include 28 PUDs, 41 municipal electric utilities and 56 electric cooperatives.

It is important to note that restructuring of the electric utility industry in the United States prompted many utilities to evaluate their respective competitive positions. As a result, many utilities were sold, acquired or merged with other utilities. In the Pacific Northwest, Enron purchased PGE and is currently pursuing the sale of PGE to Texas Pacific Group. In 1999, PacifiCorp was acquired by Scottish Power. Following a 1997 deregulation bill passed by the Montana legislature, Montana Power Co. sold its hydroelectric generating facilities to Pennsylvania Power & Light Co. and eventually sold its transmission and distribution facilities to Northwestern Corporation⁴ of Sioux Falls, South Dakota. The restructuring movement has prompted cities and other municipal entities nationwide to evaluate electric service in their communities. In order to assure reliable, cost effective electric service, as well as allow for community input as to how electric service is provided in their communities, many of these entities have studied the potential acquisition of the electric system facilities from the existing utility⁵.

Methodology

The purpose of this study has been primarily to provide an initial assessment of the potential costs and benefits to the electric consumers in the County associated with the establishment of a publicly-owned electric utility to provide electric service. In general, the study estimated the costs of establishing and operating a PUD, determined what the PUD would need to charge for electric service to recover revenues sufficient to pay all of its costs and compared the PUD's estimated cost of electric service to continued service from PGE. Principal components of the effort included:

- Definition of the area to be served by CPUD and electric facilities to be acquired.
- Estimation of the value of the electric facilities to be acquired by CPUD from PGE.
- Estimation of the financing requirements associated with facility acquisition and CPUD startup.
- Estimation of the number of electric consumers in CPUD's service territory.
- Estimation of energy sales and power requirements of these consumers.
- Identification of potential power supply sources and costs.
- Projection of the annual costs of operation and annual revenue requirements of CPUD's electric system.
- Comparison of CPUD's necessary rates for electric service to estimated PGE rates.
- Preparation of a report summarizing the results of the study.

The study has relied almost entirely upon publicly available information and reports from PGE and other sources. For the most part, data found in PGE's filed reports pertain to its system as a whole and do not present detailed information with regard to municipal or county boundaries. As a result, it has been necessary to estimate what portion of PGE's total customer base, total power requirement and electric system facilities are located within the

⁴ On Sept. 14, 2003, Northwestern Corporation filed a voluntary petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code.

⁵ Several Montana cities served by Northwestern Corporation are presently studying the feasibility of acquiring the electric distribution systems from Northwestern and establishing municipal electric systems.

County. A much more detailed assessment of these quantities would be derived in subsequent studies and analyses as the development of CPUD's electric utility proceeds and access to PGE's customer sales and facility inventory records can be obtained.

For the purpose of this study, the determination of electric facilities to be acquired was based on a cursory review of PGE's transmission and distribution system in and around the County primarily using large-scale system maps. The limited nature of this study did not allow for quantification and allocation of specific facilities; rather, PGE's average investment in its distribution and transmission systems on a per customer basis was applied to the number of customers estimated to be located in the County. This approach produced results reasonably close to system net book value estimates quoted by PGE representatives. It has been assumed that CPUD would finance the initial acquisition and startup costs with the issuance of a combination of taxable⁶ and tax-exempt revenue bonds.

A detailed count of the number of electric customers located in CPUD's proposed service territory has not been made. Rather, the number of households in the County has been used as a representative estimate of the number of residential electric accounts. Typical relationships between the number of residential and general service accounts in PGE's system as a whole have been used to estimate the number of general service accounts in CPUD's service area. The total power requirements of the electric customers in the District have been estimated based on typical residential and commercial loads for the Company's total customer base. The actual number of electric customers in the District and energy sales for these customers should be obtainable from the Company at a later date.

The estimated costs for power purchases, system operation and maintenance, customer accounting and administration included in the analysis have been based on costs experienced by other publicly-owned electric utilities in the Pacific Northwest. It is assumed that CPUD would conduct its own billing and accounting activities and would provide in-person customer service for bill paying, hookup requests and other services. In addition to operating expenses, annual debt service payments and funds for annual capital improvement expenditures were included in the projected revenue requirements.

In 1999, the Bonneville Power Administration (BPA) defined its criteria for qualification to purchase power from BPA as a "preference customer". This criteria is presently in effect, however, significant discussion is underway in the region with regard to both BPA power availability and power sales rates following the current rate period ending September 30, 2006. BPA has indicated that it could provide power to a newly formed or significantly expanded electric utility prior to as well as after 2006.

For the purpose of estimating the cost of power to CPUD in this analysis, it has been assumed that CPUD would purchase either its entire power supply requirement from BPA as a preference customer or its net requirement upon acquiring the PGE hydroelectric generation facilities in the County. Prior to September 30, 2006, CPUD would most likely

⁶ Although CPUD would normally be able to issue tax-exempt bonds, federal tax laws would preclude the use of tax-exempt financing to fund the acquisition of existing electric facilities previously owned by an investor owned utility.

need to pay a rate somewhat higher than the standard preference power rate paid by BPA's existing preference customers. Past history would indicate that all preference customers, new and old, are treated equally and as a result, for purposes of the projected costs after 2006, CPUD is assumed to purchase power at the preference rate. Prior to and during 2006, it is expected that CPUD would pay the preference power rate with applicable cost recovery adjustment charge (CRAC) surcharges⁷ and the Targeted Adjustment Charge (TAC) applied to the base priority firm rates.

Other sources of power supply, possibly from PGE as well as others, should be available to CPUD if BPA power is not available. Market power rates were very high during 2001 but at the present time are comparable with BPA's preference rate with the CRAC and TAC adjustments applied.

Projections of operating costs, debt service and other costs for CPUD have been made on an annual basis for the first ten years of CPUD electric utility operation. For the purpose of this analysis, it has been assumed that the first year of operation would be 2006. Although specific projected values would change, it is not expected that the overall outcome of the analysis would vary significantly if the assumed first year of operation were different.

It should be noted that this study has not addressed legal issues that may affect CPUD's ability to pursue electric utility ownership.

Conclusions

The costs of establishing and operating a PUD-owned electric utility in Clackamas County have been estimated in accordance with the methodology and assumptions described in this report. Based on these estimated costs, the cost of power to electric consumers in the County with a PUD-owned electric utility has been projected and compared to the projected cost of continued electric service from PGE. Results of the study and the accompanying cost analysis are summarized as follows:

1. At present population levels, it is estimated that CPUD would have 156,690 electric customers in its proposed service territory and would have a total annual energy requirement of 3,680,000 MWh. The number of customers served by CPUD is estimated to increase at an average annual growth rate of approximately 1.7% per year. Peak demand is estimated to be 700 MW.
2. The estimated net book value of the electric facilities presently owned by PGE and needed by CPUD to provide electric service in its proposed service territory is \$254 million. Combined with various startup costs and separation costs, the initial financing requirement of CPUD is estimated to be \$359 million.
3. Certain costs may need to be incurred to separate CPUD's electric system from PGE's remaining system in the area around the County. It is presently expected that

⁷ The current CRAC surcharge is 47% applied to all BPA preference power rate components. The CRAC surcharge is adjusted every 6 months.

to keep these costs at a minimal level, metering systems will be installed at various points where PGE's distribution lines outside the County are served through CPUD's system. Agreements would be needed between CPUD and PGE to "wheel" power over distribution lines owned by the other. CPUD would be expected to fund the costs of these metering systems as well as any other costs related to separation.

4. Although other alternatives exist for power supply, the projected cost of power from BPA has been used in this analysis as the basis for projecting the costs of operating a CPUD electric system. Most of the publicly-owned electric utilities in the Pacific Northwest rely upon BPA for much, if not all, of their power supply requirements. CPUD would be expected to pay a higher rate than other preference customers for power purchased from BPA through the end of the existing BPA rate period, 2006, but should pay the same rate as other preference customers after 2006.
5. The cost of purchased power and transmission, at estimated BPA rates, will represent approximately 54% of the total annual revenue requirement of CPUD's electric system after the first year of operation. A lower cost source of power could significantly reduce the estimated cost of power from CPUD's electric system to its customers.
6. In its initial year of operation, 2006 for purposes of this analysis, the average cost of power to consumers from CPUD is estimated to be approximately 7.0 cents per kWh, as compared to an average cost of 7.4 cents per kWh from PGE. In the second year of operation when the BPA rate to CPUD is expected to decrease, average electric charges from CPUD are estimated to be approximately 15.2 percent lower than those from PGE. Cumulative savings in total charges for electric service in the portion of the County to be served by CPUD over the first ten years of CPUD operation are estimated to be \$720 million. The present value to 2004 of the cumulative savings over the first ten years of CPUD operation is estimated to be \$498 million using a 5 percent discount rate. If CPUD acquires certain PGE hydroelectric facilities in the County and uses the output of these facilities to offset a portion of its total power purchases, the estimated savings over the first ten years of operation would increase to \$859 million.
7. Alternative purchase power costs, system acquisition costs and financing costs can significantly affect the results of the analysis. A more detailed Engineer's Report should follow in the future if voter approval of CPUD is obtained. Additional information and alternative assumptions should be factored into any subsequent feasibility studies and engineering reports of CPUD.

Section 2

Estimated Cost of Electric Facilities

Description of Service Area

The proposed service territory of CPUD would comprise all areas of the County presently served by PGE. This area includes the entire county with the exception of the City of Canby, areas adjacent to Canby that receive electric service from the Canby Utility Board and townships with less than 10 electors in which PGE generating facilities are not located. Nearly all the electric load is located in the western half of the County with the highest concentrations of load in the northwest corner. In addition to the unincorporated portions of the County, CPUD, as proposed, would provide electric service in Barlow, Estacada, Gladstone, Happy Valley, Johnson City, part of Lake Oswego, Milwaukie, Molalla, Oregon City, part of Portland, Sandy, part of Tualatin, and West Linn.

Electric Facilities to be Acquired

The Electric facilities located within the proposed service territory of CPUD include transmission lines, substations, overhead and underground distribution lines, poles, transformers, vaults, service drops, meters, streetlights and any ancillary distribution system facilities. PGE's transmission system in and around the County includes 57-kilovolt (kV), 115-kV and 230-kV lines. There are approximately 30 substations in the County used for transmission system operation and to transform power from transmission voltage to distribution voltage. A significant interconnection point with BPA's transmission network exists at BPA's Oregon City substation near Wilsonville. It is expected that CPUD would take delivery of power from BPA at the Oregon City substation.

Although it is expected that most of the PGE electric transmission and distribution facilities would be acquired, with the exception of the 230-kV transmission system, as noted below, specific facilities to be acquired would be identified at a later time when engineers representing PGE and CPUD would determine how best to separate the CPUD system from the PGE system. It will be necessary to assure that both systems can function efficiently and reliably in the future. Typically, upon mutual agreement to proceed with the establishment of a new publicly-owned utility, an acceptable plan of separation can be developed relatively quickly by electric system engineers.

Based on a preliminary evaluation of the PGE transmission system in the County, the following general concepts have been preliminarily assumed:

- Transmission lines at 230-kV would remain the property of PGE. Interconnecting points for other voltages in the 230-kV yards would become the property of CPUD.

Power transformers in substations that have capacity and are needed to feed outside the CPUD service territory would require some form of joint ownership. Operations of these facilities would be performed through a contractual arrangement with PGE's Distribution Services Division. The City of Canby and PGE presently share ownership of a substation near Canby.

- All 115-kV transmission lines in the CPUD service territory will become the property of CPUD. Some lines outside the CPUD service territory may have to be part of the purchase of facilities from PGE. Most notable are the two lines between Carver and Gresham. There are no substations served in Multnomah County off these lines so the line would be purchased from terminal point to terminal point. Metering will be required at ownership terminal points to account for power flow into, out of and through the CPUD system. Load flow studies will show if open points established by PGE need to be changed for a utility that only serves the County. The load flow studies may show some power flow through CPUD service territory is required for PGE to serve customers outside the County.
- All 57-kV transmission in the CPUD service territory will become the property of CPUD. Some lines outside the CPUD service territory may have to be part of the purchase of facilities from PGE. There are five segments of line that exist in the County and tie to other substations. The lines would be purchased from terminal point to terminal point. Metering will be required at ownership terminal points to account for power flow into, out of and through the CPUD lines. Load flow studies will show if open points established by PGE need to be changed for a utility that only serves the county. The load flow studies may show some power flow through CPUD service territory is required for PGE to serve customers outside Clackamas County.

With the acquired transmission facilities, CPUD will be able to take delivery of bulk power and transmit it to its distribution substations around the County. From the substations, power would be distributed to all the homes and businesses served by CPUD. In the event that after further study, it is determined that all or portions of the transmission system in the County should remain with PGE, it might be necessary that CPUD take ownership of its system at the distribution substations. With this alternative approach, PGE would serve as a transmission provider to CPUD and BPA would contract with PGE for delivery of power to CPUD's distribution system. This would be a similar situation to that which currently exists between Canby Utility Board, PGE and BPA.

Estimated Cost of Electric Facilities

An appraisal of the value of electric facilities in the County to be acquired by CPUD for its electric system has not been conducted. Such an appraisal would rely upon a detailed description of the facilities to be acquired and will potentially be needed if CPUD proceeds towards acquisition of the PGE system in the County. For the purpose of this analysis, the original cost less depreciation (OCLD) value of the electric facilities to be acquired is assumed to be reasonably representative of the cost CPUD would pay for this property. OCLD is defined as the original cost of the property when it was first put into service as a

public utility, less accrued depreciation. The OCLD value is an estimate of the net book value of property, which in general, is equivalent to the rate base value of the property for ratemaking purposes. For regulated properties such as the facilities to be acquired by CPUD, the rate base value generally is the portion of the original investment cost which the utility has not yet recovered through rate charges paid by its customers.

At the present time, Texas Pacific Group (TPG) has offered approximately \$2.35 billion for PGE and review of the proposed sale is currently underway by the Oregon Public Utility Commission. At the proposed sales price, it appears that in effect, PGE's electric utility plant is to be sold at approximately net book value or OCLD. In this circumstance, the "market-defined" value of PGE's property is approximately the same as net book value which provides further reason to consider OCLD as the value of facilities to be acquired by CPUD.

For the purpose of this analysis, it has been assumed that PGE's total investment in transmission and distribution facilities in the County on a per customer basis is proportional with investment in these facilities throughout PGE's entire system. PGE's investment in electric plant as of December 31, 2003 is shown in the following table:

TABLE 1
PGE Total Electric Plant in Service as of December 31, 2003 ¹

Electric Plant in Service	
Intangible Plant	\$ 119,904,423
Production Plant	1,377,733,335
Transmission Plant	353,447,112
Distribution Plant	1,679,523,110
General Plant	256,561,340
Subtotal	\$ 3,787,169,320
Less: Adjustments	\$ (42,690,684)
Total Electric Plant in Service	\$ 3,744,478,636

¹ Source: PGE FERC Form No. 1 for 2003. Calculated as Balance at beginning of year plus reported Additions during the year. Adjustments reflect the presumed value of facilities retired during the year.

In 2003, PGE reported 750,496 total electric customers. Based on this number of customers, the total investment in Transmission Plant and Distribution Plant at the end of 2003 is \$471 and \$2,238 per customer, respectively. Table 2 shows PGE's Net Utility Plant.

TABLE 2
PGE Net Utility Plant as of December 31, 2003 ¹

Utility Plant	\$ 3,744,478,636
Construction Work in Progress	89,583,408
Total Utility Plant	\$ 3,834,062,044
Less: Accumulated Depreciation	1,863,811,407
Net Utility Plant	\$ 1,970,250,637

¹ Source: PGE FERC Form No. 1 for 2003.

In total, the Accumulated Depreciation shown in Table 2 is 48.6% of the Total Utility Plant. It is not known what the actual accumulated depreciation is for transmission and distribution plant, however, it has been assumed that 40% should be a reasonable assumption based on data from previous PGE reports and experience with other utility systems. Based on the estimated plant investment per customer shown above and 40% accumulated depreciation, the OCLD value of the transmission and distribution facilities to be acquired by CPUD is shown in Table 3.

TABLE 3
Estimated Cost of Electric Facilities to be Acquired by CPUD ¹

Distribution Facilities	
Original Cost	\$ 350,650,000
Less: Accumulated Depreciation	(140,260,000)
Net Cost - Distribution	\$ 210,390,000
Transmission Facilities	
Original Cost	\$ 73,792,000
Less: Accumulated Depreciation	(29,517,000)
Net Cost - Transmission	\$ 44,275,000
Total Facilities - OCLD	\$ 254,665,000

¹ Based on estimated 156,700 total customers and assumed 40% accumulated depreciation on system facilities.

In total, the estimated cost of the facilities to be acquired based on the assumed OCLD, or net book value, method of valuation is \$254.7 million. Statements made recently by PGE indicate that twice the book value of the assets CPUD would acquire is about \$500 million⁸. This implies that PGE's estimate of the net book value of the facilities is about \$250 million.

Separation Costs

Although CPUD would mostly acquire facilities located within its proposed service territory, some means of separation between the PGE's remaining system and the new CPUD system will need to be established. Rather than a complete immediate physical separation, which could require construction of certain new facilities, it is suggested that a metering system be installed at locations where the distribution feeders extend outside the County. The metering system may take two forms, a primary system on large loads or a distributed automatic metering system for residential and small commercial loads. The automatic metering data and primary metering data would be summed and totaled to establish the amounts of PGE power delivered over the CPUD system and vice versa. Agreements would need to be established to permit PGE to wheel power over portions of CPUD's distribution system to PGE customers located outside CPUD's service area. These agreements would compensate CPUD on an allocated basis for use of CPUD-owned distribution facilities. Agreements of this type have been and continue to be used at locations in Oregon where both utilities agree that it is not cost effective to construct new lines.

⁸ PGE, "Why a PUD can't deliver on promises of lower rates: Purchase, start-up and severance costs."

A detailed separation plan will be needed to establish full physical separation of the PGE and CPUD systems. For this analysis, it was assumed that new lines will be required along portions of the County boundaries. Along the southeasterly border, the County line follows Butte Creek and the Pudding River. Rivers offer a natural barrier for most power lines. More concentrated, higher population areas along the west, northwest and northern boundaries of the County will require significant investment in larger overhead and underground distribution lines. In total, it is estimated that approximately 55 miles of new lines along the County boundaries would be needed to establish separation of the two systems. In addition, it is also assumed that three new substations will need to be constructed. An allowance of \$25 million is assumed to accomplish this preliminary separation approach. It is further assumed that the new separation facilities will be constructed over a multi-year period with reliance upon the net metering approach until the new lines are built.

Section 3

Estimated Initial Financing Requirements

The estimated initial financing requirements for CPUD's electric system include the costs of acquiring the existing electric facilities from PGE, constructing certain new facilities related to separation of CPUD's system from that of PGE, legal and consulting fees, startup costs and working capital. It is assumed that CPUD would finance the initial acquisition costs with the issuance of revenue bonds that would not be tax-exempt. Costs of constructing new facilities for separation, purchases of equipment, inventories, supplies and other related costs are assumed to be financed with loans carrying tax-exempt interest rates. Certain costs associated with the issuance of revenue bonds, such as the funding of a bond reserve fund, would also be incurred.

Although bond issuance is assumed for the purpose of this analysis, there are other alternatives that may be more appropriate when factored in to the overall financial structure of CPUD. PUD's and municipally owned utilities generally use tax-exempt bonds and loans to fund the capital costs associated with their systems. Federal tax laws generally prohibit the use of tax-exempt loans for the funding of municipal acquisition of electric systems owned by investor-owned utilities. Taxable revenue bonds have a higher interest rate than tax-exempt rates. Further, the 30-year repayment period for the initial bond issuance, as assumed for this analysis, could be shortened if desired. A shorter repayment period would require higher annual debt service payments during the repayment period but would allow for earlier retirement of the bonds. It is important that legal and financial advisors be consulted with regard to the structuring of bond issues to fully evaluate financing alternatives. Various exceptions and special conditions could exist that would allow more access to tax-exempt securities to fund the initial financing requirement.

Table 4 shows the estimated initial financing requirements for CPUD's electric system assuming that the purchase price of the existing facilities is \$254.7 million as shown in Table 3. Included in Table 4 is \$26.5 million for startup costs to purchase vehicles, equipment, materials, stores, office and warehouse space, a customer information system, computer hardware and software, among other items including legal and engineering fees. Certain separation and startup costs shown in Table 4 will not necessarily be incurred at the outset of CPUD operations.

TABLE 4
Clackamas PUD
Estimated Total Initial Costs ¹

Initial System Acquisition	\$ 254,665,000
Separation Costs	25,000,000
Startup Costs	<u>26,500,000</u>
Total Initial Costs	\$ 306,165,000

¹ Certain separation and startup costs are expected to be incurred over a three year period following initial operation.

As CPUD proceeds towards acquisition of facilities and startup of electric utility operation, a detailed plan of finance will be developed in coordination with CPUD's legal and financial advisors. CPUD will most likely have multiple bond issues carrying different interest rates and different terms. Table 5 provides the estimated initial financing requirements for a taxable and tax-exempt revenue bond issuance. Both bond issues are assumed to have a 30 year term and include the funding of a debt service reserve fund equal to one-year's annual debt service. Financing costs at 1.5% of the bond size are also included. Recent interest rates reported for 30-year revenue bonds are approximately 6% for taxable debt and 5% for tax-exempt debt⁹. Although long-term, fixed rate debt has been assumed for this analysis, CPUD may want to use short-term borrowings with variable interest rates for a portion of its total financing requirement. Variable rate loans have proven very beneficial in some recent electric utility applications.

TABLE 5
Clackamas PUD
Estimated Total Initial Financing Requirements

	Bond Issue A (Taxable Rate)	Bond Issue B (Tax-exempt Rate)
Initial Acquisition Costs	\$ 254,665,000	\$ -
Separation, Startup, Legal Costs ¹	-	\$ 23,900,000
Working Capital ²	-	35,000,000
Contingency Reserve	-	15,000,000
Subtotal	\$ 254,665,000	\$ 73,900,000
Financing Expense ³	4,187,000	1,215,000
Debt Service Reserve ⁴	20,279,000	5,269,000
Total Financing Requirement	\$ 279,131,000	\$ 80,384,000

¹ Amount shown is for first year costs. Certain costs are expected to be incurred over a three year period following initial operation.

² Base on approximately two months estimated operating costs.

³ Estimated at 1.5% of total bond issue.

⁴ Based on one years level debt service assuming 6% taxable and 5% tax-exempt interest rates and 30 year repayment period.

⁹ Representative interest rates as of April 2, 2004.

Section 4

Estimated Number of Customers, Energy Sales and Power Requirements

Electric utilities generally classify their customers based on general characteristics of service. Typical customer classifications are residential, commercial, industrial, irrigation and streetlights. The number of customers in CPUD's service territory has been estimated to serve as the basis for estimating energy sales and overall power requirements of the CPUD system.

The total number of households in the County in 2003 was approximately 135,200. The number of households is expected to increase to 147,000 by 2008 representing average annual growth of 1.68%. Applying an adjustment factor for the number of residential electric accounts per household and subtracting the number of County residences in Canby, the total number of residential customers to be served by CPUD is presently estimated to be 138,200. Using the relationship between the number of residential accounts and the number of other customer classifications as seen in PGE's system as a whole in 2003, the number of other customer accounts can also be estimated. It is estimated that at present levels, CPUD would serve 15,800 small commercial customers, 2,560 large commercial customers, 40 industrial customers and 110 streetlight customers. In total, CPUD would serve an estimated 156,700 customer accounts at present levels. This total number of customers is approximately 20.8% of PGE's total customer count.

It should be noted that the method of estimating customer counts as described is, at best, an approximation of the number of electric accounts. A more detailed estimate of the number of accounts, potentially available through PGE, will be needed if CPUD proceeds with further evaluation of the electric system.

Assuming average energy consumption per customer similar to that experienced by PGE as a whole in 2003, with adjustment for the presumed lower percentage of large industrial customers in the County compared to other areas of PGE's service territory, total energy sales of CPUD's electric system have been estimated. Total annual energy sales at present levels are estimated to be 3,409,500 megawatt-hours (MWh). This amount represents about 18% of PGE's total annual energy sales.

Assuming 6.0% energy losses, based on representative experience for PGE's system, and assumed annual load growth of 1.68%, the total annual energy requirement of CPUD's electric system is estimated to be 3,745,100 MWh (427.5 average megawatts) in 2006. Based on an assumed load factor (the ratio of average to peak demand) of 60%, the peak demand of the District's electric system is estimated to be 710 megawatts (MW) in 2006.

Table 6 shows the estimated number of electric customers, annual energy consumption per customer, annual energy sales, annual energy requirements and peak demand for the five-

year period, 2006 through 2010. The number of customers shown in Table 4 is assumed to grow at a rate of 1.68% per year through 2008 and at a rate of 1.7% per year thereafter.

TABLE 6
Clackamas PUD
Estimated Number of Customers, Energy Sales and Power Requirements

	2006	2007	2008	2009	2010
Number of Customers					
Assumed Growth Factor	1.68%	1.68%	1.68%	1.70%	1.70%
Residential	142,852	145,251	147,690	150,201	152,754
Small Commercial	16,342	16,616	16,895	17,182	17,474
Large Commercial	2,644	2,688	2,733	2,779	2,826
Industrial	43	44	45	46	47
Streetlights	114	116	118	120	122
Total Customers	161,995	164,715	167,481	170,328	173,223
Annual Energy Use per Customer (kWh)					
Residential	10,860	10,860	10,860	10,860	10,860
Small Commercial	17,500	17,500	17,500	17,500	17,500
Large Commercial	461,000	461,000	461,000	461,000	461,000
Industrial	10,542,300	10,542,300	10,542,300	10,542,300	10,542,300
Streetlights	193,600	193,600	193,600	193,600	193,600
Energy Sales (MWh)					
Residential	1,551,400	1,577,400	1,603,900	1,631,200	1,658,900
Small Commercial	286,000	290,800	295,700	300,700	305,800
Large Commercial	1,218,900	1,239,200	1,259,900	1,281,100	1,302,800
Industrial	453,300	463,900	474,400	484,900	495,500
Streetlights	22,100	22,500	22,800	23,200	23,600
Total Energy Sales	3,531,700	3,593,800	3,656,700	3,721,100	3,786,600
Losses and Own Use	213,400	217,100	220,900	224,800	228,800
Total Energy Reqs. (MWh)	3,745,100	3,810,900	3,877,600	3,945,900	4,015,400
Loss % of Total Reqs.	5.7%	5.7%	5.7%	5.7%	5.7%
Annual Loadfactor	60%	60%	60%	60%	60%
Peak Demand (MW)	710	730	740	750	760

Section 5

Projected Revenue Requirements

Overview of Power Supply Options

A critical element of CPUD's ability to operate as an electric utility will be in obtaining a supply of power. Many of the publicly-owned electric utilities in the Pacific Northwest rely upon BPA for their power supply needs. BPA markets power to the region's utilities from federal hydroelectric projects and certain other facilities. The ability of BPA to continue to supply all the power demands placed on it by its customers in the future is uncertain. As a result, discussions are currently underway with regard to how the low cost power from the federal hydroelectric projects should best be allocated among BPA's customers, existing and new. In addition, BPA has contracted to purchase power at times to supplement the federal resources it has available.

BPA has established certain criteria that must be met before an entity may qualify for service from BPA¹⁰. To comply with the existing standards of service, an applicant must:

1. Be legally formed in accordance with state and federal laws;
2. Own a distribution system and be ready, willing and able to take power from BPA within a reasonable period of time;
3. Have a general utility responsibility within the service area;
4. Have the financial ability to pay BPA for the federal power it purchases;
5. Have adequate utility operations and structure; and
6. Be able to purchase power in wholesale, commercial amounts.

Upon compliance with these standards, CPUD will be entitled to purchase power from BPA as a preference customer. The cost of BPA power to CPUD will most likely be higher than that paid by other preference customers through September 30, 2006. New large loads placed on BPA's system during the current rate period are subject to the Targeted Adjustment Charge (TAC), a surcharge related to the cost of power supply, potentially at market rates, that BPA may need to acquire on behalf of the new load.

An important issue regarding the TAC is that CPUD should be able to avoid the TAC for a portion of its power purchases from BPA in proportion to the Regional Power Act residential exchange benefits that PGE currently obtains for residential and small farm loads in the County¹¹. At the present time, the estimated cost of preference power to CPUD if it were a preference customer assuming a 46% CRAC, is approximately \$33.00 per MWh or 3.3 cents

¹⁰ Bonneville Power Administration, Final Policy on Standards for Service – Administrator's Record of Decision, December 22, 1999.

¹¹ At the present time, PGE receives power and payments equivalent to 490 average MW of energy annually through the Regional Power Act residential exchange program. It is estimated that approximately 105 average MW of this total amount would "transfer" to CPUD.

per kWh¹² on an annual basis. Over the next two years, BPA will be establishing new rates for service for the five-year period beginning October 1, 2006. Significant uncertainty exists with regard to what structure the new rates will use and what the actual rates will be. Preliminary discussions with BPA would indicate that a preference power rate in the range of \$30-\$32 per MWh is reasonable for planning purposes for the 2007-2011 time period.

In addition to BPA, CPUD could pursue purchases of power from other utilities, including PGE. The average cost of power for PGE's total supply of generation and power purchases in 2003 was \$35.27 per MWh¹³. Power could also be purchased under short-term or long-term arrangements through power marketers or independent power producers. In the future, CPUD will most likely continue to purchase power from BPA but will also be able to construct new generating facilities of its own, participate jointly with other utilities in new generation facilities and contract to purchase power from other suppliers.

A significant advantage in establishing CPUD will be the opportunity for its elected Directors to establish conservation and power supply policies locally. The Directors can implement appropriate conservation programs and can choose to develop or pursue participation in development of any kind of power generation technology including wind, geothermal and other renewable energy generation systems, waste to energy systems, biomass-fueled generation systems, cogeneration and distributed generation.

PGE presently owns and operates several small to medium-sized hydroelectric generating facilities located in Clackamas County. The Clackamas River Hydroelectric Project (the "Clackamas Project") consists of four separate developments, Oak Grove, North Fork, Faraday and River Mill, licensed by the Federal Energy Regulatory Commission (FERC) as one project¹⁴. The Clackamas Project is located on the Oak Grove Fork Clackamas River and the Clackamas River and involves a number of dams, reservoirs, pipelines, powerhouses and related facilities extending from Timothy Lake to the River Mill Dam and Powerhouse near Estacada. The total rated capacity of the Clackamas Project is 167 MW, dependable capacity is 67 MW and average annual energy generation is 735,135 MWh¹⁵. The current FERC license for the Clackamas Project expires on August 31, 2006 and PGE is presently pursuing relicensing of the project. The net book value of the Clackamas Project is reported by PGE to be \$63.0 million.

The Willamette Falls Hydroelectric Project, FERC No. 2233, is located on the Willamette River and is comprised of two separate hydroelectric developments located near Oregon City and West Linn. The T.W. Sullivan facility has a generating capacity of 16 MW and average annual energy generation of 122,028 MWh. The Willamette Falls Project also includes the 1.5 MW Blue Heron Paper Company development licensed to Blue Heron Paper Company. The net book value of the T.W. Sullivan Project is reported by PGE to be \$8.6 million. PGE

¹² Cost shown is based on PF-02 rates for non-slice customers.

¹³ Source: PGE 2003 FERC Form No. 1.

¹⁴ The Clackamas River Hydroelectric Project is licensed as FERC Project No. 2195.

¹⁵ Source: PGE, The Clackamas River Hydroelectric Project, draft license application dated September 30, 2003.

has proposed several measures to enhance downstream fish passage at the T.W. Sullivan development and Willamette Falls estimated by PGE to cost \$4.1 million in 2001 dollars¹⁶.

With acquisition of the existing PGE hydroelectric facilities located in the County, a significant portion of CPUD's total power supply would still be generated outside the County. It is expected that CPUD will take delivery of bulk power over the BPA transmission system, which extends throughout the Northwest and is relied upon extensively by essentially all of the region's electric utilities.

Estimated Cost of Power Supply and Transmission

For the purpose of this analysis, the cost of preference power from BPA is considered to be a reasonable estimate of power supply costs for CPUD. Through 2006, a TAC surcharge of \$8.40 per MWh and a CRAC of 46% has been applied to the existing PF-02 power rates. Beginning October 1, 2006, it is assumed that PF-02 base rates will be adjusted to include the effect of the existing CRAC surcharge causing no net increase over the effective preference rate presently in place. After the 2006 adjustment, BPA power rates are assumed to increase 3% every two years. CPUD's energy requirement is assumed to occur 65% in heavy load hours and 35% in light load hours, a typical distribution for BPA preference customer loads. Estimated transmission costs are based on BPA's Network Integration 2004 (NT-04) rates with appropriate ancillary service charges. Transmission rates are assumed to increase 3% every three years. As additional information becomes available on the projected pricing and availability of BPA power in the future, CPUD should update its projections of total power cost.

The estimated cost of power and transmission to CPUD for the five year period, 2006 through 2010, is shown in the following table:

¹⁶ Source: PGE, License Application for the Willamette Falls Hydroelectric Project, December 27, 2002.

TABLE 7
Clackamas PUD
Estimated Annual Cost of Power and Transmission Services
(Based on Full Requirement Supply from BPA)

	2006	2007	2008	2009	2010
Energy Required (MWh) ¹	3,745,100	3,810,900	3,877,600	3,945,900	4,015,400
Demand (MW)	710	730	740	750	760
Purchased Power					
BPA Base Rates					
Demand (\$/kW-yr) ²	22.20	32.19	32.19	33.16	33.16
Energy (\$/MWh) ³	18.39	26.67	26.67	27.47	27.47
Assumed Escalation	0.0%	45.0%	0.0%	3.0%	0.0%
CRAC ⁴	46.0%	0.0%	0.0%	0.0%	0.0%
TAC (\$/MWh) ⁵	8.40	-	-	-	-
Annual Charges (\$000)					
Base Cost ⁶	\$ 84,637	\$ 125,123	\$ 127,223	\$ 133,247	\$ 135,488
CRAC Charge ⁴	38,933	-	-	-	-
TAC Charge	31,459	-	-	-	-
Total	\$ 155,029	\$ 125,123	\$ 127,223	\$ 133,247	\$ 135,488
Total Cost (\$/MWh)	41.40	32.83	32.81	33.77	33.74
Network Transmission (BPA)					
Base, Anc Srv (\$/kW-yr) ⁷	18.59	19.15	19.15	19.15	19.72
Anc Srv (\$/MWh) ⁸	0.73	0.75	0.75	0.75	0.77
Assumed Escalation	0.0%	3.0%	0.0%	0.0%	3.0%
Annual Charges (\$000)	\$ 15,933	\$ 16,844	\$ 17,085	\$ 17,328	\$ 18,099
Total Cost (\$/MWh)	4.25	4.42	4.41	4.39	4.51

¹ See Table 6.

² Demand charge shown is reflective of estimated monthly load for CPUD and monthly variance in BPA demand charges. Base rate is adjusted by Assumed Escalation.

³ Energy charge shown is weighted average annual charge based on BPA monthly charges and the estimated monthly load for CPUD. Assumes overall CPUD energy use is 65% during BPA-defined heavy load hours and 35% during light load hours. Includes Load Variance charge. Base rate is adjusted by Assumed Escalation.

⁴ CRAC charge presumed to be absorbed into Base Rates October 1, 2006.

⁵ Assumed Targeted Adjustment Charge based on estimates provided previously by BPA. Estimated to apply only through 2006.

⁶ Includes energy, load variance and demand charges.

⁷ Includes base charge and ancillary service charges for load shaping, scheduling, system control and dispatch services and reactive and voltage control services.

⁸ Includes ancillary service charges for operating reserves and regulation and frequency response.

If CPUD were to acquire the Clackamas River hydroelectric project and the T.W. Sullivan hydroelectric project from PGE, it is expected that CPUD would use the power from these projects to offset purchases of power from BPA. The cost of ownership and operation of the hydroelectric facilities would primarily include debt service, operations and maintenance expenses and various administrative and general expenses. It is expected that CPUD would either contract for maintenance and operation of the facilities or perform this function with its own staff. Assuming a purchase price of \$75.8 million (net book value plus \$4.1 million for

fish enhancements at the T.W. Sullivan Project and Willamette Falls) for the facilities, the annual costs of power from the hydroelectric projects is shown in Table 8.

TABLE 8
Clackamas PUD
Estimated Annual Cost of Power from Hydroelectric Resources Potentially to be Acquired (\$000)

	Clackamas Project	T.W. Sullivan Project
Operation & Maintenance ¹	\$ 4,317	583
FERC Fees ¹	292	73
Property Taxes ¹	899	149
A&G ²	1,500	400
Subtotal	\$ 7,008	\$ 1,205
Debt Service ³	5,020	1,010
Renewals & Replacements ⁴	1,261	173
Total Annual Cost	\$ 13,289	\$ 2,388
Energy Generation (MWh) ⁵	735,173	122,028
Cost of Power (\$/MWh)	18.1	19.6

¹ Based on PGE experienced costs as shown in the Draft License Application for the Clackamas Project and the Final License Application for the T.W. Sullivan project.

² Assumed costs of CPUD to administer the projects.

³ Based on 6% interest rate, 30 year repayment period, 1.5% financing expense and reserve fund with one year's debt service.

⁴ Estimated at 2% annually of assumed acquisition cost of the hydroelectric facilities.

⁵ Based on average energy generation over the past few years as provided in the PGE License Applications for each facility.

Projected Revenue Requirements

Publicly-owned electric utilities generally establish rates to recover revenues through the sale of power sufficient to pay all operating expenses, taxes, and debt service as well as provide a margin from which to fund renewals, replacements and additions to the system. The total of all these cost obligations on an annual basis are referred to as the annual revenue requirement. Operating expenses of the electric system will include purchased power, purchased transmission services, transmission and distribution system operations and maintenance (O&M), customer accounting, and administrative and general expenses.

Many publicly-owned electric systems also collect additional revenues through their electric rates to make tax payments, franchise fee payments and payments in lieu of taxes to local governmental agencies. In acquiring a system that has been paying franchise fees and other taxes, CPUD will continue to pay property taxes, franchise fees or equivalent to local government agencies. PGE reported that it paid \$4.8 million in property taxes and \$5.0

million in franchise fees in the County in 2002. CPUD would also likely collect amounts through its rates for various public purposes and low income energy assistance programs.

Operating expenses for CPUD's electric system, other than power supply costs, have been estimated based on recent experience of other regional PUD's. It is expected that CPUD will either contract for O&M services or hire its own staff to perform these functions. At the time of initial operation it would most likely be necessary to contract at least some of the O&M services to other utilities or regional electrical contractors used by other PUDs and by investor owned utilities. In the past, when new publicly-owned utilities have acquired electric facilities from an existing utility, some of the employees of the acquired utility have been hired by the new utility. This provides both continued local employment for the workers and provides the new utility with necessary skilled workers familiar with the local electric system.

At present cost levels, the assumed operating costs for CPUD are as shown in the following table:

TABLE 9
Clackamas PUD
Assumed Unit Operating Costs (2006 Cost Levels)

Transmission O&M (\$/MWh)	\$	0.75
Distribution O&M (\$/MWh)	\$	3.25
Customer Accounts (\$/customer per year)	\$	70.00
Energy and Customer Services (\$/customer per year)	\$	12.00
Admin. & General (\$/MWh)	\$	4.00

Annual debt service requirements are based on level debt repayment of bonds issued to finance initial acquisition and startup costs at an assumed annual interest rate of 6.0% and 5.0% for taxable and tax-exempt debt over a 30 year repayment period. CPUD will incur annual expenses for renewals, replacements and additions to the system, assumed to be \$20 million per year. Annual expenditures for capital replacements and additions are projected to be financed 50% out of annual revenues and 50% from new debt. In developing CPUD's estimated annual revenue requirement, it has been assumed that CPUD will pay 4.0% of its total revenues in franchise fees and taxes. The projected annual revenue requirements for CPUD for the first five years of operation, assuming a startup date of January 2006 are shown in the following table:

TABLE 10
Clackamas PUD
Projected Annual Revenue Requirements
(Assuming 100% Purchased Power)

	2006	2007	2008	2009	2010
Cost Escalation Factor ¹	1.50%	1.50%	1.50%	1.50%	1.50%
Operating Expenses					
Power Production ²	\$ -	\$ -	\$ -	\$ -	\$ -
Purchased Power ³	155,030	125,120	127,220	133,250	135,490
Network Transmission ⁴	15,930	16,840	17,090	17,330	18,100
Trans. Oper. & Maint. ⁵	2,650	2,740	2,830	2,920	3,010
Dist. Oper. & Maint. ⁵	11,480	11,860	12,240	12,650	13,060
Customer Accounts ⁵	11,340	11,700	12,080	12,470	12,870
Energy & Cust. Services ⁵	1,940	2,010	2,070	2,140	2,210
Admin. & General ⁵	14,130	14,590	15,070	15,560	16,080
Low Inc. & Public Purpose ⁶	2,400	2,200	2,300	2,400	2,400
Taxes, Franchise Fees ⁷	9,500	8,900	9,100	9,500	9,700
Total Operating Exp.	\$ 224,400	\$ 195,960	\$ 200,000	\$ 208,220	\$ 212,920
Debt Service					
Initial Loans ⁸	\$ 20,800	\$ 25,500	\$ 25,500	\$ 25,500	\$ 25,500
Subsequent Loans ⁹	1,600	3,100	4,100	4,800	5,500
Total Debt Service	\$ 22,400	\$ 28,600	\$ 29,600	\$ 30,300	\$ 31,000
Renewals, Repl. & Adds.					
Funded from Revenues ¹⁰	\$ 10,000	\$ 10,100	\$ 10,300	\$ 10,400	\$ 10,600
Funded from Debt	10,000	10,200	10,300	10,500	10,600
Total Ren., Repl. Adds.	\$ 20,000	\$ 20,300	\$ 20,600	\$ 20,900	\$ 21,200
Less: BPA Credits ¹¹	\$ (7,700)	\$ -	\$ -	\$ -	\$ -
Less: Interest Earnings ¹²	\$ (1,000)	\$ (1,100)	\$ (1,100)	\$ (1,200)	\$ (1,200)
Total Revenue Required ¹³	\$ 248,100	\$ 233,560	\$ 238,800	\$ 247,720	\$ 253,320
Total Energy Sales (MWh) ¹⁴	3,531,700	3,593,800	3,656,700	3,721,100	3,786,600
Unit Revenue Req. (\$/kWh) ¹⁵	7.0	6.5	6.5	6.7	6.7
Debt Service Coverage	1.45	1.35	1.35	1.34	1.34

¹ Estimated at 60% of assumed annual inflation of 2.5%.

² No power production expenses are included in this case.

³ Estimated cost of power purchases. See Table 7.

⁴ Estimated cost of BPA network transmission services. See Table 7.

⁵ Based on unit costs shown in Table 9 with assumed cost escalation included.

⁶ Estimated at approximately 1.0% of total revenue requirement.

⁷ Estimated at approximately 4.0% of total revenue requirement.

⁸ Interest and principal on initial acquisition bond issues shown in Table 5. Assumes level debt service, 6% taxable and 5% tax-exempt interest rates and a 30 year repayment period with interest only in the first year of operation.

⁹ Interest and principal on bond issues used to fund a portion of annual Renewals, Replacements and Additions. Assumes level debt service, a 5% tax-exempt interest rate and a 30 year repayment period.

¹⁰ Assumed to be 50% of total annual Renewal, Replacement and Additions expenditures.

¹¹ Estimated savings in BPA purchased power TAC charges resulting from transfer of PGE Regional Power Act residential exchange credits to CPUD.

¹² Estimated interest earnings on invested reserve fund balances at a 4% interest earnings rate.

¹³ Sum of Total Operating Expenses, Total Debt Service, Total Renewals, Replacements and Additions funded from Revenues less BPA Credits.

¹⁴ See Table 6.

¹⁵ Total Revenue Required divided by Total Energy Sales.

Debt service coverage is required by bond underwriters and is typically set at a minimum of between 1.25 and 1.35 of annual debt service for publicly-owned electric utilities. Publicly-owned utilities usually establish policy concerning the percentage of capital improvements to be funded from borrowings and the amount to be funded from current revenues. The policy may be driven to some extent by limits on the amount of debt that banks and financial institutions will reasonably allow particular utilities to incur.

Aside from minor amounts received as other operating revenues and interest income, CPUD's main source of revenue for the electric utility will be through the sale of power to its customers. Table 10 shows the estimated revenue requirements for the period, 2006 through 2010. As can be seen in Table 10, the total unit revenue requirement in the first year (2006) of the projections is estimated to be 7.0 cents per kWh. This unit revenue requirement drops to 6.5 cents per kWh in the next year when the TAC charge would be expected to be dropped from CPUD's BPA power charge. This is the average unit revenue that CPUD would need to collect through energy sales to its customers.

Rates could be established that would reflect the actual cost to serve certain customer classifications (i.e. residential, commercial and industrial). The rates could also include multiple components such as monthly customer charges (e.g. \$7.00 per month), demand charges and energy charges. The total amount received through these various rate components, however, would need to total the Total Revenue Required shown in Table 10 on an annual basis.

Assuming that CPUD were to acquire PGE's hydroelectric generating facilities in the County at costs shown in Table 9, the projected revenue requirements for CPUD would be as shown in Table 11.

TABLE 11
Clackamas PUD
Projected Annual Revenue Requirements
(Assuming Acquisition of PGE Hydroelectric Generating Facilities)

	2006	2007	2008	2009	2010
Operating Expenses					
Power Production ¹	\$ 15,920	\$ 16,050	\$ 16,180	\$ 16,310	\$ 16,440
Purchased Power ²	129,390	99,660	101,760	107,020	109,260
Other Operating Expenses ³	65,840	67,350	69,180	71,270	73,770
Total Operating Expenses	\$ 211,150	\$ 183,060	\$ 187,120	\$ 194,600	\$ 199,470
Net Other Costs ⁴	\$ 23,700	\$ 37,600	\$ 38,800	\$ 39,500	\$ 40,400
Total Revenue Required ⁵	\$ 234,850	\$ 220,660	\$ 225,920	\$ 234,100	\$ 239,870
Total Energy Sales (MWh) ⁶	3,531,700	3,593,800	3,656,700	3,721,100	3,786,600
Unit Revenue Req. (¢/kWh) ⁷	6.6	6.1	6.2	6.3	6.3

¹ Estimated cost of operation, maintenance, administration, debt service, renewals, replacements and additions related to the Clackamas Project and the T.W. Sullivan Project with CPUD ownership. Assumes level debt service on \$83.1 million of hydroelectric facility acquisition revenue bonds, a 6% annual interest rate and 30 year repayment. Total estimated financing requirement assumes deposit to debt service reserve fund and 1.5% financing expense.

² Estimated cost of purchased power from BPA to supply CPUD's net power supply requirement.

³ Includes all other estimated CPUD operating costs as shown in Table 10.

⁴ Includes Debt Service, Renewals, Replacements and Additions, BPA Credits and Interest Earnings as shown in Table 10.

⁵ Estimated Total Revenue Required from Sales of Power to CPUD customers.

⁶ See Table 6.

⁷ Total Revenue Required divided by Total Energy Sales.

Section 6

Comparison of Costs

At the present time, electric consumers in the County are receiving electric service from PGE. PGE's FERC Form No.1 for 2003 indicates that the average unit revenue from its customer classes in 2003 were as follows:

TABLE 12
PGE Average Unit Revenue in 2003 for Representative Customer Classes
 (Source: PGE 2003 FERC Form No. 1)

	Revenue (¢/kWh)
Residential ¹	7.82
Small Commercial ²	7.95
Large Commercial ³	6.61
Industrial - 83T	5.27
Industrial - 83P	5.64
Street and Highway Lights ⁴	13.71
Total for all Sales ⁵	6.96

¹ Includes Residential Service, Outdoor Area Lighting and Residential unbilled revenues. Average revenues for Residential Service alone were 7.90 cents per kWh.

² Schedule 32, Small Non-Residential customers.

³ Schedule 83-S, Large Non-Residential customers.

⁴ Includes Street Lighting and Street Lighting unbilled revenues.

⁵ Total for all retail customers. Includes effect of unbilled revenues. Note that with the \$45 million of Accrued Revenues indicated in PGE Form 10K filed with the US Securities and Exchange Commission for 2003, the total average unit revenue from retail sales for 2003 would be 7.20 cents per kWh.

Based on the unit revenues shown in Table 12 and the estimated energy sales in the CPUD service area as shown in Table 6, the total cost of electric service to residents and businesses in the County with continued service from PGE has been estimated for a ten year projection period. We are unaware of any published projections of PGE retail rates so, for the purpose of this comparison, PGE average rates have been assumed to increase at 3.5% per year beginning in 2006. This rate of increase is essentially the same average annual increase in PGE total average unit revenues between 1992 and 2003. The cost of continued electric service with PGE is compared to the cost of electric service from CPUD assuming CPUD were to establish rates to recover the estimated revenue requirement shown in Table 10. The comparison of charges is shown in Table 13 for the five year period, 2006 through 2010. It is important to note that the average unit revenues shown in Table 13 for PGE are reflective of the estimated sales by customer class. Further, no attempt has been made to adjust estimated PGE revenues for potential reductions in BPA Residential Exchange credits that could occur in the future. If the Exchange credits decrease, the unit revenues estimated for PGE in Table 13 would show a corresponding increase.

TABLE 13
Comparative Charges for Electric Service and Estimated Savings with CPUD
(Assuming 100% Purchased Power by CPUD)

	2006	2007	2008	2009	2010
Estimated PGE Revenues from Energy Sales in Clackamas County					
Assumed Increase in Rates	3.50%	3.50%	3.50%	3.50%	3.50%
Revenues (\$000) ¹	\$ 261,500	\$ 275,300	\$ 289,900	\$ 305,300	\$ 321,500
Unit Revenues (¢/kWh) ²	7.40	7.66	7.93	8.20	8.49
Estimated CPUD Revenues from Energy Sales					
Revenues (\$000) ³	\$ 248,100	\$ 233,560	\$ 238,800	\$ 247,720	\$ 253,320
Unit Revenues (¢/kWh) ²	7.02	6.50	6.53	6.66	6.69
Savings with PUD (\$000)	\$ 13,400	\$ 41,740	\$ 51,100	\$ 57,580	\$ 68,180
Savings with PUD (¢/kWh)	0.38	1.16	1.40	1.55	1.80
Savings with PUD (%) ⁴	5.1%	15.2%	17.6%	18.9%	21.2%
Cumulative Savings with CPUD - First 10 Years (\$000)	\$ 720,660				
Net Present Value of Savings - First 10 Years (\$000) ⁵	\$ 498,432				

¹ Calculated using average customer class revenue and estimated customer class loads with assumed increase in rates applied uniformly to each customer class.

² Revenues divided by Total Energy Sales.

³ Estimated Total Revenue Required for CPUD as shown in Table 10.

⁴ Relative to estimated PGE revenues.

⁵ Cumulative present value to 2004 of estimated savings with CPUD over the first ten years of operation, 2006 through 2015. Assumes a 5% discount rate.

Table 13 shows that the residents and businesses served by PGE in the County would collectively save \$13.4 million or 0.38 cents per kWh in total costs of electric service in 2006. The total savings increase to \$41.7 million or 15.2% in 2007. The total present value savings in total charges for electric service with CPUD over the first ten years of CPUD operation is \$498.4 million assuming a 5% annual discount rate.

With acquisition of the Clackamas and T.W. Sullivan hydroelectric facilities, the total estimated savings with CPUD would be as shown in Table 14.

TABLE 14
Estimated Comparative Savings with CPUD Under Alternative Power Supply Cases

Operation Year	Year	Estimated Savings with CPUD (100% Purchased Power) ¹			Estimated Savings with CPUD (With Hydro Acquisition) ²		
		(\$000)	(¢/kWh)	(%)	(\$000)	(¢/kWh)	(%)
1	2006	\$ 13,400	0.38	5.1%	\$ 26,650	0.75	10.2%
2	2007	41,740	1.16	15.2%	54,640	1.52	19.8%
3	2008	51,100	1.40	17.6%	63,980	1.75	22.1%
4	2009	57,580	1.55	18.9%	71,200	1.91	23.3%
5	2010	68,180	1.80	21.2%	81,630	2.16	25.4%
6	2011	75,060	1.95	22.2%	89,260	2.32	26.4%
7	2012	87,650	2.24	24.6%	101,710	2.59	28.5%
8	2013	95,850	2.40	25.5%	110,660	2.77	29.5%
9	2014	109,460	2.70	27.7%	124,130	3.06	31.4%
10	2015	120,640	2.92	29.0%	136,000	3.29	32.7%
Total - First Ten Years		\$ 720,660			\$ 859,860		
Net Present Value ³		\$ 498,432			\$ 600,040		

¹ See Table 13. Percent savings is relative to estimated PGE revenues.

² Based on CPUD Total Revenue Required assuming acquisition of hydroelectric facilities as shown in Table 11 compared to Estimated PGE Revenues shown in Table 13. Percent savings is relative to estimated PGE revenues.

³ Cumulative present value to 2004 of estimated savings with CPUD over the first ten years of operation, 2006 through 2015. Assumes a 5% discount rate.

From: "Bottomly, Bernard" <Bernard.Bottomly@PacifiCorp.com>
To: GRAINEY Michael W <Michael.W.Grainey@state.or.us>
Date: 6/18/04 11:27AM
Subject: BPA Power and PUDs

Mike:

One of these days, you're going to have to find somebody else to do those hearings -- you've probably heard the same people say the same thing more times than is good for you.

On the issue of whether or not BPA will be able to provide a new PUD with power, I thought both sides missed the point and that you reached the correct conclusion in the report on the first Multnomah County PUD: BPA is required to serve any public utility up to 100% of it's needs. The question really, is what will be the cost of that power and, more broadly, what will be the impact on BPA of adding new load.

In BPA's April 2003 report "What Led to the Current PBA Financial Crisis", BPA concluded that it "...has seen its costs increase by approximately \$1 billion annually in the years since 2001. The bulk of this increase, 75 to 80 percent, is due to our decision to serve 3,300 megawatts beyond our resource base." The conclusion of the report is that one of the central reasons BPA's costs have gone up so much is that it is now supplying almost twice as power as it is generating itself. The cost of buying so much power on the wholesale market has been passed through to (many) customers in the form of higher rates.

That dynamic doesn't appear to be changing and BPA expects to continue to have higher than historical rates. The formation of a new PUD that relies on BPA for some or all of its power needs will exacerbate BPAs need to purchase wholesale power to supplement its own generation. While no one can predict future rates given weather, economic factors and the like, the mere fact that BPA is supplying so much more power than it generates means that the rates it charges in the future are likely to be higher and more volatile than historically.

Bernie

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**Inner SE/NE Portland PUD
Testimony of Jim Piro
Executive Vice President and CFO
Portland General Electric
Oregon Department of Energy Hearing
June 15, 2004**

Good evening. My name is Jim Piro. I have worked for Portland General Electric for 23 years. I became Chief Financial Officer in November 2000 after spending a number of years in various areas of the company. I am very proud of PGE and the dedication of my fellow employees to providing safe and reliable electricity to our customers.

Tonight, I will highlight four concerns related to my area of expertise as PGE's CFO: economy of scale, financial risk, debt, and ratepayer protection.

The first issue is the economy of scale that PGE provides, a benefit that would be lost with a much smaller utility.

PGE currently serves about 757,000 customers. During the last 10 years, PGE has developed state-of-the-art systems to serve our customers, including a sophisticated customer information and billing system and outage management system. We have a significant capital investment in load control systems, general plant, and computer network and software systems.

Most, if not all, of these systems would have to be duplicated and replaced by a PUD, at a much higher per-customer cost. Costs that are currently spread over 757,000 PGE customers would be borne by just 29,000 customers - the number of customers we currently serve in these eight precincts of House District 42.

PGE's budget for ongoing operations, not including costs for power operations, is roughly \$200 million dollars a year. This covers things like distribution operations and maintenance, customer service, financial services, human resources and information technology. Similar operational costs also would be borne by a PUD customer base that is just 3.5 percent the size of PGE's customer base.

Beyond the cost of duplication, the customers of a PUD in Inner SE Portland would be required to compensate PGE's remaining customers for costs associated with severing the system.

The question is: why should Inner SE Portland customers pay a higher cost for systems and services they already have, that are working well? From my perspective, this is a duplication of costs and a waste of resources.

Second, this PUD would be dependent on market-based power, exposing customers to further cost and risk.

PGE owns nine generating plants, and shares ownership in three others. We have negotiated several long-term contracts to supplement the power we generate ourselves. Since a PUD is unlikely to have access to BPA preferential power at the lowest rates, and no power of its own to begin with, it would have to rely on market purchases to meet most of its load.

Not only would this cost customers more, it also would increase their exposure to market volatility. This would require a PUD to carry additional financial reserves necessary to post significant collateral with counter parties if there were changes in market prices.

Third, the PUD would acquire significant new debt with uncertain terms, conditions, and pricing.

This new PUD would start out with debt close to \$200 million dollars. The PUD would need to cover the cost of purchasing PGE's assets in the area, the costs of physically isolating the start up PUD's infrastructure, pay to replace the substations PGE's customers would lose, and obtain capital to create support services and new technology systems. Then, of course, there are the legal fees for condemnation and start up operating capital. All of this would expose the PUD customers to uncertain interest rates, financing terms, and conditions that could significantly impact electric rates.

PGE's debt stands at about \$1 billion. Credit ratings agencies continue to maintain PGE at investment grade because they recognize the company has good access to working capital, relatively low levels of debt, and adequate revenues to cover maintenance and operations expenses, plus our low borrowing costs.

The question should be asked, "What will it cost customers of this new PUD to replace all of what PGE already provides?" Customers of the PUD would be responsible for paying all of the operating and capital costs. They would be 100 percent debt financed, have no proven experience or history, no known sources of generation, high startup costs and uncertain interest rates.

The new PUD also would need to borrow to maintain the system. PGE spends about \$120 to \$150 million each year on the transmission and distribution system

alone. Failure to adequately cover these costs could impact service quality to customers.

Finally, customers of a PUD must absorb all the financial risk associated with operating a utility.

If a PUD runs into financial trouble due to changes in retail loads, high power prices, high interest rates or poor operating decisions, it would need to raise rates to cover all their costs.

Conversely, PGE is an investor-owned utility regulated by the Oregon Public Utility Commission. In our rates, we are only allowed to recover prudent expenses, the depreciated capital costs of our power plants, and a reasonable return for our investors.

The OPUC can exclude from customer rates any costs it determines not to be prudent. Our investors absorb those costs. As a result, we have an incentive to implement systems and practices that are efficient and effective in providing our customers the service and value they expect.

With a PUD, there are no investors, so customers must pay **ALL** costs - regardless of whether they are prudent, reasonable or appropriate. While privately owned utilities are allowed to recover only forward-looking costs, PUD customers also must pay for any shortfall from the prior period.

Let me offer an example: During the most recent western energy crisis, PGE shareholders absorbed half the power costs we had to incur to serve our customers – that's more than \$100 million that was not passed on to our customers. In contrast, Seattle City Light incurred more than \$500 million in additional power costs during the same period – and these costs were borne entirely by their customers. This happened to a number of public utilities throughout the Northwest.

From my perspective, as chief financial officer of an electrical utility, I see no advantage to forming a PUD. What I do see are significant costs and risks that will be borne by the customers of such a PUD. I've described the loss of economy of scale, the dependence on market-based power, the high cost of debt and the added risk. It all comes down to this: why would anyone would want to pay more for something they already have, that's working well?

I would like to close PGE's formal presentation tonight by highlighting one more important asset that PGE brings to Portland - our 2,700 employees, and the

commitment they have to building a better community. This commitment includes the area covered by the proposed Southeast Portland PUD.

Each year, PGE employees volunteer tens of thousands of hours at elementary schools, social service agencies and environmental groups serving southeast Portland and surrounding communities. They are your neighbors, planting trees in our neighborhoods, volunteering as SMART Readers, Meals on Wheels drivers and SOLV clean-up crews. These are real people making a real difference such as PGE employee and Southeast Portland resident Lauren Shapton, who volunteers at the Winterhaven School on SE 13th Avenue. They also include PGE employee and Southeast Portland resident Mark Cooksey, who is the treasurer of *Amigos des las Americas*, and the hundreds of employees who have obtained Employee Volunteer grants for the organizations where they give of their own time. There are countless other PGE employees making a real difference in their Inner East Portland neighborhoods.

At a time when government services are being slashed, the PGE Foundation and PGE contributed about \$2 million dollars last year to community organizations. As a major contributor to Oregon Heat, PGE helps low-income residents pay their energy bills. In addition, PGE employees and retirees contributed more than half a million dollars through their employee giving campaign last year to nonprofits and schools.

In addition, we are one of the largest property taxpayers in Multnomah County. In 2003, PGE paid almost \$6.4 million dollars in property taxes to Multnomah County. PGE also paid nearly \$20 million dollars in franchise fees and privilege taxes to cities in Multnomah County alone.

These are just some of the benefits PGE brings to the neighborhoods impacted by this proposed PUD. Tonight, my colleagues and I have also described the high costs and significant risks involved, and the loss of regulatory oversight. PGE opposes the proposal before you this evening because it is clearly not in our customers' best interests.

I trust the Oregon Department of Energy will seriously evaluate the impact of this proposal on the residents of these eight precincts, the rest of Multnomah County, and the other Oregon communities served by PGE. Thank you for your time and thoughtful consideration.

Oregon Department of Energy Hearing on Willamette Electric PUD

Testimony Supplement

Jim Piro

Executive Vice President, Finance, CFO & Treasurer

Portland General Electric

Before the Oregon Department of Energy

June 18, 2004

June 18, 2004

Mike Grainey
Oregon Department of Energy
625 Marion St. NE
Salem, OR 97301-3737

Dear Mr. Grainey:

I am requesting to include this supplemental testimony as part of the official testimony I delivered before the Oregon Department of Energy on June 15, 2004 regarding the proposal to form a People's Utility District (PUD), Willamette Electric PUD, within a small area of Multnomah County. PUD proponents at the hearing that evening incorrectly characterized a number of issues related to Portland General Electric (PGE), and I would like to address their erroneous statements here.

- 1) PGE is not guaranteed a rate of return on its investment, only the opportunity to earn it. Several times in the hearing, PUD proponents stated that PGE has a guaranteed rate of return on equity of 10.5 percent. That figure is actually an *allowable* rate of return, authorized by the Oregon Public Utility Commission (OPUC). Given the challenges of the energy industry and the economy in recent years, PGE's actual rate of return has been significantly lower than this figure. In other words, there are no guarantees what our utility earnings will be.
- 2) The OPUC policy on corporate income taxes as part of our cost structure is sound, since any tax benefits generated are a result of losses that are also not paid for by customers. The OPUC established its tax collection policy based on a stand-alone utility basis for all the utilities it regulates, no matter what their corporate structure may be. The procedure for calculating tax costs as part of the overall cost structure is the same for NW Natural, PacifiCorp and PGE, even though the ownership structures of these three utilities are different (NW Natural does not have a parent company, PacifiCorp has an international owner, PGE's common stock is owned by an out-of-state parent company). The other part of

the equation that these PUD proponents fail to mention is: If the corporate taxes are higher than those included in rates, the OPUC's policy protects customers from the higher tax burden. It is our responsibility to follow the tax policy that was established long ago through public process at the OPUC, and we will continue to follow the guidelines of that policy. If PUD proponents believe some other policy should be established for all of Oregon's regulated utilities, it is their responsibility to pursue the avenues available, such as requesting the OPUC to open a docket on the issue.

- 3) The recent Marion County Circuit Court ruling on PGE's rates and the calculation of tax requirements merely referred the issue back to the OPUC for review, it did not make a definitive ruling about the manner in which PGE has included taxes in its overall cost structure. Again, as the section above explains, like all regulated utilities in Oregon, PGE has followed the regulatory precedent in estimating our taxes for purposes of determining our rates on a stand-alone basis. We have always based our rate tariffs on this precedent, which are fully reviewed and approved by the OPUC through an open, transparent and public process. We are troubled by the careless and unfounded accusations of the Utility Reform Project, the same organization involved with this PUD effort and recently failed attempts to take over PGE territory in other counties. We are confident that any review of our rate cases will show that we based our proposed rates on the appropriate information under OPUC policy and the Commission adopted them after a full and open process. PGE is reviewing the Marion County Circuit Court decision to remand the issue back to the OPUC, and PGE will fully cooperate in any future proceedings on the matter.
- 4) Several statements about the regulatory powers of the OPUC by PUD proponents may have caused confusion about the state agency's role in utility regulation. The OPUC is an independent government agency with a responsibility to set rates that are just and reasonable. A Commission that is appointed by the Governor and confirmed by the Oregon Senate oversees this state agency. There are countless examples of how PGE and other regulated utilities have not been allowed by the OPUC to recover the costs for hundreds of millions of dollars in legitimate expenses incurred by the utilities over the years. One recent example is the disallowance of PGE to recover more than \$100 million in excess power costs that resulted from the high wholesale electricity and fuel prices from the energy crisis of 2000-2001. PGE shareholders, instead, had to cover that cost. Conversely, Seattle City Light incurred half a billion dollars in excess power costs from that period. An independent regulatory agency does not oversee public utilities such as Seattle City Light, and their organizational structure does not allow for any group other than customers to take accountability for utility costs and risks. Therefore, Seattle City Light customers had to pay for these excess power costs – and the same would be true for the Willamette Electric PUD, since they would have no shareholders.
- 5) The decision to shut down and decommission the Trojan power plant, and the associated recovery of PGE's investment in the plant from customers, was arrived at through a legally valid public process overseen by the OPUC. PGE went through an exhaustive and highly transparent least cost planning process conducted by the OPUC and it was determined that customers were better off to shut the plant down versus continuing to operate it with the assumption that the remaining investment would be recovered regardless. The method for

PGE's recovery on the investment in the plant was approved by the OPUC in accordance with the laws understood by that Commission at the time. In consideration of a recent Marion County Circuit Court decision, the OPUC will reopen the public process to review this issue once again.

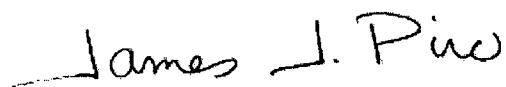
- 6) PGE's customer information system (CIS) is operating successfully, and has been heralded as a case study for utility CIS deployment. While some start-up complexities are to be expected and some minor technical glitches have occurred, it's important to note that PGE's CIS project – one of the more technically challenging projects in the company's history – is widely viewed by industry experts as a successful project. We encourage the ODOE to refer to previous testimony about PGE's CIS by Cap Gemini Ernst and Young from the earlier Multnomah County PUD campaign in 2003, as well as testimony given by PGE's Nancy Miller earlier this year in the recent Clackamas County PUD effort. More importantly, we encourage the ODOE to analyze the challenges this new PUD will face in developing and launching its own CIS system, especially given the high costs that will need to be spread across a very small number of customers. Again, the previous testimony highlights some of the associated challenges – including the high chances for cost overruns and unsuccessful deployment. We remain concerned about the impacts to potential customers of the proposed PUD, who would likely not receive the same level of service as provided by the proven systems and experienced employees currently serving them at PGE.
- 7) The chances for low-cost preference power from the Bonneville Power Administration (BPA) for a new PUD remains a wild card, but there are several indications that the cost of power will not be low. We encourage the ODOE to refer to the testimony provided at the June 15 hearing and previous PUD hearings regarding this matter, including testimony from third-party sources about the BPA's current challenges to inexpensively serve a long list of public utility customers. Additionally, we would ask that the ODOE, in its official report studying this PUD proposal, provide a clear distinction between the legal obligation for BPA to provide power to new public utilities, and how that differs from access to low-cost power. We have seen examples in past failed PUD campaigns in which PUD proponents claim that BPA must provide preference power to a new public utility. We agree that BPA is obligated to serve a new public utility, but the central question is: "At what price?" There are no guarantees for low-cost preference power. An outcome probably closer to reality for any newly proposed PUD is one in which BPA purchases power for the utility at higher wholesale prices.
- 8) PGE's non-residential customers have options for other electricity suppliers, yet an overwhelming majority have chosen to stay with PGE. PUD proponents continue to paint a picture that PGE's rates are the reason for the local economic downturn, and that non-residential customers have no other available options. In fact, non-residential customers of PGE do have the option of being served by power indexed at daily, monthly or quarterly prices directly from the wholesale power market, or from external suppliers other than PGE. In the most recent election window in which customers could choose an alternative rate option, all customers chose to remain on PGE service. While PGE continues to work toward further rate stability, the company's rates remain below the national average. PGE's rates are

not the lowest, nor are they highest, in the region. To continually characterize PGE's rates as the highest in Oregon is irresponsible at best.

- 9) Retired Columbia River PUD employee Fergus Pilon said the PUD vote alone would not result in any change to the status quo, yet it establishes an entity with taxing authority. This important point should not be overlooked. PUD proponents continue to characterize the PUD vote as just a formality, yet formation would create an entity with taxing authority and the power to begin condemnation proceedings. It also would create a scenario of uncertainty for our customers – for months, and perhaps years – both inside and outside the proposed boundary areas.
- 10) Columbia River PUD severance costs should not be used as a model for what the severance costs could be for the Willamette Electric PUD. The unique circumstances for this proposed PUD should be considered on their own merits. As Stephen Hawke, vice president of customer service, system engineering and utility services for PGE articulated at the June 15 hearing, there are immense technical challenges in the proposed Willamette Electric PUD area that would result in corresponding high severance costs. Please refer to the testimony and corresponding maps that explore the severance challenges and related costs in detail.
- 11) As the ODOE considers testimony provided by D. Hittle regarding a recent study promoting the viability of a PUD takeover, we encourage the ODOE to review the methodology and also consider the outcomes from D. Hittle's analysis of a Hermiston Energy Services takeover of PacifiCorp assets. The testimony submitted by Samuel Van Vactor at the June 15 hearing addresses some of the flaws in the recent Clackamas County PUD study prepared by D. Hittle, and it should be reviewed carefully. In short, that study makes some incorrect assumptions about PGE, including an unsubstantiated prediction of 3 percent rate increases for each of the next 10 years and extremely undervalued asset purchase costs. Also, it should be noted that prior to Hermiston Energy Service's asset purchase from PacifiCorp, D. Hittle estimated the asset costs at \$3 million, when the actual price for those assets came in at around \$8 million. Further, D. Hittle estimated that Hermiston rates would fall below PacifiCorp's. The opposite came true. Hermiston's rates are currently higher than PacifiCorp's rates, and the gap was further widened this month with a PacifiCorp rate decrease that was just enacted.
- 12) Oregon Electric Utility Company and/or TPG cannot sell PGE's assets without OPUC approval. The single biggest threat to a break-up of PGE's assets is through condemnation or a PUD takeover of PGE assets. OPUC rules do not allow the sale of PGE assets valued in excess of \$100,000 without OPUC approval. Further, the OPUC rules and "ringfencing" protections have stood the test of the Enron bankruptcy. PGE remains fully intact, financially independent and healthy, it has adequate access to capital, and its financial ratings remain at investment grade. In fact, we encourage the ODOE to refer to a news story excerpt about ringfencing from *Platts* that PGE made available as a handout at the June 15 hearing. In that story, utility regulatory protections across the country were evaluated in a survey, and Oregon's regulatory protections that cover PGE were highlighted as the "poster child" for effective utility ringfencing.

Thank you for allowing an opportunity to set the record straight through the submittal of this supplemental testimony. We appreciate the tough job ahead as you weigh the input from all sides and assemble a meaningful analysis.

Respectfully yours,

A handwritten signature in black ink that reads "James J. Piro". The signature is written in a cursive, slightly slanted style.

Jim Piro
Executive Vice President, Finance, CFO & Treasurer
Portland General Electric

Ernie Delmazzo

From: Pud-central-bounces@oppc.us on behalf of Dan Meek [dan@meek.net]
Sent: Tuesday, March 09, 2004 1:29 AM
To: undisclosed-recipients:
Subject: [PUD-Central] ITEMS OF INTEREST IN OREGON ELECTRIC UTILITY CO. FILING TO ACQUIRE PGE

ITEMS OF INTEREST IN "OREGON ELECTRIC UTILITY COMPANY, LLC" FILING FOR APPROVAL TO ACQUIRE PGE

by
Dan Meek
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At the close of business on March 8, 2004, the Oregon Electric Utility Company, LLC (OEU) filed with the Oregon Public Utility Commission (OPUC) an application for approval of its acquisition of PGE.

OEU did not furnish its application to interested parties, but I was able to obtain the 26-page body of the application from the OPUC, without the 21 exhibits. I can identify from the 26-page application some items of potential interest, although it is possible that some of the statements in the Application include typographical or mathematical errors or otherwise leave an incorrect impression.

I am not stating any position on whether the transaction should be approved.

I will be in my office on March 9 after 11 a.m.

1. THE APPLICATION OFFERS OREGON RATEPAYERS NO QUANTIFIED PUBLIC BENEFIT.

The Application does not identify any quantified or quantifiable benefit for PGE ratepayers. The asserted benefit is taking PGE out from under the control of Enron. Among the quantifiable potential detriments to ratepayers is that the Application calls for PGE to pay all of its cash of \$240 million (expected as of year-end 2004) to OEU to help OEU pay Enron. Such cash ordinarily provides working capital and a buffer against unexpected business reversals.

2. THE ACQUISITION OF PGE WILL BE A HIGHLY LEVERAGED BUYOUT.

3/26/2004

The transaction involves a payment by OEU to Enron of approximately \$1.4 billion and the assumption of PGE's existing debt, which has been stated as being \$1.1 billion. But equity investors in OEU will apparently be putting up only the following:

PARTICIPANTS	Equity (\$\$\$ million)	New Debt	Existing PGE Debt
Local Applicants (Goldschmidt, Walsh, Grinstein)	2.5	707.0	1100
Texas Pacific Group (with Oregon PERS)	419.5		
Passive Investors (Gates Foundation, Oaktree Capital Management)	103.0		
totals	525.0	707.0	1,100.0

In order to come up with a payment of \$1.4 billion to Enron, as the Application states, OEU must come up with an additional \$168 million on top of the \$1.232 billion in equity and new debt identified above. These additional funds will be obtained by OEU taking all but \$10 million of PGE's cash and cash equivalents, which ordinarily provides working capital. This amount appears to be \$240 million, although it appears that OEU will be retaining for itself approximately \$72 million of the amount taken from PGE. ($240 - 168 = 72$).

In any event, it appears that the transaction involves only \$525 million of investor equity out of a total effective purchase price of \$2.5 billion (\$1.4 billion paid to Enron plus \$1.1 billion of existing PGE debt). This would appear to offer an equity to total capitalization ratio of 21%, which is below the current requirement that PGE maintain an equity to total capitalization ratio of 48%. The Application contends that it complies with the 48% requirement, but its calculations omit the existing \$1.1 billion of existing PGE debt, which will continue to exist after the transaction closes.

Note: I do not know where the press came up with \$1.1 billion as PGE's existing debt. PGE's 10K Report for 2003 shows only \$1.046 billion of "long-term obligations" and "long-term debt due within one year."

3. THE ACQUISITION PUTS TOTAL CONTROL OF PGE IN THE HANDS OF THREE INVESTORS WHO WILL PUT UP LESS THAN 1/2 OF ONE PERCENT OF THE PRICE.

The Application (p. 16) states that the Local Applicants (Goldschmidt, Walsh, Grinstein) will put up a total of \$2.5 million of the purchase price, which is expected to be \$1.4 billion. They will own 95% of the voting shares of OEU stock. As the Application (pp. 6-7) states, the Local Applicants "will own approximately 0.4% of the economic interest in Oregon Electric and hold

95% of the voting shares." This may be considered a departure from normal corporate practice.

The Application does not identify the source of the \$2.5 million to be invested by the Local Applicants.

4. THE ACQUISITION PUTS ESSENTIALLY ZERO CONTROL OF PGE IN THE HANDS OF THE OREGON PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)--WHICH IS THE LARGEST INVESTOR IN THE TOTAL OF TEXAS PACIFIC GROUP FUNDS.

The Application (pp. 9-10) states that Oregon PERS "has invested with TPG since the firm's inception in 1993 and is the single largest investor in TPG-managed funds." The Application does not state how much of TPG's \$419.5 million funding for this deal will be coming from PERS, but the Oregon Investment Council in October 2003 approved a waiver of its investing rules to allow PERS to place a new \$300 million into TPG funds.

Curiously, the PERS investment in PGE will obtain for PERS effectively zero control over PGE. The TPG funds put up 70.9% of the equity capital but receive only 5% of the voting shares. That leaves PERS with essentially zero control, as its shares can be outvoted by the Local Applicants by a factor of 19 (95% to 5%).

5. STATEMENTS THAT APPEAR TO CONTRADICT EARLIER STATEMENTS BY THE APPLICANTS.

A. APPLICATION STATES THAT OEU WILL CONSOLIDATE WITH PGE FOR INCOME TAX PURPOSES.

The Application (p. 22) states: "Oregon Electric will file taxes on a consolidated basis with PGE. Unlike Enron, Oregon Electric will pay taxes in Oregon." This appears to contradict earlier public statements by Neil Goldschmidt that there would be no income tax consolidation with other entities. And the second sentence of the quotation does not state what type of taxes Oregon Electric will pay in Oregon.

Note that PGE was not consolidated with Enron for income tax purposes for 2002. PGE filed its own income tax returns for that year. PGE's 2002 net income was \$66 million. PGE paid the State of Oregon ten dollars in income taxes and paid the U.S. Government \$221,000 in federal income taxes. In the same year, 2002, PGE charged Oregon ratepayers \$15.6 million in "state income taxes" and \$77 million in "federal income taxes." Thus, PGE charged ratepayers \$92.6 million which it claimed to the Oregon Public Utility Commission (OPUC) was necessary to cover its cost of paying income taxes. Yet, PGE kept \$92.4 million of that money for itself.

Thus, the absence of consolidation does not mean that the company will actually pay to the government the "income tax expense" that it charges to ratepayers. The key commitment by OEU on the subject of income taxes would be never to charge ratepayers more for income taxes than the company actually pays to the government.

Feasibility of Inner Southeast/Northeast Portland PUD

Key Issues

Many considerations are relevant to the feasibility of forming a PUD incorporating parts of the existing Portland General Electric Company. The key issues include the following:

1. Power Supply. Will the new utility have ownership of, or access to, adequate, reliable sources of low cost power to meet the needs of its customers? These needs include energy (megawatt hours) and peak needs (megawatts). Each of the following considerations are important.
 - a. Utility resources versus market purchases- It is highly desirable for a utility to own or have long term entitlements to resources sufficient to meet the majority of its expected future loads. Market volatility of recent years has underscored the importance of maintaining a modest exposure to the short term marketplace, both to moderate the impact of changing market conditions on customers, and assure adequate supply when times are tight.
 - b. Diversity of resources and fuel- It is highly desirable for a utility to have a mix of resource types and fuel supply. A balanced portfolio of hydro power, coal, gas, oil, long term and short term purchases minimizes risk.
 - c. Access to low cost Federal Power- A new PUD cannot safely assume its needs will be met by power supplied by BPA. For a number of years BPA has wrestled with the difficult issue of supply to newly formed public agencies. The reduction of capability of the Federal Columbia River Power System due to actions necessary for salmon recovery has compounded this problem, in effect, resulting in a smaller pie to be divided among current customers, let alone new ones. Firm commitments in advance would be prudent if a newly formed PUD is counting on the availability of Federal power as part or all of its power supply portfolio.
 - d. Access to transmission- All utilities, except those with contracts with others to supply full net requirements, need access to transmission. Utilities dependent on market purchases to meet substantial portions of their needs must pay particular attention to this issue. Ownership of transmission, or firm transmission rights to trading hubs such as the mid-Columbia area, the California-Oregon border, and eastern Montana generating plants is extremely beneficial.
2. Access to Financing. Will the new utility have adequate access to capital? The distribution, transmission, and generation parts of the utility business are all capital intensive. Replacements, system expansion, and improvements in technology and efficiency all require capital investments.

3. Retention and Recruitment of Employees. Will the new utility be able to retain and attract the necessary skilled workforce? The utility business is labor intensive, requiring highly skilled employees, with a competent and experienced management team. This is a particularly critical issue for a small utility with uncertain future power supply. Arranging for power supply and necessary transmission service is highly complex, risky, and demanding of very specialized expertise.
4. Collaboration. Will the creation of the new utility be collaborative, or adversarial? Creation of a new publicly-owned utility from an investor-owned utility is most feasible if the process is a willing buyer/willing seller one. A complex, adversarial process can lead to the outcome recently experienced in Las Cruces, New Mexico; years and years of contention and litigation with no tangible results.
5. Few Loose Ends. Will the creation of the PUD define a clear, successful, future plan for PGE's impacted customers and service territory? Less than a comprehensive resolution of these matters will lead to many future problems. This PUD proposal is particularly troublesome in this regard since boundaries have not been chosen with any consideration of the technical feasibility of the proposed utility. This creates significant risk of future reliability problems, transmission issues, duplication of facilities, and other contentious issues.

Walter E. Pollock
June 14, 2004

**Inner SE/NE Portland PUD
Testimony of Thor Hinckley
Manager – Renewable Power Programs
Portland General Electric
Before the Oregon Department of Energy
June 15, 2004**

Good evening. I appreciate the opportunity to speak tonight. My name is Thor Hinckley. I am the Manager of Portland General Electric's Renewable Power Program and a seven year resident of southeast Portland. I am here tonight to talk about PGE's leadership and commitment to Green Power, and the renewable power programs that would be lost to this community and region under a PUD.

PGE's customers have a national reputation for making energy choices that are good for the environment. We offer three different programs: Clean Wind, Green Source, and Healthy Habitat.

The National Renewable Energy Laboratory, a division of the US Department of Energy, ranks PGE's green power program as #2 in the country in total sales of renewable power.

According to the Renewable NW Projects "Powerful Choices IV" report, PGE alone sells over 47% of all renewable power sold in Oregon, Washington, Idaho and Montana.

Businesses enrolled in PGE renewable power programs range from Oregon's largest employer - Intel - to hundreds of smaller businesses including Kettle Foods, Kinko's, Ben and Jerry's and others.

Portland General Electric was one of the first major utilities in the West to offer green power programs to its customers when it launched its Clean Wind and Salmon Friendly Power programs in December 1999.

PGE built Oregon's first utility-scale wind project - the VanSycle Ridge wind farm - in 1998. VanSycle Ridge has 25MW of renewable power and is part of PGE's base load. The company plans to add another 200MW of green power to the base as part of our Integrated Resource Plan over the next 5 years.

PGE partnered with the non-profit group *For the Sake of the Salmon* to develop PGE's Salmon Friendly Power, the first plan in the nation that combined renewable power with salmon habitat restoration. *For the Sake of the Salmon* recently closed its doors, so PGE is now in the process of contracting with the *Oregon Nature Conservancy* to provide these habitat restoration services.

Revenue from PGE's Green Power program was used to construct the Oregon Solar Pioneer which made Oregon's State Capitol the first in the nation to be illuminated by solar energy.

These are just some of the environmentally focused programs Portland General Electric provides. Because of the company's long history protecting and restoring the natural environment, I have been proud to be a part of PGE. Because I know what has been involved and the kind of financial and philosophical commitment it takes over time to create these kind of programs, I am concerned about the potential losses of these renewable power programs to the residents of this Inner SE Portland area.

Green power clearly is important to the customers within the proposed PUD boundaries, which contains PGE's highest concentrations of renewable power customers. Twelve percent of the customers in this area have chosen a "green" option, compared to 4.3% of PGE customers overall. Unlike investor-owned utilities, PUDs are not required to offer green power to their customers-- and, in fact, most PUDs offer few, if any, green power options.

Because of PGE's size, we are able to contract with green power providers at a lower rate than small utility customers could obtain. If this new small utility could be contracted for a significant amount of renewable energy, the electric costs to customers could increase dramatically. But if they don't offer a green option, they will lose this choice and the Northwest will lose too!

The politics of an elected board also concern me as it relates to green power. A person running on a platform of "keeping electric rates low" is very unlikely to be able to keep that promise and still support a substantial green portfolio. Conversely, a person promising a maximum amount of green power won't be able to keep rates low.

In closing, I want to remind our customers in this serviced area that they already have one of the leading green power providers in the country as their electric utility. They will lose that provider if a PUD is formed. This would be a big loss for the entire renewable power movement.

Thank you.



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ODOE Technical Testimony

Willamette Electric PUD Feasibility

James Litchfield
President, Litchfield Consulting Group, Inc.
June 17, 2004

Introduction

My name is James W. Litchfield. I am the President of Litchfield Consulting Group, Inc. (LCG) based in Portland, Oregon. My business address is 101 SW Main Street, Suite 900, Portland, OR 97204 and my phone number is 503-222-9480. LCG provides consulting services concerning energy and salmon recovery issues for clients including public and private utilities, independent power producers, industrial customers, regulatory agencies and regional planning commissions. A copy of my resume is attached.

Issues Address in this Testimony

In this testimony I will address the following issues:

- **Background and History of the Electric Power Industry**
- **Joint Customer Proposal for the Future Role of BPA in the Region**
- **The Northwest Power Planning Council's Recommendations on BPA's role**
- **Assessment of the Risks in forming a Willamette Electric PUD.**

Background and History of the Electric Power Industry

About 100 years ago, individual industrial companies began producing electric power for consumption on site. Electric power was first produced by generation plants operated by

the local industrial host but small isolated electric power systems soon evolved to serve residential and other business needs in the surrounding towns. Because of the cleanliness of electric energy and the ease of transmitting and controlling the application of energy at the point of consumption, electric power was rapidly adopted as a preferred energy form. Today, electric energy is the fuel of choice for lighting and motive power and it competes with most energy forms in providing other energy services.

The electric power industry requires large capital investments to construct the infrastructure needed to generate, transmit and deliver electric power. This capital intensity created natural monopolies because it is economically inefficient to duplicate electric power systems that would allow more than one company to serve a single customer.

The physics of generating and transmitting electric power motivate a vertically integrated industrial structure because electric generation must be constantly in balance with the amount of load on the system. Utilities developed vertically integrated systems with a single entity controlling generation, transmission and distribution to provide the real-time control necessary to assure reliable electric service. The combination of capital intensity and a vertically integrated industrial structure provided the necessary ingredients for the development of natural monopolies.

By the 1930s, abuses with the economic power of monopoly electric utilities caused both investors and consumers to call for increased regulation. The public policy response at that time was to create state regulatory commissions to oversee and control investor owned electric utilities by setting the electricity rates the utility could charge its customers. Territorial protections were also provided to utilities in exchange for the utility accepting an obligation to serve the needs of all customers within its territory. Power rates were set by the public utility commissions (PUCs) at levels that would recover the utility's prudently incurred costs plus a reasonable rate of return on the utility's capital investment.

The creation of regulated monopolies served to limit the investment risks thus encouraging investors to make the large capital investments needed to build what is now a national electric power system. While a large portion of the nation's electric power system was developed by private, investor owned utilities an alternative economic and regulatory framework was also introduced based on publicly owned utilities (publics). Publics were designed around several alternative governmental structures. Municipal utilities are based on the local city government, public utility districts (PUDs) are usually based on county government, cooperatives are non-profit organizations with consumer membership and federal agencies such as BPA were formed as power marketing agencies (PMA) of the federal government.

Publics are usually regulated by the local governing boards which are often elected by the voters in the community served by the utility. This provides a degree of self regulation because consumers that are unhappy with the service or prices provided by their local utility can, and do, vote to change the board. The federal agencies are governed by Presidential appointments of their Boards or Administrators and regulated by FERC and Congress through laws and policies that affect PMA operations.

While the regulatory framework was different for many of the public utilities the operational requirements and economic results were similar. Both public and private utilities had prescribed service territories with the obligation to serve the needs of all customers in their area. All costs of providing electric energy services would be passed on to the utility's customers through the power rates established by the utility's governing board or regulatory commission. Consumers had little choice but to pay the rates required to recover the utility's costs with the exception of costs not allowed by regulators. Utility costs that are found to be imprudent by a regulatory commission are shifted to shareholders by not including them in the allowable rates that can be charged by privately owned utilities. For public utilities there are no shareholders to bear the costs of imprudent investments and all of their costs must be recovered from the rates they charge their customers.

For most of the last century electric power rates declined in real terms. This was due to dramatic cost reductions caused by improvements in the economies of scale of generating, transmitting and distributing electric power. Load growth allowed the development of larger power plants and a high-voltage transmission grid. This allowed the development of larger integrated power systems that were more efficient than the smaller systems that cannot support the necessary infrastructure development costs. Growth in electric power usage also allowed the high fixed costs of developing generation, transmission and distribution systems to be amortized over more units of power sales which reduced the unit cost of electricity. In addition the efficiency gains, the interconnection of utility systems allowed significant reductions in the amount of generating reserves that were necessary to maintain adequate system reliability. These factors were largely responsible for the steady decline in the real price of electricity from 1890 until 1970.

In the late 1930's the federal government chose to enter the electric power production business to further economic development in the Northwest by constructing federal dams for the purposes of navigation, flood control, irrigation, recreation, fish, wildlife, municipal and industrial water supply and power generation. Beginning with the passage of the Bonneville Project Act, August 20, 1937, the federal government began development of the nation's largest hydro based power system on the Columbia River and its tributaries. The BPA Administrator was directed by the Project Act to build the transmission necessary to market the surplus power produced by federal dams with the goal of encouraging the widest possible use of electric power in the region.

The Administrator's primary mission was to allocate the output of the federal projects to regional utilities for resale to customers in the region and later to Direct Service Industrial (DSI) customers. DSIs are primarily large aluminum smelters that utilize large amounts of electric power to produce aluminum. Utility and DSI customers that agreed to accept power from BPA would agree to purchase that power and the necessary transmission services at the full cost to BPA of generating and transmitting this power. BPA was to provide priority access to purchase federal power to public utilities. This is called "public preference".

The Northwest Power Act

Prior to the NW Power Act of 1980, there was no obligation for the Administrator to meet the needs of any of the region's utilities. BPA's role was to market the power from the federal system at a price that recovered its costs. If utilities or DSIs required more power than the federal system could generate the Administrator had no obligation to provide it. The Administrator's obligations to deliver power to its customers were limited to the amount of power the federal system could actually produce and the price was set to recover all of BPA's costs.

In the 1970s the cost of BPA's power was from 0.3 to 0.7 cents/kWh. Because the price of BPA power was so far below the cost of alternatives, the demand for BPA power began to exceed the generation capability of the federal system. Regional loads were growing quickly at nearly a seven percent annual rate of growth and the need for new generating resources far exceeded the ability of the utilities to finance and construct the needed resources. BPA was forced to reduce the sale of federal power to private utilities in response to the increasing demands of Bonneville's "preference" customers, the public utilities, and its industrial customers the DSIs. This forced the private utilities to develop new more expensive generation to substitute for relying on low cost federal power.

Even with the private utilities developing their own generation resources the growth in public power loads along with the DSI loads was more than BPA could continue to meet. There were efforts to expand the size of the federal generating system through "net billing" the costs of developing Washington Public Power Supply System (WPPSS) plants. While net billing was "successful" as a financial strategy for WPPSS Nuclear Plants, WNP 1, WNP 2 & seventy percent of WNP 3 the net billing strategy was limited by the Internal Revenue Service (IRS) due to issues surrounding WPPSS's tax exempt bonding authority. The result was that beyond the first three nuclear plants, the amount of federal generation was again constrained and forecast to be less than the amount of power needed by BPA's public and DSI customers during the 1980s. This led BPA to issue a

“notice of insufficiency” in 1976 that informed the public utilities and DSIs that BPA could not meet their future needs for electric power and that the public utilities would have to make other arrangements to serve the needs of their customers and that the DSIs might be cut off from federal power because of the demands of preference public utilities. The perceived shortage of federal power to meet the needs of the public utilities led 88 of the publics to attempt to develop two more nuclear power plants, WNP 4 & 5 without backing from BPA. These plants were not completed and their economic collapse led to a \$2.25 billion municipal bond default by the public utilities that sponsored the development of WNP 4 & 5.

BPA’s notice of insufficiency was one of the primary motivators for the region’s utilities to seek Congressional legislation that obligated the Administrator to meet the needs of regional utilities and DSIs. This resulted in the NW Power Act, 1980 (Act) that authorized BPA to acquire new generating and conservation resources to meet its obligations under new power sales contracts it was directed to offer by the Act.

The Act established a new role for BPA by imposing a statutory obligation to offer power sales contracts that would meet the requirements¹ of BPA’s customers in exchange for agreeing to pay BPA’s costs. The Act directed BPA to establish cost based rates that would recover the costs of the federal power system plus any new resources acquired by BPA to meet the load growth of its customers. For the first time in BPA’s history, the Act obligated BPA to offer “requirements” contracts and the Administrator was authorize to acquire the output of new conservation and generation resources to meet BPA’s contractual obligations under these contracts. The Act defined the scope of BPA’s obligations to include all public and private utilities and DSIs in the region. BPA’s customers had the right, under the Act and BPA’s power sales contracts, to determine how much of their loads they wanted to place on BPA and even the flexibility to remove loads from BPA if they so chose.

¹ A requirements contract is used to obligate a supplier of power to meet the load growth of the purchasing utility. Requirements contracts place the obligation to acquire sufficient power to meet the needs of the purchaser on the seller.

Two different approaches were used to provide external regulatory oversight of BPA's activities. The Act established a regional planning body, the NW Power Planning Council², to develop long term (20 year) region wide electric power plans. The Act conditioned BPA's resource acquisition authority by requiring a finding of consistency with the Council's plan before BPA could acquire the output of a major resource of more than 50 MW for longer than 5 years.

The Act delegated regulatory oversight of BPA's rates to FERC. However, the standards for FERC's regulatory review of BPA's rates are significantly different than those used by Public Utility Commissions. FERC's primary regulatory responsibility was to ensure that BPA's rates were set high enough to recovery its costs and assure repayment of the federal debt owed the US Treasury³.

The Introduction of Competition

Since the passage of the Act in 1980 there has been a policy shift in the nation to encourage competitive power markets. Beginning with the passage of Public Utility Regulatory Purposes Act (PURPA) in the late 1970s the door to competition in electric power generation was opened. PURPA was designed to encourage non-utility development of co-generation and renewable resources that would compete with conventional utility generation. To encourage independent power plants to be developed, PURPA required private utilities to post estimates of its "avoided costs" based on the predicted cost of the resource the utility planned to build in the future. New resources that met PURPA requirements could be developed by independent power producers (IPPs) and the utility was ordered to purchase IPP output at the utility's posted avoided cost. The

² The Council is now known as the "Northwest Power and Conservation Council".

³ BPA's rates are required to recover all of BPA's costs. This is precisely why BPA included cost recovery adjustment clauses in its current 5 year base rates to allow for rate increases if costs increased more rapidly than BPA assumed in its ratecase. PUCs establish private utility rates to recover the prudently incurred costs plus a regulated rate of return on the utility's investments. PUCs are responsible for ensuring that private utility management, operations and resource decisions are in the best interest of the utility's customers. In this way PUCs often decide on the appropriate rate of return on the utility's investments and the assignment of responsibility to shareholders for imprudently incurred costs.

initial start of competition in the electric power industry was significantly expanded by the Energy Policy Act, 1992 and the subsequent FERC Orders 888 and 889 in 1996.

There have been several significant changes in the electric power industry with the policy efforts to introduce competition by Congress and FERC. First, transmission system owners are required to provide open, non-discriminatory access to all buyers and sellers of electric power wishing to use the transmission system. This open access encouraged owners of generation to compete to serve loads throughout the interconnected power grid that spans the Western U. S. and the two Western Canadian Provinces. This resulted in the formation of regional power markets to provide centralized points for power transactions and to provide market information and price discovery for all market participants. In the region the relevant power market is called Mid-C because it is located in central Washington in the area served by the Mid-Columbia PUDs.

The advent of a competitive wholesale power market and open access transmission policies made it possible for all regional utilities, both public and private, to buy power from independent power producers and other utilities with surplus power to sell. This created a vibrant and low cost regional power market for most of the 1990s. Many public utilities sought to diversify their power purchases from BPA during this time because the prevailing competitive market price was lower than BPA's power rates which were in the low \$20s per MW-hr. This created a financial crisis at BPA because as customers left, the prices BPA could get in the competitive market for the freed up surplus power were less than BPA's cost to generate it. This forced BPA to either raise rates to those customers that chose to stay or to seek new sources of revenues outside the region. BPA did both.

The low market prices of the 1990s abruptly ended in the summer of 2000 when a west coast power crisis began. The Council referred to the power crisis as the "perfect storm" because of the similarities to the movie by that name. The Council found that there were fundamental supply-demand drivers that initially caused market prices to spiral out of control. In fact, more than a year before the crisis hit, the Council sounded the warning that system reliability was at risk if the region were to experience a low water year.

However, as we now know the dysfunctional power market had lots of help thanks to California's failed attempt to "deregulate" its power industry. Market manipulation by certain market players and to regulatory failures by state and federal regulatory agencies clearly accentuated the crisis.

To make matters even worse, BPA was in the process of trying to conclude negotiations for new 5 to 10 year power sales contracts with its customers. This process was called "subscription" because these contracts would determine BPA's obligations to serve public agency and DSI loads. In addition, BPA had to resolve the benefits that they would provide residential and small farm customers of private utilities under the Act. The end result of the subscription process was that BPA ended up with load service obligations that exceeded its generation capability by more than 3000 average megawatts. The huge hole in BPA's power supply portfolio forced the agency to try to balance its electrical generation with its load obligations at exactly the worst time when the competitive power market was most super-heated. BPA undertook a strategy to both buy power from other suppliers and to pay its customer to reduce their demands for BPA power. The extreme costs of this strategy created significant financial impacts on BPA's rates which are still being felt. An important driver that caused part of the spectacularly high market prices was the general knowledge of BPA's extremely short power supply position.

Joint Customer Proposal for the Future Role of BPA in the Region

One result of the power crisis was to bring the public and private utilities together to negotiate a more stable and predictable role for BPA in the future. This stimulated discussions that developed what is called the "Joint Customer Proposal" because it involved virtually all the public and private utilities in the region.

The Joint Customer Proposal (JCP) was an extensive negotiation that took more than two years. A broad coalition of the region's utilities negotiated the JCP agreement and presented it to the region in the summer and fall of 2002. The JCP utilities include

municipal utilities, PUDs, investor-owned utilities, and cooperatives that collectively serve virtually all of the region's retail electric consumers. The goals of the JCP effort were:

1. To create a common interest between BPA's regional preference utility and investor owned utility customers by allocating to such customers equitable, secure and long-term benefits of the Federal base system (FBS).
2. To expose all BPA's customers to the same risks and benefits of changes to the costs and output of the FBS.
3. To reduce BPA's presence in the wholesale power market as a buyer and seller of power.
4. To enhance the ability of BPA to make its Treasury payments in full and on time across a broad range of possible futures.
5. To allocate the costs of procuring power for future load growth to the serving utility.
6. To reduce BPA's need to augment the FBS and its reliance on market revenues from the sale of secondary energy by shifting to utilities, through expanded use of the Slice product, the obligation to procure resources to serve their load growth and the marketing of secondary energy.
7. To settle outstanding litigation in a manner that is fair to all parties, and that avoids future litigation over the allocation of FBS benefits.
8. To implement the foregoing consistent with existing statutes, without federal legislation.

The energy crisis of 2000-2001 brought home to the Northwest the urgent need to secure a stable, affordable energy supply for the region. During the energy crisis, a drought in the region drastically cut hydroelectric production. In response, BPA was forced to spend hundreds of millions of dollars acquiring power in a dysfunctional wholesale power market in order to meet the needs of its utility customers. This resulted in an initial BPA rate increase of 46 percent which has since risen to 49 percent.

The utilities negotiating the JCP knew that they could not prevent future droughts, but they sought to put local utilities in a better position to protect their consumers in the event of such a crisis. Currently, when BPA must pay high prices in the wholesale market, it blends those costs into the price of all the power it sells. This causes all of BPA's utility customers to pay a substantially higher price for all of the power that they buy from BPA. In turn, this forces most of BPA's utility customers to impose substantial rate increases on the region's consumers.

The JCP envisioned a better way to manage power supply problems by allocating the available low cost federal power⁴ among the region's existing utilities, undiluted by the high cost of BPA's market purchases. With a portion of the Federal system as a solid, affordable foundation, utilities can then decide how best to meet the remainder of their consumers' load, now and into the future.

The JCP approach was designed to enhance competition in the Western wholesale power market. Currently, BPA is such a large market participant that its purchases and sales cause substantial price movements. Wholesale prices climb on news that BPA is about to purchase power (as it did during the energy crisis), and drop on news that BPA is about to sell as routinely happens during a wet spring when there is excess hydropower available on the federal system.

These swings distort the market by sending volatile price signals to both sellers and buyers. When prices are very high, even the most inefficient generation facility in the region is economic to run, while in times of very low prices, even the most efficient generation facility is uneconomic to run. By reducing BPA's "footprint" in that market, in favor of diversified actions by smaller participants, the swings would be moderated and the price signals would more accurately reflect the costs of the most efficient generation facilities needed to meet regional needs.

⁴ The Federal system consists of the electricity produced by the federally-owned hydroelectric dams on the Columbia and Snake River systems, as well as the output of Energy Northwest's Columbia Generating Station (formerly known as WPPSS Plant No. 2).

The JCP was negotiated to settle pending litigation regarding BPA's Subscription power sales contracts.⁵ The region's federal hydropower resources are finite and can only be put to the highest and best use if BPA's future obligations are limited and clear. The JCP achieves this clarity by allocating the benefits of the Federal system among the region's existing utilities.

The JCP envisioned that BPA would offer 20-year contracts to the region's utilities, beginning in 2006.⁶ Three types of contracts would be offered: (a) a "slice" contract; (b) a "requirements" contract; and (c) a contract that provides financial benefits to the residential and small farm customers of investor-owned utilities.

A slice contract provides that the utility pays a fixed percentage of BPA's generation costs in exchange for a power supply equal to the same fixed percentage of the electrical output of the Federal system. For example, a contract for three percent of the electrical output of the Federal system would also pay for three percent of the Federal system costs. The utility would procure any additional power it needs to meet the obligations of its consumers.

A requirements contract is intended for those existing public utilities that want BPA to continue to be responsible for providing the resources needed to meet their loads. BPA has traditionally provided this service to many of the smaller preference utilities in the region, and would continue to do so under this proposal, but on one important condition: that the utility agrees to pay a rate that reflects all of the costs BPA incurs to provide such service.

Those utilities choosing a slice contract and those choosing a requirements contracts would become responsible for the costs of serving their load growth, either because they

⁵ Subscription was the regional public process that BPA conducted in 1999-2000 to formulate, negotiate, and execute power sales contracts with its utility customers, to replace the BPA power sales contracts that expired on September 30, 2001. Upon the conclusion of the Subscription process, lawsuits were filed in the Ninth Circuit Court of Appeals challenging the legality of BPA's investor-owned utility and slice power sales contracts. These lawsuits are still pending.

⁶ In 2006, some of the Subscription power sales contracts between BPA and the region's utilities expire; others expire in 2011. Utilities with contracts expiring in 2011 will be able to stay under those contracts until expiration.

are procuring additional electricity on their own, or because they are paying BPA the full cost of procuring additional electricity on their behalf. This means that both groups of utilities would have a strong incentive to invest in conservation and renewable resources to avoid higher cost new resources provided by competitive power markets.

Finally, a contract providing financial benefits would be available only to investor-owned utilities, solely for the benefit of their residential and small farm customers. This type of contract would provide the Residential Exchange benefits in the Act, and compensate residential customers of private utilities for the statutory obligations BPA has to those customers under the Act. The financial benefits BPA pays to residential and small farm customers of private utilities will reflect the value of actual power purchased from BPA by preference customers. In this way the JCP was designed to align the interests of the public and private utilities.

Service to New Preference Utilities

The JCP included recommendations in the event that a new preference utility is formed in the future. BPA's current public agency customers recommend that new public agencies would be able to receive service from BPA on a first-come first-served basis as they are formed. However, only the cost of the first 75 average MW of service for new public agencies would be treated as a system cost, borne by all of BPA's customers. Any additional power above the 75 average MW needed by new preference utilities would be priced at the full cost incurred by BPA to procure such power. The purpose of this provision was to limit the risk to existing preference utilities that BPA would have to purchase large amounts of power for a new public agency at market prices far above the embedded costs of federal power. This could lead to rate increases for all of BPA's customers and was judged to be an unacceptable risk that would limit the ability of current customers to contract with BPA for long-term service.

The Northwest Power Planning Council's Recommendations on BPA's role

Following the preparation of the JCP, the Council and BPA conducted a “regional dialog” with hearings during the fall of 2002 throughout the region. The purpose of this dialog was to receive input from other parties on what should be BPA’s future role in providing power to utilities and DSIs in the region. In general the Council’s recommendations to BPA on their future role were very consistent with the recommendations included in the JCP and were reflective of the broad base of public input received in the formal hearings and through the vast amount of written comments sent into the Council and BPA.

The Council identified a set of current problems that threaten the benefits of the Federal Columbia River Power System. The Council described these problems as resulting from inconsistencies between Bonneville’s statutory obligations and the realities of the evolving and increasingly competitive electricity system. The problems identified by the Council include:

- Periodic lack of clarity regarding load-serving responsibility.
- Lack of clear economic signals to many parties in the region regarding the true costs of new power supplies and the value of alternatives.
- Exposure of Bonneville to volatile electricity market risks resulting from the periodic ability of customers to place load on or take load off of Bonneville.
- A perception of inequality in the distribution of the benefits of the federal power system within the region.
- The financial risk to the U.S. Treasury and the resulting political risk to the long-term interests of the region if at some time, Bonneville is unable to absorb the risks of uncertain loads, a highly variable hydroelectric system and a potentially volatile wholesale market.

These observations were first addressed in the Comprehensive Review of the Northwest Energy System, which was chartered by the region’s governors and concluded in

December 1996. The Council's most recent recommendations on the future role for BPA were sent to BPA on May 17, 2004⁷.

The Council's recommendations to BPA continue to validated the work done by the public and private utilities and their recommendations in the JCP. While there are recommendations on a variety of important issues the key consensus that exists in the region is that BPA should not grow the system to meet the obligations of all utilities. This vision is fundamentally different than that of the NW Power Act and was not reached quickly or without a great deal of thought and debate.

The consequences of BPA shouldering the risk of new resource acquisition, is currently being demonstrated by the financial crisis griping the agency. BPA is currently implementing what are called the "Load Based", "Financial Based" and "Safety Net" cost recovery adjustment clauses (LB-CRAC, FN- CRAC and SN-CRAC). One of the key drivers for the need to increase BPA's rates to historically unprecedented levels is the obligation to serve loads placed on it by utilities that exceeded the federal system's capability by more than 3000 average megawatts. There now a regional consensus that BPA should return to its historic role of marketing the output of the federal dams and Energy Northwest and **NO MORE!**

Risk Assessment for Proposal to form a Willamette Electric PUD.

There has never been a more volatile or uncertain time in the history of the electric power industry. The changes that have occurred with national energy policy have caused a fundamental rethinking of the roles of electric utilities. In response to the changes driving the restructuring of the industry there has been a mixture of national and state regulatory changes that further complicate the strategic direction for both public and private utilities. These fundamental policy changes are far from finished and significant debates over the basic approach continues between the states and the federal government. There will

⁷ The Council's recommendations can be found at: <http://www.nwcouncil.org/library/2002/2002-19.pdf> and more recently at: <http://www.nwcouncil.org/library/2004/2004-5.pdf>

continue to be policy shifts driven by the real world problems seen during the economic fallout of the power crisis and in response to the policy directions that will be established by Congress should a new energy bill emerge in the future.

There are lessons from the failed attempts in California that should be heeded as we evaluate the possible risks of forming a PUD in northeast-southeast Portland. California's restructuring strategy was driven by the belief that in order for competitive power markets to work it would be necessary to break up the market power of vertically integrated utilities. The California legislature achieved this by separating the generation, transmission and distribution functions of the largest utilities in the state. This broke the historic connection between the owners of generation and the obligation to serve the utility's loads. Most of the generating resources that were owned by load-serving utilities were sold to independent power companies and the transmission systems were sold to a new transmission-only organization called the California Independent System Operator (ISO). The goal was for distribution utilities to not own generation and therefore need to purchase all the power their customers needed from the competitive market. The generators would sell their generation into the market and the California ISO would match generation with loads. The competitive power market was to clear at the cost of the highest cost generator needed to serve the loads on each hour and that would be the price paid by all customers.

We all know what happened when the crisis hit. The utilities were without generation to meet their loads. Even worse, the prices shot up in the market and the only way to meet load was to pay the prices demanded by a dysfunctional market that was subject to manipulation. All utility customers were exposed to the full volatility and tremendous uncertainty of having loads that were not covered by generation resources or long-term contracts. The failure of the California PUC to allow the high costs of purchased power to be included in rates forced Pacific Gas and Electric to declare bankruptcy with Southern California Edison narrowly missing this same fate.

The situation in California has some striking similarities to what is likely to happen if the Willamette Electric PUD is formed. The first step of forming the PUD would create a distribution utility without the necessary generation to meet the needs of its customers. This is precisely the structural condition in California as the state broke up the utilities and formed distribution utilities without any generation to meet the needs of the customers. Like the utilities that were forced to sell their generation in California the PUD would have to secure the generation need to meet the needs of the customers in the neighborhood.

Power to meet the needs of customers of Willamette PUD is most readily available from the competitive power market at Mid-C. But power prices at Mid-C are extremely volatile and uncertain. At a particularly difficult time during December 2000 the price at Mid-C was reported to be as high as \$5000 per MW-hr. Relying on short-term purchases from Mid-C would also expose customers to the risks of a market failure because the Mid-C price is a reflection of the prices in western power markets to which the region is electrically connected.

The PUD could seek to manage the risk of the Mid-C market but there are only a few ways to do this. One would be to purchase power under a long-term contract. This contract could be with any willing party that has excess generation but the price for this type of contract will be based on the long-term expectations of future market prices and the costs of new generation. The Council's most recent analysis of the likely long-term market price in the region is in the \$40s per MW-hr range. This is a very high price and it does not include the costs of transmission to get the power to load nor does it account for the costs of having generation available to meet the daily load swings and peaking requirements of the PUD's customers. It would not be unreasonable to see a long-term contract cost the PUD in excess of \$50 per MW-hr for delivered and shaped energy. The actual rate charged customers would need to also include the costs of capital to purchase the distribution system and install the new meters and control equipment along with the operations and maintenance cost of the distribution utility. These costs could further increase the rates charged customers to levels significantly higher than the current rates.

Another strategy that the PUD could use to mitigate the risk of being totally reliant on the competitive power market is to build or acquire its own generation. This too is unlikely to provide lower costs than those estimated by the Council because the Council's future price forecasts are based on the costs of new combined cycle generation and future natural gas price forecasts. New generation will also require the time to design, site, license, and construct the new resources. Meanwhile the PUD would be exposed to market purchases and all the risks associated with new resource development including failure to get the necessary site permits and approvals and the uncertainties associated with future fuel supplies.

The final strategy is for the PUD to place its loads on BPA. This sounds like a simple strategy and is often advocated by those that do not now receive any BPA power. However, the fundamental problem of finding a power supply for the PUD's customers remains. This strategy merely transfers this responsibility to BPA. Given the current financial crisis at BPA there is very little stomach for BPA incurring additional costs that would be spread to all public utilities in the region. It is for this reason that BPA developed the "targeted adjustment charge" which is designed to pass on the costs of serving new public utility loads to those individual utilities that are asking BPA to securing new power supplies for them. Here again the prices in the Mid-C market are likely to be the costs that BPA will have to use to price any power sold to the PUD. This will be closely watched by BPA's existing customers to insure that there is no transfer of costs from the new PUD to BPA's other customers.

The long-term future for BPA is particularly cloudy at this point. BPA has not agreed with the JCP or the Council's recommendations. The current financial crisis at BPA has overtaken the regional discussions concerning BPA's role and implementation of any changes in BPA's future role has been delayed for several years. This means that it is impossible to determine whether BPA will be able to reduce its market exposure and return to cost-based rates that are in the mid 20-dollar per megawatt hour range or not! If the basic recommendations of the customers are implemented, the available federal

generation will be allocated to those customers with existing subscription contracts. There may be some amount of melded power available for new public agencies but that is far some certain and it is not likely that whatever is available will be entirely available for the new PUD because others, such as tribal utilities, are also seeking service from BPA at this time.



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RESUME

James W. Litchfield

Education

1971 B.S. Civil Engineering - University of Washington
1973 M.S. Management - Massachusetts Institute of Technology

Professional Experience

1/92 - President of Litchfield Consulting Group (LCG). LCG is focused on strategic power system planning, electric power restructuring, power marketing, electric power transmission, power contracting and regulatory needs of clients in the utility industry. LCG's clients include public and private utilities, industrial customers, regulatory agencies, state and regional planning commissions and independent power producers (see attached for a list of LCG's recent projects). Mr. Litchfield has twenty-three years of experience in the Pacific Northwest region in energy planning and decision analysis, environmental and power systems modeling and analysis, and strategic planning.

Mr. Litchfield was one of a team of seven scientists on the Snake River Salmon Recovery Team for the National Marine Fisheries Service (NMFS). NMFS formed the Snake River Salmon Recovery Team to develop a recovery plan for the endangered salmon stocks on the Snake River which is required under the Endangered Species Act. The Salmon Recovery Team was responsible for developing a recovery plan entitled, *Snow River Salmon Recovery Team: Final Recommendations to the National Marine Fisheries Service*, May, 1994. Mr. Litchfield provided technical knowledge and understanding of the hydropower system and how hydropower operations could be changed, within physical constraints, to improve the survival of salmon.

9/81 - 1/92 Director of Power Planning for the Northwest Power Planning Council, Mr. Litchfield led the development of the Northwest

Conservation and Electric Power Plans in 1983, 1986 and 1991. He was responsible for the management and direction of 12 professional staff with a budget of approximately two million dollars per year. Mr. Litchfield pioneered the design and implementation of integrated resource planning methodologies. The Council's plans are based on state of the art techniques for analyzing both demand side and supply side resources and incorporating uncertainty into integrated resource planning.

One of the basic assumptions of integrated resource planning is that conservation of electric power through efficiency improvements is treated as a resource on equal footing with conventional and emerging electricity producing technologies. Through the application of risk assessment and decision analysis methods, risk management strategies were designed and incorporated into integrated resource plans.

Mr. Litchfield was responsible for close coordination between the Council's plans and the regulatory policies of the four Northwest Public Utility Commissions in Idaho, Montana, Oregon and Washington. In this capacity, Mr. Litchfield chaired the State Agency Task force with representatives from the commission staffs in each state.

Mr. Litchfield has often testified before all of the Northwest's Public Utility Commissions and before regulatory and legislative hearings in England and Canada. Mr. Litchfield testified to the Ontario Canada Provincial Government Energy Committee on the first integrated resource plan by Ontario Hydro. He was one of two Americans on a five member strategic review team formed by the Ministry of Energy in Ontario to review Ontario Hydro's planning. Mr. Litchfield has also chaired two workshops organized by the Hawaii PUC on integrated resource planning and its application to the state's power system.

9/90 - 8/91 Member of the Academy of Science - National Research Council Committee to review the US Department of Energy's National Energy Modeling System. The Committee reviewed the models and analysis that DOE used for the National Energy Strategy. The Committee's recommendations called for the DOE to develop a national energy modeling system incorporating many of the concepts and methods developed and implemented by the Council.

7/86 - 11/91 Participant in scientific and technical exchanges between the United States and the Soviet Union. This exchange was initiated by the Academy of Science of both countries in the 1970s. Mr.

Litchfield has participated in technical conferences on planning techniques and efficient technologies for conservation, generation and transmission of electric power. Due to the rapid changes in what was the Soviet Union, there is tremendous need for improved technology for every aspect of electric power production, transmission and end use. Mr. Litchfield has helped to transfer planning and conservation experience in the Pacific Northwest to colleagues in Russia and other eastern european countries.

- 6/76 - 8/81 Manager of Energy Systems and Decision Analysis Section at Battelle Northwest. Responsible for the management of a contract research section with 15-20 research staff. Clients included the State of Alaska, the US Department of Energy, the Nuclear Regulatory Commission and the States of Washington and Oregon. The group conducted research into emerging energy technologies and developed multiattribute decision analysis techniques to set priorities for long range planning, research and development.
- 7/73 - 6/76 Research Engineer at Battelle Northwest responsible for the design and development of management information systems for the Nuclear Regulatory Commission and the development of decision analysis and risk assessment techniques.

Litchfield Consulting Group (LCG), Inc. List of Clients and Brief Project Description

1. Duke Energy – Mr. Litchfield prepared an assessment of commercially available conservation and power supply alternatives in the Pacific Northwest. This analysis evaluated all potentially available electric power resources and determine the extent to which they were commercially available to meet regional power needs in the future.
2. The Idaho Office of the Northwest Power Planning Council – Mr. Litchfield is providing strategic advice on salmon recovery and Federal Implementation Planning for implementation of the Biological Opinion for the Federal Columbia River Power System.
3. Expert Testimony for Load Serving Utilities – Mr. Litchfield provided expert testimony in the FERC ordered process to investigate possible refunds for power sold into the California Power markets during the winter and spring of 2000-2001. His clients were Arizona Public Service Company / Pinnacle West Capital Corporation, Avista Corp., Puget Sound Energy, Public Service Company of New Mexico, Public Service Company of Colorado, Nevada

Power Company, Sierra Pacific Power Company, Portland General Electric Company and Tucson Electric Power Company.

4. Newport Northwest – Mr. Litchfield has been retained by Newport Northwest to provide expert testimony in the Energy Facility Site Evaluation Council review of the Wallula site in Washington State.
5. Utility and Industrial Customers – Mr. Litchfield was retained by a group of utility and industrial customer to work with Senator Derfler in Oregon on a study of restructuring the Bonneville Power Administration. The report evaluated a range of possible roles for BPA that included the current situation provided in the NW Power Act to full privatization of the agency.
6. City of Cove – Mr. Litchfield is providing the City with expert advice to help resolve a power contract dispute that the City is having with the sale of power from a City owned small hydropower plant.
7. Hafslund Power Marketing – Mr. Litchfield has provided advice concerning hydropower operations in the region based on the recommendations of salmon managers and his knowledge of the hydropower system in the region and the requirements for fish and wildlife protection under the Endangered Species Act and the NW Power Act.
8. Pacific Northwest Utilities Conference Committee (PNUCC) - Mr. Litchfield is working on a wide variety of issues associated with changes that are resulting from the NW Power Act and the Endangered Species Act (ESA). This effort is designed to insure that the region is clear about the goals for both ESA protected salmon and other fish and wildlife stocks and to encourage objective scientific analysis of alternative proposed actions.
9. The State of Montana - Mr. Litchfield has been retained to be the Montana State's representative on the Technical Management Team (TMT) and the Implementation Team (IT). The TMT and IT provide input to the Federal Agencies on operation of the federal hydropower system under the National Marine Fisheries Service (NMFS) biological opinions under the Endangered Species Act.
10. National Energy Systems Company - Mr. Litchfield is working with NESCO, a power plant developer, to assist with analysis of transmission and other siting and power plant development decisions in the Northwest. The focus of this work is to provide West Coast power market price forecasts and to evaluate the possible transmission pricing, access and availability issues associated with planned development of new power plants and existing plant expansions.
11. Portland General Electric – Mr. Litchfield was retained to facilitate a series of ratecase workshops. These workshops were conducted during the fall and winter of 1987 and were attended by a wide spectrum of PGE's customers and interest groups. The subject of the workshops was primarily the implications for PGE's rates of the "Customer Choice" proposals that would provide open access to competitive power markets for all consumers in PGE's service territory.

12. Washington Water Power Company – Mr. Litchfield has been retained by WWP to assist with regional energy issues that require a presence in Portland. The specific nature of the tasks that Mr. Litchfield will be asked to perform will be determined as issues of a policy nature important to WWP are identified and regional processes are established.
13. Puget Sound Energy (PSE) – Mr. Litchfield prepared and presented expert testimony in litigation between PSE and a cogeneration facility. The scope of Mr. Litchfield's testimony focused on the changes in national energy policy and specifically FERC regulation, that have introduced competition to the electric power industry at currently the wholesale level but ultimately the retail level. Mr. Litchfield also testified as to the regulatory requirements that face utilities with respect to management of their purchase power contracts.
14. LCG was retained by six Northwest Investor Owned Utilities and Sierra Pacific Resources which serves the Reno area to represent them in the Comprehensive Regional Review of the Northwest Power System initiated by the Governors of the four Northwest states. Mr. Litchfield participated in the Regional Review's processes to provide technical and policy on issues related to BPA's roles in power marketing and transmission.
15. Regional Review - LCG provided technical and policy advice to the Governor's public process to evaluate and recommend changes to the region's electric power industry and especially to recommend changes in BPA's role that are consistent with the requirements of a competitive electric power market. Mr. Litchfield delivered a kick-off speech at the request of the four governors of the states of Idaho, Montana, Oregon and Washington. Mr. Litchfield also evaluated alternative industrial structures and identified issues for the Regional Review to resolve as BPA's electric power system is restructured to meet the needs of a competitive electric power marketplace.
16. BPA - LCG provided technical assistance to BPA's outside counsel in the development of litigation strategy with respect to a contract dispute between BPA and a resource developer. Mr. Litchfield researched changes in the National Energy Policy Act, 92 and reviewed FERC's regulatory changes in the proposed Mega-NOPR and its orders 888 and 889. Mr. Litchfield identified how changes in policy and regulation have reshaped the competitive bulk power marketplace and impacted on BPA's statutory mission.
17. BPA-Puget Power – Mr. Litchfield was retained as a facilitator to resolve a transmission dispute between BPA, Puget Power and Tanner Electric. The dispute resolution was undertaken under the guidelines of the NW Regional Transmission Agreement. Mr. Litchfield assisted the parties in understanding their respective positions and help them to identify alternative solutions that met all interests. The dispute was successfully resolved.
18. The Oregon Business Council (OBC) - LCG was retained by the OBC to evaluate the State of Oregon's current salmon policies. The state and the region are spending large amounts of resources in an effort to recover

threatened and endangered wild salmon stocks. LCG worked with the OBC staff and the Natural Resources Committee to develop management guidance and direction that will help the State improve the effectiveness of salmon recovery efforts.

19. Pacific Northwest Utility Conference Committee (PNUCC) - LCG worked with representatives of public and private utilities, the Direct Service Industries and the Bonneville Power Administration to evaluate alternative industrial structures to address the formation of a competitive marketplace in bulk power. The goal of this project was to design alternative transmission system operations models that could better implement the Federal open access transmission policies that are currently required by FERC. Mr. Litchfield facilitated the work of several technical, legal and policy committees of PNUCC.
20. PacifiCorp - LCG is working with another consultant to facilitate a group discussion of the policy alternatives for treating conservation efforts as the electric power industry becomes more competitive. The traditional approach to acquiring conservation as a resource through utility integrated resource plans will not be effective in the face of increasing competition in the energy marketplace. This project involves representatives of the relevant interest groups and is designed to identify changes in public policy that will ensure that the appropriate levels of efficiency are achieved.
21. Portland General Electric - LCG was retained as a technical expert in a power sales contract dispute. The long-term power contract is being disputed before FERC and Mr. Litchfield was retained as a technical expert to evaluate the terms and conditions of the contract and provide expert testimony.
22. Direct Service Industries, Inc. - LCG provides technical and policy advice on salmon recovery measures and scientific analysis of the impacts on salmon of alternative hydropower operations. The issues vary depending on the regional salmon debate and policies that are currently under discussion.
23. Oregon Business Council - LCG provided the OBC Board a presentation on the endangered salmon issue and its impact on Oregon and the economy. This presentation highlighted the management complexity surrounding salmon recovery and the need for a better management approach to recovery efforts.
24. Industrial Customer of a Northwest Utility - LCG conducted confidential power market research to determine alternative power supplies to meet the client's electricity needs. A Request for Power Supply was prepared and power supply proposals were evaluated against the terms, conditions and prices of the client's current supplier.
25. Modifications to Oregon's Siting Statutes - LCG worked for both Portland General Electric and PacifiCorp in the development and negotiation of changes to the Oregon Energy Facility Siting laws. Mr. Litchfield testified

- before the Energy Siting Council and the Senate Energy Committee on the changes occurring in the electric power industry.
26. Puget Sound Power and Light - LCG worked with Puget in evaluation of West Coast power markets to aid in the development of a strategic plan.
 27. Northwest Power Planning Council - LCG worked with Merrill Schultz and Associates to evaluate regional utility needs for Integrated Resource Planning and to advise the Council's staff on the development of improved planning data, analysis and models.
 28. Public Power Council, Pacific Northwest Generating Company and the Direct Service Industries, Inc. - LCG has been retained to participate in settlement negotiations on the development of a new Biological Opinion on hydropower operations.
 29. Sierra Pacific Resources - LCG is reviewing the utility's integrated resource planning and the decision criteria used to select new resources. The purpose of the review is to provide an objective expert review of the planning and decision making process and to suggest any improvements that may be appropriate.
 30. Direct Service Industries, Inc. - LCG reviewed the System Operations Review (SOR) Environmental Impact Statement under development by the US Army Corps of Engineers, the Bonneville Power Administration and the Bureau of Reclamation. The SOR is a review of the federal hydropower system in the Northwest and the many constraints on, and competing uses of, water. The resulting EIS provided operational criteria and constraints that seek to balance the physical system's constraints and the amount and quality of power that can be produced with the environmental impacts of alternative operational regimes. LCG participated on behalf of the DSIs to provide technical review and input on the costs and benefits of alternatives analyzed in the EIS.
 31. Davis Polk & Wardwell - LCG developed an appraisal of the value of the WNP 3 Power Exchange Agreement between BPA and Portland General Electric (PGE.) This power exchange agreement involves the transfer of energy and capacity between the utilities for a 32 year period beginning in 1987. The Exchange was a result of litigation following the termination of construction at the Washington Public Power Supply (WPPSS) nuclear plant 3. The value of the Exchange contract was needed for determination of the appropriate tax treatment for PGE's investment in the nuclear plant.
 32. Puget Power - LCG developed expert testimony in a Washington Utilities and Transportation (WUTC) case involving the utility's planning and decision making process that led to the acquisition of several independent power projects. LCG testimony centers on the planning process used by Puget in the 1980s and the congruence between Puget's methods and those developed by the Northwest Power Planning Council.

33. Pacific Gas and Electric - LCG was an expert witness on the availability of non-firm power and intertie transmission between the Northwest and California during the 1980s and 1990s. The expert testimony was needed in a contract dispute that was, in part, caused by the availability of low cost non-firm power from the Northwest.
34. Great Whale Public Review Support Office - LCG provided expert assistance on the review of the Great Whale Project EIS. This project resulted in a publication entitled, Integrated Resource Planning and the Great Whale Public Review, Litchfield, J., Hemmingway, L., and Raphals, P.
35. Mouvement Au Courant - LCG developed a paper describing the interactions between regulatory and IRP processes in the United States. This paper also provided background on current planning and hydro licensing processes used in the U.S. The analysis of current regulatory and planning processes was presented in hearings on Hydro-Quebec's proposed St. Marguarite 3 hydroelectric project.
36. Pacific Power - LCG conducted an analysis of the financial and rate impacts of aggressive conservation program implementation. The introduction of high capital cost conservation increases the early costs and reduces sales. This led to higher rates in the short-run followed by lower rates in the long-run. LCG analyzed current rate making methods used to allocate costs and benefits and identified equity concerns that are presented by conservation resources.
37. Great Whale Public Review Support Office (Quebec) - LCG developed a paper describing integrated resource planning criteria and their relationship to the Guidelines developed for the review of the Great Whale Project.
38. British Columbia Utilities Commission - LCG acted as a technical facilitator for a workshop on Integrated Resource Planning / Least Cost Planning in Vancouver, BC. The workshop was sponsored by the BCUC and was designed as a preview of IRP methodologies and requirements. The BCUC was considering IRP as a new planning requirement for Electric and Gas utilities.
39. MicroGrid - LCG provided assistance with the development of a Demand Side Management resource proposal to secure conservation from the commercial buildings sector. This proposal was submitted to two public utilities and BPA.
40. Intercompany Pool (ICP) - LCG was retained by the ICP to assist with the renegotiation of the power sales contracts between BPA, the region's utilities and Direct Service Industries (DSIs.) The current power contracts expire in 2001, however, the importance of these contracts to all of BPA's customers makes it necessary to renegotiate the contracts before the end of the contract term. This process is also involved efforts to restructure BPA by development of a marketing plan, tiered rates and redesign of transmission access, terms, conditions and pricing.

41. Montana Power Company - LCG provided an independent audit and evaluation of MPC's first resource bid evaluation process. The company asked LCG, as outside experts, to evaluate the methods and approaches used by the MPC staff in evaluating the new resources bids they received from independent developers. Alternative evaluation methods were applied to independently rank the projects developed by the MPC staff. The results were similar to those reached by the MPC staff.
42. Calpine Corporation - LCG provided assistance with the development of a marketing strategy for cogeneration development and assisted Calpine in marketing of their project to northwest utilities. This resulted in a successful letter of intent between Calpine and Pacific Power and Light.
43. Northwest Wind Advisory Council and the Electric Power Research Institute - LCG worked with Decision Focus, Inc. to provide an assessment of the utility industry's decision making needs with respect to wind resources. This resulted in the development of a *Wind Resource Primer* to assist utility planning and decision making for the acquisition of new Wind resources.
44. Bonneville Power Administration - LCG conducted a review of BPA's energy system planning models and developed a strategic plan for future model development, analysis and maintenance. This work involved interviews with analysts, management and policy makers to determine their perspectives on the adequacy of current quantitative analysis and any additional information needs. LCG recommended the formation of a new internal group called the Analytical Review Team (ART) to provide analytical quality assurance and strategic direction for additional model development.
45. The Northwest Power Planning Council - LCG assisted the Council in the development of a strategic plan for achieving the conservation targets in the plan. Recognizing the rapidly changing utility industry and the increase in competition from non-utility sources, the traditional centralized methods of conservation delivery mechanism need to be rethought and redesigned.
46. Pacific Power & Light - LCG developed a paper describing a economic methodology for incorporating environmental externalities into IRP. Based on economic and decision theory, this methodology recommends the use of multi-attribute decision analysis methods to incorporate the many non-price factors into the resource selection process used in utility's IRP. This work was presented in testimony before the PUC and discussed and evaluated by the PUC staff and interest groups in PUC working sessions.
47. Makowski & Assoc. - LCG provided assistance with gas-fired resource marketing to BPA and other utilities in the Northwest. Specific consultations included participation in a regional advisory committee to Makowski and assistance with marketing and communication to BPA in the bid evaluation process.
48. Tacoma City Light - LCG provided assistance in the development of the Integrated Resource Plan (IRP.) This assistance included conducting

analysis of the costs, benefits and uncertainties associated with gas-fired resources. LCG also provided assistance with the incorporation of environmental externalities into the planning and resource selection process.

49. Portland General Electric Co. - Assistance with analysis of alternatives to the Trojan nuclear power plant for the Least Cost Plan published in 1992. LCG provided expertise in Regional power systems analysis and modeling of uncertainties. The Northwest Power Planning Council's power systems model (ISAAC) was used to test alternative courses of action for PGE and a new model was built to analyze the uncertainties associated with the Trojan decision.
50. National Marine Fisheries Service - Snake River Salmon Recovery Team - LCG is one of a seven member scientific team responsible for drafting a Recovery Plan for the endangered salmon stocks on the Snake River.

June 18, 2004

Oregon Department of Energy

Re Comments on Proposed PUD in Southeast Portland

The earlier efforts to break PGE up into a number of Public Utility Districts denominated by counties never made much sense. Proponents advanced the concept as a way to protect ratepayers from a break-up of PGE and a spin off of the generation facilities by the bankruptcy court and Enron creditors. Yet, the result of what the proponents wished to create was exactly what they said they were trying to avoid: breaking up the utility into several distribution companies separate from the generation plants used to serve them.

While this never made any economic sense, it at least had some semblance of common purpose by defining the PUD territories by counties. This new effort to carve out a PUD based on the previous vote in Multnomah County makes no pretense of either economic sense or communal identity. It is based solely on a political gerrymandering the lines of the proposed PUD territory to achieve a positive outcome. Because of this, the report and analysis of the Department of Energy on the proposed PUD takes on even greater significance.

The proponent's case that such a PUD brings benefits to ratepayers is based on a series of unlikely events managing to occur at the same time, including the hope that the courts would reverse previous precedents and rule in their favor instead.

From the broad perspective, perhaps the best measurement of potential benefits is identifying what PGE ratepayers have now that would be lost and not replaced by other benefits. What they have is a distribution system embedded in rates at book value and generation sufficient to meet approximately half of their load, with the rest supplied by market purchases. Public power may get tax benefits (although those come at the expense of state and local budgets) and they may have access to low cost financing, but the bulk of utility service costs are for the distribution and supply of electricity. When it comes to these elements, the ratepayers of PGE within the proposed PUD territory are more likely to lose benefits than to gain them.

The distribution system is included in the rates for PGE at book value. However, it is unlikely that the new PUD could acquire the distribution facilities at book value. As a condemnation of private property compensation at market value will be required and that

will be higher. The market value, plus the costs of separation and severance of distribution facilities from the PGE system could be two to three times as much as PGE ratepayers now cover in their rates. Thus, ratepayers of the new PUD will be paying more in their rates for the distribution system than they do now for the same system under PGE.

The PUD vote is about acquisition of the distribution system only. It does not create a foundation for the subsequent condemnation of generation facilities. Proponents have made claims before that the laws allow the PUD to takeover PGE generation assets. However, the legal precedents set so far by courts points in the other direction. Proponents would need either a reversal of court precedent or a change of law for the PUD to take PGE generation away from the remaining PGE ratepayers.

If the new PUD will not have access to any of the existing PGE generation, then they must rely on purchasing power or building their own generation, both of which are likely to be more expensive than the current PGE generation.

As a public utility, there is always the possibility of getting some or all of the power supply as a public preference customer from the Bonneville Power Administration. Traditionally that has been less costly than the power supply of the private utilities. However, through the "residential exchange" required by federal law and negotiated with BPA by the utilities, residential customers of PGE already receive substantial benefits from BPA.

Furthermore, the traditional difference between the costs of supply from BPA and that of the private utilities is steadily decreasing. BPA is already oversubscribed by existing public preference customers. Consequently it must already obtain power from the same market as the private utilities to meet its supply obligations. A substantial new load such as that of the proposed PUD would add to that burden.

If BPA acquires the market-based power to serve the new PUD and melds it with the lower cost power of its existing supply, it will reduce the costs impact of the market-power to the new PUD. However, that will raise the rates of existing public power utilities as well. BPA has not made a determination that it will meld any power it needs to acquire to serve a substantial new load. To the contrary, BPA is giving strong consideration to establishing a separate rate for substantial new load based more on the costs of market power than on the melding of those costs with existing low cost hydropower. Such a policy would significantly eliminate any potential benefits of substituting BPA supply from market purchases for the combined own generation and market purchases which PGE uses to serve its customers. Since both BPA and PGE purchase from the same market, it is possible that BPA supply under a rate reflecting market purchases may be higher than the PGE supply which would be based on its own lower cost generation as well as market purchases.

There are other considerations as well.

Under current law, PGE is required to offer a portfolio of options to smaller customers, including an option for blocks of renewable based electricity. The law also guarantees that 3% of PGE revenues goes will go to public purposes such as energy efficiency and new renewable energy development through the public purposes surcharge. In addition, law provides the large customers with the right to choose an alternative provider of their electricity supply.

Public power is exempt from the above provisions. They are not required to provide these rights, options or benefits to their customers. If new public power ownership wants to reduce rates by 3% it could do so by eliminating the investment for energy efficiency and renewable supply. If it wants to meet the public purposes objectives incorporated in the law as it applies to PGE, it can continue to spend 3% on those purposes. It could also exceed that amount if it wishes. However, meeting or exceeding the public purpose requirements of PGE will not mean any lowering of rates.

Because the new PUD would be exempt from the public purposes provisions under which PGE must operate, the danger here is that a rate reduction could be achieved at the expense of these public purposes. And for industrial customers, there is the danger that they will not have the option of choosing an alternative provider if there is one that could provide a better rate or product. Again, the danger is the loss of a potential benefit.

Another consideration is the length of time it will take to resolve issues of conflict if the PUD is created. On issues ranging from cost of the distribution system to access to generation and supply, resolution will involve lengthy and antagonistic negotiation and eventually litigation. This can only add to doubt about any real benefits and will continue the uncertainty ratepayers have already endured over the ownership and direction of PGE.

Given the clear and visible political calculation that went into the creation of the proposed PUD boundaries, your report can play a critical role in helping the public understand the potential consequences of their decision. These issues are complicated and the public can easily be taken in by unsupported claims. I realize there are many factors to be considered and that there is always an element of uncertainty in forecasting future impacts. But here the burden is on the proponents to show ratepayers they would be better off and this is a burden they cannot meet.

The public deserves to know what is most likely and what is not. Uncertainty should not be an excuse for being timid and vague when more definitive statements can be given with a high degree of confidence. The voters within the boundaries may decide that the prospect of governing their own utility may be sufficient reason for them to create a PUD regardless of the economic consequences. But they should have an objective economic analysis available before they make that decision. In this case, the DOE has an opportunity to be clear and concise. Unless demonstrated otherwise, DOE should not be afraid to tell the public that:

1) Any potential rate benefits are highly speculative and depend upon events that are unlikely to occur

2) That any final resolution of ultimate initial costs and rates is likely to occur only after a lengthy period of negotiation and litigation.

Inner Southeast/Northeast PUD

**Written Testimony of
Stephen R. Hawke, Vice President
System Engineering, Customer Service & Utility Services
Portland General Electric
Before the Oregon Office of Energy**

June 15, 2004

As background, I am Steve Hawke. I am a Vice President of Portland General Electric and have the Engineering, Transmission Services and Customer Service groups as part of my areas of responsibility. I have been at PGE for over 30 years and have worked in all of its regions. I am a registered professional engineer in the State of Oregon. My detailed background has been presented in previous hearings and is attached to my written testimony as an addendum.

As the Oregon Office of Energy studies the proposed Inner Southeast/Northeast PUD, one has to wonder at what point does this proposed entity get so small and so complicated that it doesn't make economic and technical sense. And what we see here is that even if you are a huge fan of public power this proposal is a bad idea.

At some point the Department can probably conclude decisively that a PUD is not feasible – that the low cost power from BPA is all used up as they continue to state and that the costs to purchase and separate the systems are so large that when they are spread over a small base of customers, costs will go up and reliability will go down. And the point when the Oregon Office of Energy can come to this conclusion is now.

As you know key regional energy participants, including the OPUC, BPA and PGE, have continued substantive discussions on regional power supply issues over the past year. A series of detailed and complex agreements have been negotiated that provide a much clearer picture of power supply in the Northwest. And as each new agreement is made and each new piece of information is added, the possibility of a new PUD acquiring low cost power diminishes. The proponents cannot get the power supply at the costs they claim.

And when we look at the transmission and distribution systems, similar problems arise. The attached maps illustrate the situation.

Exhibit A shows the precise boundaries of Representative District 42, the precincts and the five substations within the area.

Exhibit B provides an overview of the transmission lines and their routes as they impact the area. Note the six crossings where power flows into and the out of the area.

Exhibit C is a representative area along the north and east boundaries that show just the main primary voltage crossings that will require reconfiguration at various levels of complexity.

Exhibit D is another representative sample along the southern border and in this case shows how the service to Southern Pacific's major facility gets severed in two.

Finally, Exhibit E shows the river cable crossings that feed half of the downtown Portland network load. These are in many cases armored covered lead cables that require very specialized skills and techniques to install, splice and maintain.

These technical impacts are significant. And as much as they show the magnitude of the physical design and construction tasks that are needed for system separation, they also show that we've done our homework again. We've looked at the engineering, and we know what's involved. We are the designers and we have built and maintained this system for over 115 years. It takes this kind of experience to manage this degree of system complexity.

These are samples only, but when you add-up the entire impacts of the proponents' proposals we arrive at purchase and severance costs for the Inner Southeast/Northeast PUD to be close to \$150 million. This includes over \$90 million as the estimated purchase price of the system, separation costs of over \$35 million and facilities replacement costs around \$25 million. Separation in this case includes the reconfiguration of six major transmission lines, six substations, 80 main feeder lines, and hundreds of individual services, secondary crossings and streetlight circuits. You will note this is actually more in separation costs than we had for all of the Clackamas County proposal. Embedded in this area is one of our key substations that feeds the technically

advanced network system in downtown Portland. This is a very expensive substation to replace. So in comparison to the recent Clackamas County proposal we have greater costs for this small area to spread over 1/8 the number of customers. Per person expenses for this portion alone then are eight times greater than for the most recent Clackamas County effort. And these are just PGE's costs. The PUD will also face tens of millions of dollars of additional system and facilities costs of its own that will be added to the bills.

And we've been through the brick wall analogy when it comes to reliability where we've talked about this being like building a brick wall at the boundary cutting off all the streets. We will not extend our zone one protection designs and we will separate at the boundaries and the reliability of this very small island will decrease. In this area alone we have two different transmission voltages of 57,000 volts and 115,000 volts, we have three different distribution voltages at 4,000 volts, 11,000 volts and 12,500 volts, and the complexity of the system is high. This is not a rural system with single-phase taps as the norm. This is a complicated urban system with multiple voltages and complex configurations that has been operated and maintained by people who collectively have thousands of years of experience. There is no public power area in Oregon that comes close to approaching this level of technical and system complexity. To repeat - reliability will decrease.

So over the past year some things have changed – the power supply picture in the northwest is getting clearer and with each clarification the low cost power dream

vaporizes. We see that the purchase and separation costs will be 7-8 times greater per person for this small area than for the other proposals to date. And reliability will decrease.

We believe that given these facts, the Oregon Office of Energy can conclude that the Inner Southeast/Northeast PUD proposal will result in higher rates and lower reliability for the customers in this area. While there are models of public ownership that work, this is clearly not one of them. This proposal should be rejected on its technical and economic merits alone.

Thank you.

Oregon Department of Energy Hearing
June 15, 2004

My name is Anne Snyder and I live in the proposed PUD area.

I moved to Portland in June of 2000, one day after graduating from the University of Oregon. I had a double major in Spanish and International Studies with concentrations in international gender issues and Latin America, and a minor in Women's Studies.

Without much knowledge of the demographics of the area, my roommates and I moved into a townhouse in the West Hills. A year and a half later I found "home" in a close-in southeast Portland neighborhood called Brooklyn. I've lived in Brooklyn for a little over two years at this point and have never once regretted my move. As a University of Oregon graduate I'm very familiar with political activism. Southeast Portland feels like an extension of my college days when I first knew what I stood for and I worked so hard to fight for what I believed in. I appreciate this about my neighborhood in SE Portland and plan on remaining in the area for years to come.

Because of my interest in social services for the Hispanic community, I volunteered with several nonprofit organizations throughout my senior year of college. After graduation, I found myself in Portland General Electric's Customer Service Department working as a translator. It was a great way for me to feel like I was helping as well as using my Spanish language skills. Although I had spent most of my college years with the feeling that corporations were evil and ethically challenged, I found things to be different at PGE.

Portland General Electric does not possess the qualities that I had always attributed to corporations. PGE is very good to its employees, participates in the communities it does business in and throughout the state, and works to protect the environment. As a PGE employee, I feel like I'm a part of a big family. From the officers to middle managers to front-line employees, everyone looks out and cares for one another. I don't know of a more caring and supportive company than PGE.

PGE also has a strong culture of volunteerism and giving back to the communities, in which we live and serve. Recently, my department held its annual food drive. This time we decided to raise money instead of food, and donated it to the Food Bank. With a goal of \$3500, the employees were very creative in their attempts to raise as much money as possible. After all the money was counted, we raised \$6,909.72 (which equates to 69,072 pounds of food). This kind of giving is not uncommon at PGE.

Employees within the company set their goals high and normally surpass their goals. I've spent many Saturdays in the homes of people that are low-income or elderly, doing free weatherization for the coming winter. Our "Take The Chill Out" program has helped thousands of our customers reduce energy consumption after PGE employee volunteers spend a day doing weatherization. I have wondered if PGE hires the kind of people that are already inclined with a commitment to their communities, but I have seen that PGE puts a huge effort into encouraging volunteerism as well. This speaks volumes to the kind of company PGE is. Every quarter PGE awards about \$40,000 in Employee Volunteer Grants ranging in size from \$250 to \$500, to the multitude of organizations where our employees donate their time. These funds come from our investors. And in our Employee Giving Campaign, our total employee contributions have increased every year, despite hard economic times in our state and our employees' personal losses in their 401k's. Total employee giving last year was \$866,000 and again – PGE investors matched these contributions with a donation of fifty cents to every organization an employee donated a dollar towards.

Because we all work hard to provide a service that is so necessary there is a great sense of perseverance among PGE employees no matter what is thrown at us. I am very proud to work for PGE. Everyday I know that I'm helping people in my community by the nature of my job and this means a lot to me. We've been through difficult times since I started with the company in 2000. I'm constantly amazed at how strong and giving the employees are despite all we've been through. Regardless of whether or not I worked for PGE, as a southeast Portlander, I would not want to be without this company in my neighborhood.

Submitted Respectfully by:
Anne Snyder

Testimony of Wayne Lei
Oregon Department of Energy Hearing – Inner SE/NE PUD
June 15, 2004

Thank you for the opportunity to submit a few words to describe Portland General Electric's commitment to environmental stewardship and how it relates to the proposed PUD in inner SE Portland and a small piece of inner NE Portland.

I grew up here and together with my family reside in Portland. Coincidentally, I've been a long time member of Chinese Baptist Church in Ladd's Addition. In fact, my uncle designed this church as well as Trinity Baptist – also in the proposed PUD area. Due to past red lining policies, many Chinese in my generation have deep roots in this part of the City.

For the past 12 years, I have been Director of Environmental Policy for PGE. My career has spanned public, private and academic settings and has allowed me to live in different parts of the country. In completing my doctorate in Environmental Health I was able to also gather some international experience.

In previous testimony I have given in ODOE hearings, I have spoken of the State's high environmental ethic. I wish to re-affirm that PGE is well aware of this stewardship ethic and the accompanying requirements we must meet to operate our facilities in local communities and with the permission of all stakeholders.

In the distant past, perhaps we learned this the "hard way", but in the last several decades it's been a lesson well learned, and if I may say so – well implemented.

In 1991, PGE issued its first environmental policy. In 1992, when I was given this job, the Company re-crafted it so that stakeholders and others could hold the Company even more accountable for its environmental performance.

Annually, we write two reports that document our performance to that policy. These are blunt instruments. If you want know whether or not we violated a rule or law; we tell you. If you want to know how many fines we received; we trend it for you in a graph. If you want to know how many times PGE was audited by a Federal or State agency and how many findings they leave behind; we analyze that for you as well as trend it over a ten-year period. These are just a few of the performance indicators we keep to internally judge whether we are being true to our policy in protecting the environment. Other data include ten-year trends in declining hazardous waste production, PCB elimination from transformers and substation switches and so on.

We willingly give this data to anyone who requests it in neatly bound reports, including our customers, potential investors, government agencies and advocacy groups.

Compliance with environmental regulation is the very bottom line in our actions to protect the environment. You may know that an electric utility has a large environmental "footprint". How we reduce or mitigate that footprint is a large thrust of our environmental policy. It's just good business and we say so in our policy.

But in our view, it's even better business to go beyond the minimum. Some examples:

In two decades of effort, PGE's energy efficiency programs delivered enough "NEGAWATTS" to offset the construction of a 270 MW power plant.

When I went to work for PGE in 1988, our Boardman coal plant made 500 MW of power; 15 years later it produces 600 MW and burns the same amount of coal.

Similar power plant efficiencies have been made at our hydropower and natural gas fired turbine plants.

In 1992, PGE issued the country's second all green RFP for power that did not utilize fossil fuels. That effort eventually resulted in providing a long-term power contract for Oregon's first wind power plant – the 24 MW Van Sycle ridge project near Pendleton.

In our latest Integrated Resource Plan (IRP), Energy Efficiency efforts and renewable power will supply about half of the incremental load increase to 2007.

In 1995 we provided 20% of the budget for *Friends of Trees* 5-year "Seed the Future" tree planting program in our service territory. We entered into this partnership because we understand our impacts on trees in urban settings and we have a very strong commitment to ensuring the right trees are planted in the right locations for both esthetic and safety reasons.

In every year where we have been asked, PGE has quietly contributed support to the Ladd's Addition "Save the Elms" preservation efforts. And for many years, PGE allowed Community Gardeners to thrive on our vacant land near Brooklyn School. Later these plats were converted to the close in, *EarthSmart*, "Affordable Street of Dreams".

These are just a few examples that hopefully demonstrate our serious and systematic commitment to our policy and its implementation and some of the positive effects in the communities we serve.

I would only add that even though these are highly visible projects and partnerships, there are other PGE people not generally seen who are involved personally in helping protect and enhance Oregon's environment. By my count we have employees from Vice Presidents on down sitting on Boards or very active with nearly 30 non-profit groups that seek to advocate for and protect the environment. Our CEO Peggy Fowler leads this charge, by working on a number of non-profit Boards that include the Founders Circle for SOLV.

As someone who has worked in the utility business for over 20 years, I would observe that a new PUD will not be able to duplicate this kind of program sophistication and corporate ethic overnight. What I have described has taken years of thoughtful development and, if you will, corporate maturing.

Formation of a new PUD could very well distract from this record of achievement. And that would be a shame – especially so, if it occurred at the expense to the environment.

Thank you.

* * * * *

EULIA QUAN MISHIIMA

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June 19, 2004

Michael Grainey, Director
Oregon Department of Energy
625 Marion, N.E.
Salem, Oregon 97301

Dear Mr. Grainey:

Re: Willamette PUD

I write with hope to clarify my statements and positions in my extempore testimony given at the June 15 Oregon Department of Energy public hearing on the Willamette PUD.

While a member of the Oregon Public Power Coalition I give my positions now as an Enron/Pge ratepayer. Since 2002 I have perused thousands of pages from and listened to local and world wide news sources about Enron's history of corruption worldwide and most particularly of the intentional crimes this corporation committed against the Portland Metropolitan area's Enron/PGE ratepayers within the six county PGE territories.

I have also learned that there are over 2000 electric PUDs in the United States that have a history of satisfactory service and lower rates, except for a small percentage of territories where there are a small number of ratepayers.

Thus by diligent study from a broad base of information on electric utilities I believe any PUD established by the vote of the people within any segment of the six counties Enron/PGE territory can be a an electric utility superior to an investor-owned electric utility. Since the Enron purchase of PGE records show more than one billion dollars has been usurped from ratepayers through rate increases including most of the state and federal taxes collected but not paid. Presently the state and federal taxes continued to be included in PGE rates but are still not paid at the rate of just less than 2 million dollars a week.

I found certain facts presented in some testimonies given in support of a Willamette PUD at the June 15 hearing were adequate to show that there is danger of the present Enron/PGE ratepayers being cheated again in a takeover of PGE by another investor-owned electric utility because over 60 electric utilities including Enron were identified by early 2003 as having participated in the illegal price hikes after deregulation in the California energy crisis in the years 2000 to 2002.

Eulia Quan Mishima

Page 2

Legal action against these corporations started by early 2003 and continues. The resulting devastation by 60 plus utilities continues to cause ripple effects throughout as California struggles to find ways to regain normalcy.

Montana is another state continuing to suffer after electricity deregulation there. I dread that idea of similar occurrences taking place in Oregon after deregulation in 2006 by investor-owned utilities. And such is possible. Safeguards have not been established.

Enron has avoided addressing its criminal activities throughout the several PUD ballot measure campaigns but has instead spent at least 4 million dollars using sophisticated advertising techniques against grass roots efforts in support of PUDs.

Some tactics include encouraging paid and non-paid employees to give testimony at hearings on the PUD ballot measures. The facts again have never been presented by employees or high salaried executives. Instinctively I sense that all working now for PGE and who speak at hearings have greatest concern for keeping or being assured of a job with any Enron/PGE changeover.

Instead of the truth employees have indicated consistently in a variety of ways, some quite poorly, that a PUD is more than an elected board can handle. No PGE employee has mentioned (perhaps they do not know) that managers or management teams are hired such as is done by investor-owned utilities. They have not faintly mentioned that negotiations with unions follow similar patterns in investor-owned or municipal utilities. They have not acknowledged that the present management and employees have a very fine chance of staying with a newly formed PUD.

The employees have avoided stating that a PUD serves for the interests and wishes of the people and with ratepayers through committees and participation at decision taking meetings which must be always be open to the public. They avoid that nearly all of PUDs in the U.S. have lower rates.

It is just a matter of time when enough of the people will learn that PUD's have the best to offer. A PUD can be formed by the people by completing the required legal steps. But now is the best time for voters to approve a PUD before any Enron/PGE takeover because it can be had at the lowest price possible. After a takeover by an investor-owned, for profit corporation, it will have ways to show in truth or in fallacy that the value of the corporation has increased significantly and any sale should add up to the new high value.

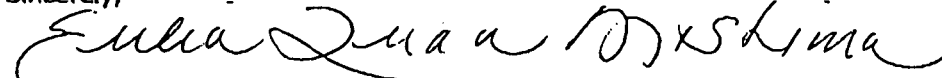
Named here are some exhibits I left at the hearing:

Enron Pawns

Home page from the APPA website with information and links to the latest electricity information about public and investor-owned electric utilities.

I appreciate your consideration at the public hearing and your attention to this letter. Thank you.

Sincerely,



Eulia Quan Mishima

Oregon Department of Energy Hearing on Willamette Electric PUD

Testimony Supplement

Jim Piro

Executive Vice President, Finance, CFO & Treasurer

Portland General Electric

Before the Oregon Department of Energy

June 18, 2004

June 18, 2004

Mike Grainey
Oregon Department of Energy
625 Marion St. NE
Salem, OR 97301-3737

Dear Mr. Grainey:

I am requesting to include this supplemental testimony as part of the official testimony I delivered before the Oregon Department of Energy on June 15, 2004 regarding the proposal to form a People's Utility District (PUD), Willamette Electric PUD, within a small area of Multnomah County. PUD proponents at the hearing that evening incorrectly characterized a number of issues related to Portland General Electric (PGE), and I would like to address their erroneous statements here.

- 1) PGE is not guaranteed a rate of return on its investment, only the opportunity to earn it. Several times in the hearing, PUD proponents stated that PGE has a guaranteed rate of return on equity of 10.5 percent. That figure is actually an *allowable* rate of return, authorized by the Oregon Public Utility Commission (OPUC). Given the challenges of the energy industry and the economy in recent years, PGE's actual rate of return has been significantly lower than this figure. In other words, there are no guarantees what our utility earnings will be.
- 2) The OPUC policy on corporate income taxes as part of our cost structure is sound, since any tax benefits generated are a result of losses that are also not paid for by customers. The OPUC established its tax collection policy based on a stand-alone utility basis for all the utilities it regulates; no matter what their corporate structure may be. The procedure for calculating tax costs as part of the overall cost structure is the same for NW Natural, PacifiCorp and PGE, even though the ownership structures of these three utilities are different (NW Natural does not have a parent company, PacifiCorp has an international owner, PGE's common stock is owned by an out-of-state parent company). The other part of

the equation that these PUD proponents fail to mention is: If the corporate taxes are higher than those included in rates, the OPUC's policy protects customers from the higher tax burden. It is our responsibility to follow the tax policy that was established long ago through public process at the OPUC, and we will continue to follow the guidelines of that policy. If PUD proponents believe some other policy should be established for all of Oregon's regulated utilities, it is their responsibility to pursue the avenues available, such as requesting the OPUC to open a docket on the issue.

- 3) The recent Marion County Circuit Court ruling on PGE's rates and the calculation of tax requirements merely referred the issue back to the OPUC for review, it did not make a definitive ruling about the manner in which PGE has included taxes in its overall cost structure. Again, as the section above explains, like all regulated utilities in Oregon, PGE has followed the regulatory precedent in estimating our taxes for purposes of determining our rates on a stand-alone basis. We have always based our rate tariffs on this precedent, which are fully reviewed and approved by the OPUC through an open, transparent and public process. We are troubled by the careless and unfounded accusations of the Utility Reform Project, the same organization involved with this PUD effort and recently failed attempts to take over PGE territory in other counties. We are confident that any review of our rate cases will show that we based our proposed rates on the appropriate information under OPUC policy and the Commission adopted them after a full and open process. PGE is reviewing the Marion County Circuit Court decision to remand the issue back to the OPUC, and PGE will fully cooperate in any future proceedings on the matter.
- 4) Several statements about the regulatory powers of the OPUC by PUD proponents may have caused confusion about the state agency's role in utility regulation. The OPUC is an independent government agency with a responsibility to set rates that are just and reasonable. A Commission that is appointed by the Governor and confirmed by the Oregon Senate oversees this state agency. There are countless examples of how PGE and other regulated utilities have not been allowed by the OPUC to recover the costs for hundreds of millions of dollars in legitimate expenses incurred by the utilities over the years. One recent example is the disallowance of PGE to recover more than \$100 million in excess power costs that resulted from the high wholesale electricity and fuel prices from the energy crisis of 2000-2001. PGE shareholders, instead, had to cover that cost. Conversely, Seattle City Light incurred half a billion dollars in excess power costs from that period. An independent regulatory agency does not oversee public utilities such as Seattle City Light, and their organizational structure does not allow for any group other than customers to take accountability for utility costs and risks. Therefore, Seattle City Light customers had to pay for these excess power costs – and the same would be true for the Willamette Electric PUD, since they would have no shareholders.
- 5) The decision to shut down and decommission the Trojan power plant, and the associated recovery of PGE's investment in the plant from customers, was arrived at through a legally valid public process overseen by the OPUC. PGE went through an exhaustive and highly transparent least cost planning process conducted by the OPUC and it was determined that customers were better off to shut the plant down versus continuing to operate it with the assumption that the remaining investment would be recovered regardless. The method for

PGE's recovery on the investment in the plant was approved by the OPUC in accordance with the laws understood by that Commission at the time. In consideration of a recent Marion County Circuit Court decision, the OPUC will reopen the public process to review this issue once again.

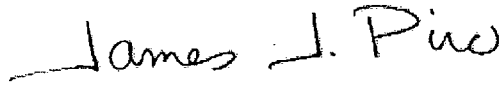
- 6) PGE's customer information system (CIS) is operating successfully, and has been heralded as a case study for utility CIS deployment. While some start-up complexities are to be expected and some minor technical glitches have occurred, it's important to note that PGE's CIS project – one of the more technically challenging projects in the company's history – is widely viewed by industry experts as a successful project. We encourage the ODOE to refer to previous testimony about PGE's CIS by Cap Gemini Ernst and Young from the earlier Multnomah County PUD campaign in 2003, as well as testimony given by PGE's Nancy Miller earlier this year in the recent Clackamas County PUD effort. More importantly, we encourage the ODOE to analyze the challenges this new PUD will face in developing and launching its own CIS system, especially given the high costs that will need to be spread across a very small number of customers. Again, the previous testimony highlights some of the associated challenges – including the high chances for cost overruns and unsuccessful deployment. We remain concerned about the impacts to potential customers of the proposed PUD, who would likely not receive the same level of service as provided by the proven systems and experienced employees currently serving them at PGE.
- 7) The chances for low-cost preference power from the Bonneville Power Administration (BPA) for a new PUD remains a wild card, but there are several indications that the cost of power will not be low. We encourage the ODOE to refer to the testimony provided at the June 15 hearing and previous PUD hearings regarding this matter, including testimony from third-party sources about the BPA's current challenges to inexpensively serve a long list of public utility customers. Additionally, we would ask that the ODOE, in its official report studying this PUD proposal, provide a clear distinction between the legal obligation for BPA to provide power to new public utilities, and how that differs from access to low-cost power. We have seen examples in past failed PUD campaigns in which PUD proponents claim that BPA must provide preference power to a new public utility. We agree that BPA is obligated to serve a new public utility, but the central question is: "At what price?" There are no guarantees for low-cost preference power. An outcome probably closer to reality for any newly proposed PUD is one in which BPA purchases power for the utility at higher wholesale prices.
- 8) PGE's non-residential customers have options for other electricity suppliers, yet an overwhelming majority have chosen to stay with PGE. PUD proponents continue to paint a picture that PGE's rates are the reason for the local economic downturn, and that non-residential customers have no other available options. In fact, non-residential customers of PGE do have the option of being served by power indexed at daily, monthly or quarterly prices directly from the wholesale power market, or from external suppliers other than PGE. In the most recent election window in which customers could choose an alternative rate option, all customers chose to remain on PGE service. While PGE continues to work toward further rate stability, the company's rates remain below the national average. PGE's rates are

not the lowest, nor are they highest, in the region. To continually characterize PGE's rates as the highest in Oregon is irresponsible at best.

- 9) Retired Columbia River PUD employee Fergus Pilon said the PUD vote alone would not result in any change to the status quo, yet it establishes an entity with taxing authority. This important point should not be overlooked. PUD proponents continue to characterize the PUD vote as just a formality, yet formation would create an entity with taxing authority and the power to begin condemnation proceedings. It also would create a scenario of uncertainty for our customers – for months, and perhaps years – both inside and outside the proposed boundary areas.
- 10) Columbia River PUD severance costs should not be used as a model for what the severance costs could be for the Willamette Electric PUD. The unique circumstances for this proposed PUD should be considered on their own merits. As Stephen Hawke, vice president of customer service, system engineering and utility services for PGE articulated at the June 15 hearing, there are immense technical challenges in the proposed Willamette Electric PUD area that would result in corresponding high severance costs. Please refer to the testimony and corresponding maps that explore the severance challenges and related costs in detail.
- 11) As the ODOE considers testimony provided by D. Hittle regarding a recent study promoting the viability of a PUD takeover, we encourage the ODOE to review the methodology and also consider the outcomes from D. Hittle's analysis of a Hermiston Energy Services takeover of PacifiCorp assets. The testimony submitted by Samuel Van Vactor at the June 15 hearing addresses some of the flaws in the recent Clackamas County PUD study prepared by D. Hittle, and it should be reviewed carefully. In short, that study makes some incorrect assumptions about PGE, including an unsubstantiated prediction of 3 percent rate increases for each of the next 10 years and extremely undervalued asset purchase costs. Also, it should be noted that prior to Hermiston Energy Service's asset purchase from PacifiCorp, D. Hittle estimated the asset costs at \$3 million, when the actual price for those assets came in at around \$8 million. Further, D. Hittle estimated that Hermiston rates would fall below PacifiCorp's. The opposite came true. Hermiston's rates are currently higher than PacifiCorp's rates, and the gap was further widened this month with a PacifiCorp rate decrease that was just enacted.
- 12) Oregon Electric Utility Company and/or TPG cannot sell PGE's assets without OPUC approval. The single biggest threat to a break-up of PGE's assets is through condemnation or a PUD takeover of PGE assets. OPUC rules do not allow the sale of PGE assets valued in excess of \$100,000 without OPUC approval. Further, the OPUC rules and "ringfencing" protections have stood the test of the Enron bankruptcy. PGE remains fully intact, financially independent and healthy, it has adequate access to capital, and its financial ratings remain at investment grade. In fact, we encourage the ODOE to refer to a news story excerpt about ringfencing from *Platts* that PGE made available as a handout at the June 15 hearing. In that story, utility regulatory protections across the country were evaluated in a survey, and Oregon's regulatory protections that cover PGE were highlighted as the "poster child" for effective utility ringfencing.

Thank you for allowing an opportunity to set the record straight through the submittal of this supplemental testimony. We appreciate the tough job ahead as you weigh the input from all sides and assemble a meaningful analysis.

Respectfully yours,

A handwritten signature in black ink that reads "James J. Piro". The signature is written in a cursive, slightly slanted style.

Jim Piro
Executive Vice President, Finance, CFO & Treasurer
Portland General Electric

Testimony of
Hon. Randall Edwards, Oregon State Treasurer,
Regarding Availability of Private Activity Bond Volume Cap for Bonds Issued to Finance
Acquisition of Electricity Distribution System by Willamette Electric PUD.
June 17, 2004

I have been asked to provide testimony regarding the availability of private activity bond volume cap for bonds issued by the proposed Willamette Electric People's Utility District to finance the acquisition from Portland General Electric (PGE) of the electric distribution system currently owned and operated by PGE in a portion of Multnomah County.

Under ORS 286.645, the office of the State Treasurer is charged with maintaining the official records of the state regarding the private activity bond volume cap and providing administrative support to the committee that deals with allocations of the volume cap. Thus, this testimony does not advocate or oppose the proposed creation of a PUD. Rather, my purpose is simply to provide you with information regarding the State's private activity bond volume cap as it relates to the proposed bond financing for the acquisition of the utility assets in question.

The following background should help place my comments in the proper context. As you know, federally tax-exempt bonds have proven to be a cost-effective method for states and local governments to raise the funds needed to undertake major capital projects. Because the interest on such bonds is exempt from federal income tax, investors who purchase those bonds are able to accept a lower interest while getting the same after-tax return they would receive from an investment in higher-yield bonds that are not federally tax-exempt. The lower interest rates resulting from the federal tax-exempt status constitute a federal subsidy of the capital borrowings of states and local governments in that the federal government foregoes the income tax revenues it would otherwise receive in order to provide state and local governments with this means of obtaining lower-cost funds.

Recognizing the subsidy nature of the federal tax-exemption and desiring to limit its availability to situations which, in the judgement of Congress, warrant such a subsidy, Congress has placed a number of restrictions on the purposes for which state and local government bonds can be issued on a federally tax-exempt basis. One such restriction is that imposed on the amount of so-called "private activity bonds" that may be issued in a given state during a given calendar year. Under the provisions of Internal Revenue Code Section 141(d), any bonds issued by the proposed Willamette Electric PUD to acquire the distribution system of Portland General Electric would be "private activity bonds." As such, they can only be issued as federally tax-exempt obligations if the state allocates to the issuer of such bonds a portion of the state's annual private activity bond volume cap.

Under Section 146(d) of the Internal Revenue Code, each state is give private activity bond volume cap for each calendar year in an amount equal to \$80 multiplied by the state's population. In 2004, the State of Oregon's private activity bond volume cap is equal to \$284,767,680 (\$80 times the estimated population of 3,559,596). A state agency or local government that desired to issue private activity bonds in 2004 would need an allocation of this private activity bond volume cap equal to the principal amount (or "issue price") of the bonds in question in order for such bonds to be federally tax-exempt. Thus, an issuer who seeks to issue \$10 million in private activity bonds would have to secure an allocation of \$10 million of the state's private activity bond volume cap in order for such bonds to be federally tax-exempt.

The volume cap that becomes available in Oregon in each calendar year is dealt with in one of three ways: First, the lion's share of the annual volume is allocated by statute to various state agencies that issue private activity bonds for a variety of purposes such as the financing of low-income housing, economic development projects and small scale energy projects. In 2004, \$194,500,000 of the available volume cap is allocated to various state agencies as follows:

Oregon Housing and Community Services.....	\$124,500,000
Oregon Economic & Community Development Department.....	\$47,000,000

Oregon Office of Energy.....	\$10,000,000
Oregon Facilities Authority.....	\$13,000,000

Second, \$90,267,680 of the 2004 volume cap was granted to the state's Private Activity Bond Committee to be allocated among other issuers of private activity bonds. In most instances, the volume cap granted to the Private Activity Bond Committee is allocated by the Committee to local government issuers of private activity bonds for purposes such as low-income housing, economic development projects and solid waste disposal facilities.

Third, any portion of the annual volume cap that is not to be used by the state agency or other issuer on or before December 15 of the year in which such volume cap arises goes back to the Private Activity Bond Committee to be allocated on a "carryforward" basis to various state agencies and local government issuers of private activity bonds. Any volume cap that is so allocated on a carryforward basis can be used by the issuer to whom it is allocated at any time during the three calendar years following the year in which such volume cap first arose. Thus, 2003 volume cap that was allocated to issuers on a carryforward basis can be used at any time prior to the end of the calendar year 2006.

The amount of volume cap that has been available for carryforward has varied over the years. In 2003, some \$141,714,125 in volume cap remained available for carryforward allocations, and in 2002, \$94,269,025 in volume cap remained available. However, in prior years, the amount has been significantly less. In 2001, \$23,993,902 was available for carryforward; in 2000, \$10,011,794; in 1999, \$45,452,094; in 1998, \$30,712,614; and in 1997, \$24,351,032.

I turn now to the question of the likely availability of volume for use in connection with bonds issued by the proposed PUD to finance the acquisition of utility assets in question. In this regard, the starting point is the price that is to be paid for the assets, since that price will drive the amount of bonds that would need to be issued to finance the acquisition. The cost to finance this acquisition of PGE assets in the proposed portion of Multnomah County is about \$125 million. One can readily see that it would take a number of years to accumulate sufficient volume cap to allow the entire amount — or even a significant portion — of the proposed

acquisition bonds to be federally tax-exempt. Even if one were to assume a willingness on the part of the State and other interested parties to forego all other uses of the volume cap and dedicate 100% of the annual cap to the Willamette Electric PUD acquisition bonds, it would still take years to accumulate sufficient volume cap. And given the fact that a number of key housing and economic development programs of the state and local governments are dependent on the volume cap being available in reasonable amounts to fund their essential activities, it would seem unrealistic to assume that 100% of the available volume would be dedicated to the PUD's bonds. Thus, given the extremely large size of the PUD's acquisition bonds coupled with the relatively small amount of volume cap that becomes available each year and the competing demands for alternate uses of that volume cap, one can see the difficulties in the PUD's efforts to secure enough volume to allow even a significant portion of its acquisition bonds to be federally tax-exempt.

**TESTIMONY OF
GREGORY R. MOWE, STOEL RIVES LLP
BEFORE THE OREGON DEPARTMENT OF ENERGY
Proposed Inner SE Portland PUD
June 15, 2004**

I am Greg Mowe, a partner in the law firm Stoel Rives LLP. My practice is primarily focused on condemnation litigation. I represent governmental bodies, public utilities, and private property owners. I have represented electric utilities in prior condemnation litigation and provide this testimony on behalf of Portland General Electric ("PGE").

Overview of Testimony

My testimony will cover two aspects of condemnation law: (1) the power to take, and (2) compensation and damages. The general principle of condemnation is that private property may be taken by government for public use upon payment of just compensation. This concept is complicated in the utility context by the fact that investor-owned utility property is already devoted to public use and subject to public regulation. Thus, a number of limitations on power to condemn utility property have been created by statute and case law. Those limitations will be at issue for any start-up PUD, as assets supporting delivery of electrical service in this portion of Multnomah County are part of an integrated system serving customers elsewhere in Oregon. The concept of just compensation is also complex for utilities. Just compensation is usually defined as the fair market value of the property taken, plus damages to remaining property. Fair market value of assets in a condemnation case is different from "rate base" of assets in utility regulation. Ratemaking in a regulatory context is based upon original cost of assets. Valuation in a condemnation case is based upon current fair market value, which may be significantly higher than rate base, depending upon type of asset. In addition, severance damages must be paid in a partial taking (a taking of less than the entire utility) to compensate the utility and its remaining customers for reconfiguration costs, stranded assets and damage to the remaining system. Severance damage will likely be a significant obstacle for any start-up PUD in this portion of Multnomah County attempting to carve service territory out of a larger integrated system.

Source of Condemnation Authority

PUD condemnation authority derives from Article XI, Section 12 of the Oregon Constitution. Such authority is subject to legislative implementation, however, and PUDs are subject to statutory limitations on the exercise of condemnation authority. *Emerald PUD v. PacifiCorp*, 100 Or App 79, 83-84, 784 P2d 1112 (1990). Statutory condemnation authority is granted by ORS 261.305, which grants PUDs authority "to exercise the power of eminent domain for the purpose of acquiring any property, within or without the district, necessary for the carrying out of the provisions of this chapter." This general proposition is subject to a number of important limitations.

Interstate Commerce Limitations

To the extent that a startup PUD attempted to condemn PGE facilities located outside its boundaries or facilities within such boundaries serving a larger geographic area, impacts on interstate commerce would also be implicated. PGE co-owns generation facilities outside Oregon and purchases and sells wholesale power interstate. Attempted condemnation of contracts or resources required for such purposes would interfere with interstate commerce, potentially violating the Commerce Clause of the United States Constitution. *See New England Power Company v. New Hampshire*, 455 US 331 (1982) (holding that a state cannot prohibit a private power company from exporting locally generated hydroelectric power from federally licensed facilities). *See also City of Oakland v. Oakland Raiders*, 220 Cal Rptr153 (Cal App 1985) (invalidating attempted condemnation of sports franchise on Commerce Clause grounds).

Thermal Plant Limitations

In addition to the general considerations applicable to PUD condemnations, the Oregon legislature has specifically prohibited PUDs from acquiring thermal power plants, wherever located. ORS 261.250(2) provides: "A district shall not exercise its power of eminent domain to acquire a then-existing thermal power plant or any part thereof."

PUD proponents have claimed that the above statute is an unconstitutional infringement upon PUD authority. However, the issue of legislative authority to impose limitations on PUDs has been previously litigated and legislative power upheld. This precise issue was addressed in the prior *Emerald PUD v. PacifiCorp* case at 100 Or App 83-84, in which the Oregon Court of Appeals held:

"Plaintiff argues that the constitutional grant of the condemnation power is unconditional and that the legislature may not impose 'substantive' conditions on that authority through implementing legislation that the constitutional provision requires. We disagree. . . . [E]minent domain was comprehensively regulated by statute in Oregon long before Article XI, Section 12, was adopted in 1930. The grant of eminent domain authority in Section 12 is stated in general terms. The legislative implementation clause of the Section clearly envisioned that existing or subsequent legislation relating to the subject would define the details of and limitations on the districts' condemnation authority."

See also People's Utility District, et al. v. Wasco County, et al., 210 Or 1, 305 P2d 766 (1957) (rejecting argument that state taxation of PUD property violated constitution).

Condemnation Procedure and Timing

In order to exercise powers of condemnation, a PUD must follow prescribed steps set out in ORS Chapter 35. These include identification and appraisal of property to be acquired, adoption of a condemnation resolution, and a statutory precondemnation offer which must remain in place at least 40 days before condemnation is filed. In a typical condemnation case, a condemning body is entitled to "immediate possession" of property to be acquired upon payment

range of one and one-half to two times book value. I am not aware of any successful condemnation of generation assets or any recent condemnation of transmission assets.

If a condemnation takes less than an entire operating system, a condemnee is also entitled to severance damages. Severance damages are defined as loss in value to the condemnee's remaining property. Typical severance damages may include costs of reconfiguring a condemnee's remaining system, increased operating costs due to loss of facilities, or diminution in value due to excess capacity.

Finally, under Oregon condemnation statutes, a condemnee is entitled to its attorneys and experts fees if it defeats the condemnation or receives a jury verdict higher than the pretrial offer of the condemnor.

GRM/dlcr

From: Energy In Internet
To: Stutt
Date: 6/17/04 10:39AM
Subject: Fwd: Willamette PUD Written testimony ATTN: Kathy Stuttaford

>>> Gary Duell <gduell@bigplanet.com> 6/15/2004 10:09:01 PM >>>

Dear Ms. Stuttaford,

As I was unable to attend tonight's hearing, I am submitting written testimony.

First of all, I am deeply concerned about PGE's out of context use of your reports, following these hearings, to support their outrageously malicious and fraudulent attacks on PUD supporters and PUDs in general. Please consider this my formal request that you forbid any use of your report on this hearing without the use of a disclaimer that your department does not have the resources to make any useful evaluation whatsoever as to the feasibility of any PUD. I resent my tax dollars being used against me in perpetuating PGE's ripping me off.

Furthermore, I insist that you require that your report- subsequent to the WPUD testimony -may only be used either in its entirety or not at all in communications with the public by any parties to this hearing. Secondly please include in your report, on this WPUD hearing, references to the Clackamas PUD (CPUD) feasibility study. This study far exceeds the depth of your examination of the PUDs as it includes conservative yet definitive dollar calculations demonstrating ten year savings to Clackamas ratepayers of \$860,000,000. There is no reason at all that WPUD cannot expect similar proportional savings. I urge you to include the findings of this study in your report and remove from your "boiler plate" version the vagaries and waffling that have plagued it in the past. The CPUD feasibility study is attached for your convenience.

Thirdly, I expect you to directly contradict PGE's contention- if it is raised at any time during this hearing -that a "brick wall" is at all a necessary condition of PUD formation. As everyone knows (including the PGE engineers making the claim), initially it is simply a matter of reading the meters within the PUD to figure out how much power is used. It is totally false that power lines must be severed at the PUD boundaries and if this claim is made in testimony I expect you to clearly refute it. Electrons know no boundaries.

Finally, there is plenty of anecdotal evidence that prolonged litigation over the PUDs exercise of eminent domain is a myth. The shareholders in an IOU would not tolerate this, instead preferring a quick sale at fair market value. If it is made, I expect you to directly contradict the claim that PGE will rake the PUD over the legal coals for years if the PUD is formed and tries to assume ownership of PGE assets.

Thankyou,
Gary Duell

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visit: <http://www.garyduell.com/>

All attachments are prescreened for viruses, worms, etc.

Gary Duell, ChFC
Pi2- Planning, Investments & Insurance, LLC
Happy Valley Oregon 97015

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Registered Representative of:

The O.N. Equity Sales Company, Member NASD/SIPC

One Financial Way Cincinnati, OH 45242 Telephone: 513-794-6794

"You have a lot less to lose attempting to make a change than attempting to hang on to the status quo in a system that rewards change"-- Harvey MacKay

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Chris Kerchyn
had not planned to talk
1 of 3rd petitioners

It is criminal for Portland residents
to stand by as a troubled but good
company is stripped by corporate vultures

PGE ~~has~~ profitable assets ^{that offset our rate} will be
sold off. SE Trans mission lines
∴ rates will rise

PGE workers will be downsized. Fired. To
folks like you & me. Worker should be concerned

Pensions will be cut away each time PGE
is ~~re~~ sold

We Portland rate payers will all be
Aunt millie. All subjects of
"snickering energy" traders jokes

Businesses that can will leave PGE
Those that can't face a roulette
wheel rates. Jobs will leave.
Tax bases will erode

Is that what we want?
Why do the PGE folks care so much? they are
The self serving state men
heard here to now is an indication
of how concerned a few are at
losing a guaranteed profit!

have more
money
making

Remember PGE is a monopoly
They are by law, going to make
a profit. No matter what happens
to we residents.

We rate payers pay the costs,

Not the utilities.

9 precincts voted overwhelmingly
to form a RUP!

Vote Yes Again!

**Testimony for Oregon Dept. of Energy hearing on
the proposed Willamette Electric People's Utility District
June 15, 2004**

by Jeff Cropp, WEPUD campaign manager

**3129 SE Franklin St.
Portland, OR 97202
503-752-2358**

The Willamette Electric PUD campaign represents an attempt to establish public power for residents of inner eastside Portland. In November 2003, a majority of voters in eight precincts of inner eastside Portland voted in favor of forming the Multnomah County People's Utility District, despite a \$3.2 million attack campaign waged by Portland General Electric and Pacific Power. The Willamette Electric PUD campaign is working to give these residents what they voted for by giving them an opportunity to vote "yes" again.

The primary reasons why voters support public power include the need for reliable and affordable power and for holding utility managers accountable for their decisions. Many residents also share legitimate concerns about the potential harm that could be caused by Texas Pacific Group's purchase of PGE.

Every single Oregon PUD has lower rates than Portland General Electric. Oregon PUDs have an excellent record for customer service, emergency response and reliability. PUDs are required by law to hire the existing workforce and honor their contracts. Many of the new PUD's employees would be the same highly-skilled PGE workers who are currently serving the area. On the other hand, if Texas Pacific Group takes over PGE, there will most likely be large "cost-saving" layoffs as TPG tries to squeeze maximum profitability out of its new investment.

Ratepayers also have no method for holding PGE's Board and executives accountable for their decisions. This has allowed PGE to make disastrous decisions, such as building the Trojan Nuclear Power Plant, and then trying to gouge ratepayers to cover the cost. The PUD Board of Directors will be directly elected by the people within the district, and will work solely for the public benefit, rather than for the benefit of corporate shareholders.

Finally, the proposed sale of PGE to Texas Pacific Group does not indicate any meaningful public benefit to customers. Texas Pacific has indicated that it does not plan to provide any rate relief in the near future for PGE's customers. There will be no genuine stability because TPG will most likely sell

PGE off again within the next decade. The only public benefit which Texas Pacific has been able to claim is that "they're not Enron." That's simply not enough.

Portland residents are tired of being lied to by PGE's executives. They're tired of paying high rates and dealing with the uncertainty of what will happen with their utility. The Willamette Electric People's Utility District will allow those residents who previously expressed a desire for reliable, affordable, accountable public power to get what they want. Our campaign is here to give them an opportunity to vote "yes" again.

CK
~~one~~ One of these cheap petitioners
said to see an example of honorable
community minded utility bought by
a scammy company such as Enron.

Due to unwise investments PG&E has too
much baggage to appeal to investors
seeking sound companies

Only ~~those~~ investors looking for
short term profits - ~~regardless of~~
~~that~~ no matter what the cost
to ratepayers - will buy PG&E.

~~Portland~~ Portland wants a stable business
environment. How can ^{we prosper} ~~that be~~
if rates ~~are~~ are at the mercy
of people ^{paying off} ~~traders~~ willing to (explicative delete)
Aunt Millie

Oregon Public Power Coalition — Treasurer
Chairman Grainer

Benefits of ~~Public~~ Public Power

SB 1149 3% public purpose charges

\$1B lost to phony taxes, manipulated rates

lower rates — not for profit, consumer

local control ~~TPG~~ leveraged budget promised ~~to rate decrease~~ owned

CRITICAL

PUC unable to regulate PGE

all 28 publicly owned utilities have owners today

— higher rates

NO — City of Portland

— higher taxes

NO

— big gov't takeover

what we have now is a

PGE will be sold!

big corporate takeover

G&E reports show ~~and~~ "in kind" contribution of

"employee time." PGE & PacifiCorp used employees

PGE/PacifiCorp spent \$3.5M opposing the Multnomah C.P.U.D.

We were outspent 100 to 1

~~G&E reports show~~

Gard & Geybar ~~the~~ media blitz

I guess it should come as no surprise PGE is

willing to spend any amount opposing ~~the~~ public ownership.

Yet another reason to vote "YES" on a P.U.D. Publicly owned utilities are prohibited by law from running political campaigns

testimony of

Liz Trojan 503-970-2069

to run their anti-PGE campaign

Benefits of Oregon Public Power Coalition
- Lower rates
+ local control

48,000 voters said "yes"

SB1149 Public Purpose charges 3%
pass through charge to rate payers
public utilities

- weatherization
- low income subsidies
- renewables

Public utilities have no legislative mandate to
money on ~~weatherization~~ ~~public purpose~~ and ~~get~~ public purpose
charges and ~~get~~ they do.

6% ~~SMUD~~ Seattle City Light

8% ~~Eugene Water~~ ENWB

public utilities on the ~~leading~~ ~~leading~~ edge of much
~~renewable offerings~~
more aggressive in pursuing renewable energy.

Liz Trojan 503-970-2069

Norris Thomlinson, 3265 SE Main St

Sorry for the mess, handwriting - I hadn't planned to testify this evening.

I am very concerned about environmental issues, and our ^{society's} energy usage plays a big part in many of them, so I'm especially interested in green power and the role of electricity providers in shaping a source portfolio based on renewables, emerging technologies, energy efficiency, and energy conservation. I am glad that PGE-Enron has found customers to be so receptive to its green power programs. However, I am aware that a corporation's primary directive is always to maximize profit. Fortunately, in the US we have a strong system of regulation which sets rates and establishes minimum requirements for green power, reliability of systems, worker safety and worker rights, and so on, through an open process with input from all concerned parties. This results in many great programs forced on the utility companies.

As Liz Trojan pointed out, although PUDs are not forced to establish green energy programs, they do anyway, and the goal is not to meet the ~~the~~ minimum requirements and then pursue a bottom line of profit beyond that. The gentlemen from PGE-Enron pointed out that inner east residents are even more aware than most customers of the necessity for long-term thinking, ~~and~~ energy conservation, and renewable energy. With a starting base of 12% of the customers and a PUD whose focus can be on an environmental return over two decades, rather than next quarter's profit, a PUD can greatly ^{increase} ~~expand~~ the percentage of energy derived from renewables, and put even more effort into helping residents implement energy efficiency and conservation measures.

PGE-Enron's concerns about losing green programs under a PUD are unfounded and even misleading.

I live within the boundaries of the proposed WEPU
I support the formation of the PUW - because I trust myself
and my neighbors to make the best decisions for our
neighborhood.

PGE-Enron's financial decisions have adversely effected
their own employees pension ^{their} & investors portfolios, including my own.

During the multnomah county PUW campaign PGE-Enron's
PR firm created an entity named "The citizens
against the costly government takeover" was this
decision made to mislead real citizens that the other
citizens were against the PUW?

I believe profits are more important to PGE-Enron
than their customers, employees, and investors. For ~~these~~ these
reasons I support Public owned Power in inner SE
Portland.

Theresa Mar

Theresa Mason

3434 SE 13th Avenue

Portland OR 97202

503-232-8456

TESTIMONY TO THE OREGON DEPARTMENT OF ENERGY

By Gary Coe

June 15, 2004

Good evening. Thank you for the opportunity to speak tonight at this public meeting. My name is Gary Coe.

I am the owner or managing partner in several small businesses in the Central Eastside Industrial District. We provide approximately 80 jobs within the Industrial District, and we have owned property totaling 3 city blocks for about 30 years.

I am also a past President of the Central Eastside Industrial Council. The property we own – and the 80 jobs – are all within the proposed inner SE PUD. As such, my business, my employees and my property will all be affected by the formation of the PUD. As a property and business owner ~~and manager~~, I will speak on 3 subjects in regard to this PUD:

- 1) Taxation without representation
- 2) The quality and reliability of the ^{current} electrical service, and
- 3) The feasibility of a PUD

Our industrial district is located completely *within* the proposed PUD, yet most of the owners of the businesses and/or business properties live outside the proposed boundary.

Therefore, we have no vote on this matter.

At least last time we went through this PUD circus most of us had a vote. Because the proposed "one-time special levy" is a property tax, this amounts to taxation without representation.

This is unfair and un-American.

I challenge the Oregon Department of Energy

♦ to revise the shape of the district to exclude the Industrial District,
AND

♦ to make information available to the voters as to how much this will cost them - not just in the levy - but in the total costs of forming of this start-up government utility, and the potential costs of taking over PGE's assets in the area.

Back in 1997, the Oregon Public Utility Commission established measurable service standards for PGE, with significant fines for non-compliance. In the ensuing seven years, PGE has not had to pay one single fine.

In one of our businesses, we operate a 24-hour dispatch center, and our service is so reliable, we have not had to maintain backup power. We enjoy quality service at an affordable price.

As the saying goes "If it ain't broke don't fix it."

And speaking of price, PGE's rates and customer rights are regulated by the PUC, ~~and a~~ *However*
Public Utility District is NOT overseen by anyone but its own board. That should be of grave concern to all voters.

Finally, let us look at the proposed PUD.

The chief petitioners have no apparent business background. Could it be that they are attempting to create themselves a job?

Since a Public Utility District is not regulated by PUC, there are no controls

- ♦ over how much their directors are paid
- ♦ over what rates they charge, or
- ♦ to protect the customers from wasteful and expensive business decisions.

The two geographically closest PUDs to the proposed Inner SE PUD in Portland are the Tillamook PUD and the Clark County PUD, both of which charge higher rates than what we currently pay.

To summarize, I ask that the Oregon Department of Energy

- 1) Remove the Central Eastside Industrial District from the proposed PUD borders;
- 2) Do the math and inform the voters of the full potential financial impact on their property taxes;
- 3) Consider legislation placing PUDs under Oregon PUC control;
- 4) And if the PUD is successful in gaining the needed votes, set similar, measurable quality standards that the PUD must maintain, with civil penalties similar to those imposed on PGE. However, in the case of a PUD, those civil penalties should be imposed upon the PUD Directors themselves.

Oregon Department of Energy Hearing
June 15, 2004

My name is Anne Snyder and I live in the proposed PUD area.

I moved to Portland in June of 2000, one day after graduating from the University of Oregon. I had a double major in Spanish and International Studies with concentrations in international gender issues and Latin America, and a minor in Women's Studies.

Without much knowledge of the demographics of the area, my roommates and I moved into a townhouse in the West Hills. A year and a half later I found "home" in a close-in southeast Portland neighborhood called Brooklyn. I've lived in Brooklyn for a little over two years at this point and have never once regretted my move. As a University of Oregon graduate I'm very familiar with political activism. Southeast Portland feels like an extension of my college days when I first knew what I stood for and I worked so hard to fight for what I believed in. I appreciate this about my neighborhood in SE Portland and plan on remaining in the area for years to come.

Because of my interest in social services for the Hispanic community, I volunteered with several nonprofit organizations throughout my senior year of college. After graduation, I found myself in Portland General Electric's Customer Service Department working as a translator. It was a great way for me to feel like I was helping as well as using my Spanish language skills. Although I had spent most of my college years with the feeling that corporations were evil and ethically challenged, I found things to be different at PGE.

Portland General Electric does not possess the qualities that I had always attributed to corporations. PGE is very good to its employees, participates in the communities it does business in and throughout the state, and works to protect the environment. As a PGE employee, I feel like I'm a part of a big family. From the officers to middle managers to front-line employees, everyone looks out and cares for one another. I don't know of a more caring and supportive company than PGE.

PGE also has a strong culture of volunteerism and giving back to the communities, in which we live and serve. Recently, my department held it's annual food drive. This time we decided to raise money instead of food, and donated it to the Food Bank. With a goal of \$3500, the employees were very creative in their attempts to raise as much money as possible. After all the money was counted, we raised \$6,909.72 (which equates to 69,072 pounds of food). This kind of giving is not uncommon at PGE.

Employees within the company set their goals high and normally surpass their goals. I've spent many Saturdays in the homes of people that are low-income or elderly, doing free weatherization for the coming winter. Our "Take The Chill Out" program has helped thousands of our customers reduce energy consumption after PGE employee volunteers spend a day doing weatherization. I have wondered if PGE hires the kind of people that are already inclined with a commitment to their communities, but I have seen that PGE puts a huge effort into encouraging volunteerism as well. This speaks volumes to the kind of company PGE is. Every quarter PGE awards about \$40,000 in Employee Volunteer Grants ranging in size from \$250 to \$500, to the multitude of organizations where our employees donate their time. These funds come from our investors. And in our Employee Giving Campaign, our total employee contributions have increased every year, despite hard economic times in our state and our employees' personal losses in their 401k's. Total employee giving last year was \$866,000 and again – PGE investors matched these contributions with a donation of fifty cents to every organization an employee donated a dollar towards.

Because we all work hard to provide a service that is so necessary there is a great sense of perseverance among PGE employees no matter what is thrown at us. I am very proud to work for PGE. Everyday I know that I'm helping people in my community by the nature of my job and this means a lot to me. We've been through difficult times since I started with the company in 2000. I'm constantly amazed at how strong and giving the employees are despite all we've been through. Regardless of whether or not I worked for PGE, as a southeast Portlander, I would not want to be without this company in my neighborhood.

Submitted Respectfully by:
Anne Snyder

Willamette Electric PUD Testimony

Oregon Department of Energy Hearing

June 15, 2004

Kris Nelson

2125 SE Orange Ave., Portland, OR 97214-5363

Why does the Northwest have such a long history of public power?

Pacific coast states are blessed with a maritime climate that feeds grand rivers and majestic, snow-endowed peaks. Water flows, cascades, and powers our gleaming cities and towns. The spirit of salmon-rich waterways is in our blood. And the power they generate largely in taxpayers' ownership.

Decades ago, thanks to brilliant engineers and thousands of workers in the twenties and thirties, taxpayers began to pay for one of the largest hydropower systems in the world. As an essential public service, was the intent of the Bonneville Power Administration to provide power through privately-owned utilities, often with out-of-state holding companies as owners, or through public-serving, non-profit entities with elected boards? The answer can be traced to a visionary president, Franklin Delano Roosevelt.

FDR led the nation in adopting legislation that rescued ratepayers from spiraling costs passed down from as many as ten holding companies per utility. From the late-thirties to the late fifties, utility holding companies shrank from 216 to 18. FDR's push for public power produced the Federal Power Act in 1935. It required electricity rates to be "reasonable, nondiscriminatory, and just to the consumer."

The tax-paying public suffered as early victims of profiteering. Yet as owners of the hydropower system Oregonians depend on, not only have Northwesterners earned their right to profit-free power, they've also succumbed to the abuse of the crooked E, Enron, and re-earned their right to public power. We have recourse to take back our power.

Why create a PUD now?

Government protection is provided to utility companies as a trust that other businesses cannot receive. Oregon's largest investor-owned utility has a **state-sanctioned territory** where it may profit from an essential service. Ratepayers can't choose utilities.

If utilities abuse their advantage over their customers, the Oregon Constitution grants the public the right to create a P.U.D. and purchase utility company assets when it benefits the public good.

Are PGE-Enron and the PUC Accountable to Ratepayers?

In July and October 2003, the OPUC issued orders stating it could not order refunds or otherwise protect ratepayers, "even if the rates were based on fraudulent representations."

"This shows to what extent ratepayers can trust the OPUC to protect them from fraud by PGE," said attorney Dan Meek. "This is a \$655 million fraud that is growing at a rate of almost \$2 million per week, which is what PGE ratepayers continue to pay for PGE's phony income taxes that are never paid to government," he said. "It amounts to a 7% surcharge on our electric bills, with all the money flowing to Enron and not to the government," Meek explains.

What ends up being PGE-Enron's true profit margin? "An owner, like Enron, that can earn the 10.5 percent profit on investment set by utility regulators and then pocket the tax money as well could earn more than 20 percent annually on its investment in a utility," wrote the New York Times recently.

We now have taped evidence of the Enron-led scam to strangle the power supply and force power costs skyward. "If you took down the steamer, how long would it take to get it back up?" an Enron worker is heard saying, wrote the Los Angeles Times two weeks ago.

Clearly, ^{investor-owned} utilities have soaked and ripped ratepayers off, and it's time we put it to an end here. Nearly 60 percent of residents on Portland's inner east side have already said no to irresponsible profit gluttons. They deserve what they voted for: a locally accountable, non-profit entity that serves its ratepayers first, not absentee investors. *They deserve the local economic development benefits of a locally-owned utility, not the wholesale export of unpaid taxes and profits out of Oregon. They deserve a just power supply from a hydropower system they already own.*

Thank you
for your
consideration

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

June 11, 2004

RECEIVED

JUN 14 2004

DEPARTMENT OF ENERGY

Mr. Mike Grainey
Oregon Department of Energy
625 Marion St., NE
Salem, OR 97301-3737

Dear Mr. Grainey:

We are the 3,700 Union electrical workers who are dedicated to providing Multnomah County residents with safe, reliable power. Our Local Union is not opposed to public power nor are we opposed to people's utility districts. But, we believe that forming a new PUD in inner Southeast Portland is a worthless proposal. The proposed PUD boundary was drawn only for political purposes to try and win an election. It was not designed for the efficient, reliable delivery of electricity.

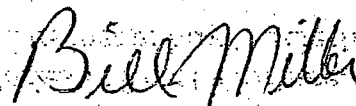
Severing the existing system at arbitrary boundaries will cost a fortune. The estimated cost to PUD ratepayers would be about 125 million dollars just to buy the electricity system and break it apart from PGE.

Oregonians understand the risks and costs of breaking up integrated electricity delivery systems — that's why Multnomah, Yamhill and Clackamas County voters overwhelmingly defeated PUD formation initiatives in November 2003, March 2004 and May 2004. These elections are costing taxpayers a lot of money and it makes no sense to revote on this issue yet again. It's unfortunate that a handful of people keeping focusing on a bad idea that voters in three counties have already strongly rejected.

We understand what it takes to bring Multnomah County residents safe, reliable electricity and effectively respond to emergencies. We believe that cutting a hole in the middle of PGE's electrical system is an idea that should be put to a halt as soon as possible.

Thank you.

Respectfully,



Bill Miller
Business Manager
IBEW Local 125



17200 N.E. Sacramento Street - Portland, Oregon 97230

Phone: (503) 262-9125 - Fax: (503) 262-9947

**Inner SE/NE Portland PUD
Testimony of Dave Johnson
Senior Forester – Portland General Electric
Oregon Department of Energy Hearing**

Good Evening. Thank you for the opportunity to testify tonight. My name is Dave Johnson and I am the Senior Forester at Portland General Electric. I supervise the Vegetation Management Program and have been doing so for the last 17 years. Prior to that I worked as a regional forester for PGE for 5 years. I was also General Foreman and a Foreman for Asplundh for 5 years. I am Chair of the City of Portland's Urban Forestry Commission, a founding member of Friends of Trees, and a Certified Arborist. A full list of my credentials is attached to my testimony. Briefly – it all means that for over twenty-five years I have helped the trees of Portland peacefully coexist with powerlines. I'd like to share tonight a glimpse of what that entails.

As part of our routine tree maintenance program, PGE's forestry staff inspects the tree conditions on all of our lines every other year. This totals about 5000 line miles inspected each year. The last time routine maintenance was done in the proposed Inner SE Portland PUD boundary area was during the fourth quarter of 2003, at a cost of \$218,000. When we come through an area, we inspect for tree growth that may be encroaching into the clearance limits set by the Oregon Public Utility Commission. But unlike most utilities we don't stop there. We know that trees can cause most of our outages during stormy weather. We also know that most of those trees likely to break and cause outages are located off of the public right of way. So, besides simply looking for trees on the public right of way that maybe getting too close to powerlines, we also look for any trees tall enough to reach the lines that have visible signs indicating there maybe a potential problem. When it comes to assessing and mitigating tree failure risks in urban environments, PGE has helped write the book. Our tree failure analysis was the basis for the International Society of Arboriculture's publication entitled, "Evaluation of Hazard Trees in Urban Areas."

As the Senior Forester for PGE, tree and wire conflicts are a priority for me. But my involvement with urban trees doesn't stop there. I recognize the incredible value trees bring to our urban communities and am proud to work in Portland where trees help define so many of our neighborhoods. I also know that the incredible beauty we have with our treed city is accompanied by a great responsibility. I have been outspoken about Portland's need to plant trees for many years. As I mentioned earlier, I was a founding board member of *Friends of Trees* and even helped plant the incense cedars at Buckman School during one of *Friends of Trees*' very first school plantings. PGE was the presenting sponsor of *Friends of Trees*' *Seed the Future Campaign* that saw over 144,000 street trees successfully planted in Portland. Through it all, as PGE's forester, my message has been that simply planting trees is not enough. In our urban environments we have to place trees responsibly and give them every opportunity to develop and mature and enhance our neighborhoods naturally, without subjecting them to years of pruning to keep them from becoming a problem. To help get that message out PGE developed and makes available a TREES brochure that lists a number of tree varieties that can be planted around powerlines without interference in the lines. But the principal of *planning before we plant* or *right tree, right place* is applicable throughout the city, not just for electric utilities. Citywide, trees that are inappropriately planted can disrupt and damage other important urban infrastructure as well.

For many years PGE has been involved in enhancing Portland's urban forest. PGE was one of the very first utilities, back in 1958, to offer their customers a tree replacement program. PGE helped organize the first Street Tree Advisory Committee in 1974. That committee later became the Urban Forestry Commission and PGE has always been a member of this Commission. I currently serve as the Chair of the Urban Forestry Commission and was involved in getting the Neighborhood Tree Liaison Program off the ground. The Neighborhood Tree Liaison program is now run cooperatively with the Portland Parks and Recreation's Forestry Division, through the structure of the Neighborhood Associations to encourage and empower neighbors to work on projects that enhance their neighborhood trees. This is a great place to let folks know about

careful planning and care for trees. I continue to be involved every year as a Neighborhood Tree Liaison instructor.

Portland's trees are fortunate that years ago PGE saw the importance of hiring trained foresters. Of the more than 30 electric utilities in Oregon, most have personnel trained in electric line work managing their trees. PGE was the first in the Pacific Northwest and is still one of the few utilities that have professional tree people managing and caring for trees.

The voters on this PUD takeover need to know what they risk losing in PGE's professional care of the trees in their community. That is only one of the reasons that a PUD here is a bad idea. Respectfully, I urge the Oregon Department of Energy to move away from taking the usual neutral position on these PUD takeover attempts. I believe its time to help put a stop to this PUD and its boundaries drawn solely according to voting patterns. As the Oregon Department of Energy, you know that forming a PUD at this time is not going to lead to lower rates. In fact, the odds are that it will lead to higher rates and lower service reliability for these consumers.

PGE has done a good job of serving the residential and business customers in the area. I am proud of the history PGE has in enhancing Portland's urban forestry efforts. I am proud of the work that the PGE foresters have done with Portland's trees and I am proud of the work we have done in the proposed PUD boundary area. But I am also concerned. I am concerned that the proponents of the proposed PUD, or even the authors of the proposed study that would be paid for by the tax levy, aren't aware of the costs and complexities of properly caring for the urban forests of Portland. The coexistence of electrical lines and proper care of trees, especially in the proposed Inner SE Portland PUD is critical for service reliability and public safety. Once again, I urge you to let folks know this proposed PUD is a bad idea.

David A. Johnson
(503) 570-4403

9480 SW Boeckman Rd.
Wilsonville, Oregon 97070

PROFESSION: Senior Utility Forester

EDUCATION: 1975 through 1985
Oregon State University Cooperative Education - Forest Science
Portland State University - Sociology
Portland Community College - Landscape Technology

EXPERIENCE: August 1987 - present
Senior Forester, Portland General Electric Company (PGE). Responsible for the supervision and direction of PGE's vegetation management program. Responsible for annual operating budget development. Responsible for contract administration of line clearance contractors. Ensure that PGE's vegetation management goals and objectives are met within budgetary limitations while assuring the safe, efficient operation of electricity distribution. Examine and resolve unique and difficult vegetation management problems system-wide. Conduct ongoing public relations with Oregon Public Utility Commission, cities and communities.

April 1982 - August 1987
Regional Forester, PGE. Responsible for all vegetation management within PGE's Western region. Responsible for the direct daily operation of an average of ten contract tree crews. Responded to 250 to 350 customer requests for assistance each month. Pre-worked all primary maps for tree crews making all customer notification, designating trees to be removed, and trees to be pruned.

1977 - 1982
General Foreman/Foreman, Asplundh Tree Expert Co. Responsible for the safe, productive removal of vegetation form around energized conductors for as many as 30 crews working in Washington, Oregon and California. Fielded and resolved all damage claims and utility customer complaints. Responsible for safety training and discipline.

RELATED
PROFESSIONAL
EXPERIENCE:

Oregon Urban and Community Forest Council
- 1990 - 1997
- Appointed by the Oregon State Forester
- Elected to the five person Executive Committee

- Elected Chairman of the Assessment Committee
- Authored the State's Implementation Plan
- Grant review committee member
- Contributing columnist for statewide newsletter

City of Portland's Urban Forestry Commission

- 1989 - present
- Appointed by Mayor Bud Clark
- Chairman

International Society of Arboriculture (ISA #9116)

- 1985 - present
- Certified Arborist (#PNW-45, #PN-0153)
- Past Pacific Northwest Chapter Board of Directors
- Past Pacific Northwest Chapter Treasurer

Utility Arborist Association

- 1985 - present
- Pacific Northwest Chapter Founding Member
- Past Pacific Northwest Chapter Vice President

Pacific Northwest Vegetation Managers Council

- 1989 - 1994
- Past Board Member

Hillsboro Street Tree Advisory Committee

- 1982 - 1992
- Past Board Member

Friends of Trees

- 1988 - present
- Founding Board Member
- Current Technical Advisor

Licensed Pesticide Consultant (#01670) Or Department of Agriculture

**HONORS AND
AWARDS:**

- Two PGE Notable Achievement Awards (1987)
- PGE Environmental Achievement Award (1991)
- Oregon Arbor Week Award (1991)
- Utility Arborist Award, PNW-ISA (1992)
- The Oregon and Community Forest Councils Individual of the Year Award (1995)
- Hillsboro Area Chamber of Commerce Beautification Award (1998)

The Availability and Cost of Power Resources
For New Public Power Utilities
Testimony before the Oregon Department of Energy
On Behalf of Portland General Electric
Hearings
Portland, Oregon June 15, 2004

By
Sam Van Vactor
And Fred Pickel

Executive Summary

In our view, the Willamette Electric PUD is unlikely to obtain delivered and shaped wholesale electric power by purchase or participation in new projects at costs much less than \$60 per MWh. Moreover, it is possible that the cost could be much higher.

- Wholesale electricity prices are above levels expected a few years ago:
 - The region's surplus generating and delivery capacity has not led to lower prices, because the West is still short of **energy** – water flows on the major river drainages are below normal, natural gas prices remain high, and global demand for oil has surged, driving up petroleum product prices.
 - It is fair to say that the Western power market has become hooked on natural gas. Of the 37,000 MW installed since 1999, natural gas fuels almost 96% of the total dependable electricity supply.
 - Since 1995 the average on-peak wholesale price has been \$51 per MWh or 5.1¢ per kWh. Significantly, however, the standard deviation of daily prices has been \$112 per MWh, reflecting the extreme volatility of the market.
- Buying power on the wholesale market reflects these realities:
 - On June 8, 2004 a buyer in the forward market could have secured 25 MW of power delivered at Mid-C during the 16 hours of peak demand 6 days per week for approximately \$48 per MWh in 2005, \$45 in 2006, and \$44 from 2007 through 2010.
 - The forward price does not include transmission and shaping costs. Transmission fees are approximately \$4 to \$5 per MWh and shaping adjustments necessary to deal with the variability in load and unit outages are up to \$10 per hour.
 - Forward prices, as expected future spot prices, do not necessarily reflect the long-run marginal cost of supplying adequate power to meet load because when there is surplus capacity the prices may not include a return on capital.
 - The small size and scope of the Willamette Electric PUD would put it at a disadvantage in procuring electricity supplies.

- New long-term generation sources exceed these market prices in many cases:
 - Excepting the long-term development of Rocky Mountain coal facilities, PacifiCorp has calculated the cost of new resources to range from \$38 to \$44 per MWh, excluding hookup to the grid, transmission costs, and shaping expenses
 - California's experts calculated the cost of new gas generation at \$77 per MWh in 2002.
 - Recent studies in the PNW show wind is an attractive economic renewable resource for electric energy, but it is best integrated with a hydroelectric system.
- BPA may not be a savior:
 - Depending on the timing of BPA's next rate hearing and the commencement of the Willamette Electric PUD's operations there could be a window of one to five years in which ratepayers would be at risk for much higher rates.
 - If BPA's rates remain below market, increasing demand and fixed supply will likely cause a greater than expected increase in cost.

Introduction

Samuel A. Van Vactor of Economic Insight, Inc., assisted by Fred Pickel of Tabors Caramanis & Associates, has prepared this testimony. Brief resumes of our qualifications and backgrounds are included as Appendices A & B.

Portland General Electric (PGE) has asked us to provide comments on the cost of power resources that would likely be available to the Willamette Electric Peoples' Utility District (P.U.D.) if formed from a portion of the PGE service territory in Multnomah County. For a variety of reasons, we expect that these costs would be high, as compared to historic norms for the region. Moreover, the level of these costs and their impact on the new utility's rates is highly uncertain, depending to a large extent on the weather, the price and availability of natural gas, and BPA's policies.

Pricing Cycles

Energy markets are cyclical in nature, and in the extreme, the up- or down-swing may last for decades. High oil and gas prices in the 1970s and early 1980s provoked a variety of conservation programs and energy supply investments as the nation struggled to come to terms with choking energy demand growth and the depletion of its low cost resources. The era left a worldwide surplus of energy that benefited the nation and the region with low prices for a decade and a half. The California energy crisis of the summer of 2000 and the Pacific Northwest drought in 2001 signaled an abrupt end to the era of surplus and another swing in the cycle.

Table 1								
New WECC Generation Facilities by Energy Source								
Year	Un-defined	Coal	Oil	Gas	Hydro	Wind	Other Re-newable	Total
1999		0	0	0	0	0	41	0
2000		0	37	0	1,966	103	54	159
2001	100	42	220	7,604	10	181	44	8,200
2002	51	54	200	9,265	170	345	12	10,097
2003	0	90	19	13,624	109	826	0	14,668
2004	0	0	0	1,785	0	0	0	1,785
1999-2004	151	223	439	34,244	392	1,447	215	37,110
Effective								
Energy (TWh)	0.9	1.4	2.7	210.0	1.7	1.9	1.3	219.9
Percent	0.4%	0.6%	1.2%	95.5%	0.8%	0.9%	0.6%	100.0%

Source: Energy Market Report

The California energy crisis did stimulate the development of a large number of power generating resources. As Table 1 demonstrates, since 1999 the Western Electricity Coordinating Council has installed over 37,000 MW of capacity, easily capable of generating an additional 220 TWh. The capacity figure also represents

26.4% of the total 2004 summer peak demand of 140,465 MW in WECC.¹ However, some of the new generation capacity may be sited in areas far from the principal demand centers, and thus would be effectively unable to serve the demand without incurring additional charges for transmission or congestion. In a similar fashion the natural gas pipeline delivery system has been expanded, with an approximate 20% increase in capacity to California. The increase in generating capacity and gas pipelines has outstripped recent demand growth, and barring a series of drought years, the energy shortages and extremely high prices experienced in 2000 and 2001 are unlikely to reappear in the near future.

In this case, however, the surplus generating and delivery capacity has not led to lower prices. This is because the West is still short of **energy** – water flows on the major river drainages are below normal, natural gas prices remain high, and global demand for oil has surged, driving up petroleum product prices. Another aspect of the high cost of electricity is increasing dependence on natural gas-fired generation.

In the 1980s the “avoided cost” of power generating stations steadily declined, primarily because the efficiency of natural gas combustion turbine (CT) and Combined Cycle (CC) plants improved to unexpected levels. The traditional view of utility planning – base load was to be met by high-capital cost units like coal and nuclear, while peak load was met by gas turbines or hydro – eroded as the cost of generating power with natural gas tumbled and the siting of coal and nuclear plants became more costly and prolonged. No one expected the price of natural gas to rise as much as it has. And, since coal plants can take a decade to plan and develop, gas-fired generation is now the key factor in setting wholesale electricity prices.

It is fair to say that the Western power market has become hooked on natural gas. Of the 37,000 MW installed since 1999, natural gas fuels almost 96% of the total dependable electricity supply. The second greatest round of investments has been in wind power, with almost 1,500 MW of capacity installed. However the effective energy output from wind generators is only about 15% of their capacity, as compared to thermal systems, which are capable of 70% or more. Because of the growing dependence on natural gas, its availability and price has become the single most important factor determining the cost of electricity.

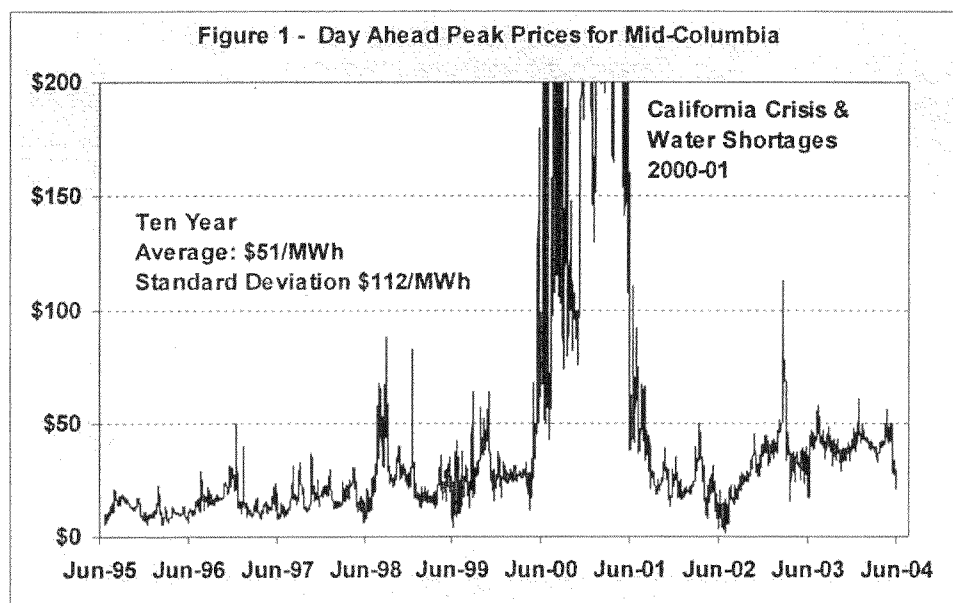
Wholesale Prices in the Pacific Northwest

The *Energy Market Report (EMR)* has been collecting data on Pacific Northwest electricity prices since 1995. Generally prices at Mid-Columbia (Mid-C) are considered representative of the region. They are usually the lowest prices in the West since they are at the center of the Columbia River’s hydroelectric production

¹ Source: Western Electricity Coordinating Council 2004 Summer Assessment.

infrastructure. Prices closer to California or at load centers west of the Cascades are normally higher, reflecting transmission rates and occasional bottlenecks.

Since 1995 the average on-peak wholesale price has been \$51 per MWh or 5.1¢ per kWh. Significantly, however, the standard deviation of daily prices has been \$112 per MWh, reflecting the extreme volatility of the market.² This period of time includes the disruptions of 2000 and 2001 that originated in California and spread to the Pacific Northwest, when in November 2000 it became evident that water availability could be substantially below normal.



Columbia River water flows during 2001 were the second worst on record and such events are not common, occurring approximately once every twenty years. The ten-year history of wholesale prices, however, also includes the 1996-99 period when snowfall was significantly above average and gas prices were low. During this period of water surplus, wholesale electricity prices were quite low. Since November 2002, daily peak prices at Mid-C have averaged \$40 per MWh, reflecting lower than average water availability and high natural gas prices.

Avoiding the Volatility

As a general rule, utilities do not attempt to procure power to meet their load from the daily spot market because prices are so volatile. A utility's rates are normally fixed well in advance and customers resist radical changes. For this reason Independent

² On-Peak periods are defined as the sixteen hours between 6:00 AM and 10:00 PM, Pacific Prevailing Time, excluding Sundays and NERC holidays. Off-peak hours are those remaining.

Power Producers (IPPs), brokers, and marketers offer longer-term fixed price contracts. These contracts vary enormously in terms and conditions: for example, volumes may vary with the season, there may be both a capacity and an energy charge, penalties may apply for over- or under-consumption, etc. Utilities use a combination of their own production, long-term contracts, and daily purchases and sales to balance loads and resources.

Although most of the details of long-term power sales contracts are proprietary, brokers make representative prices, known as forward price strips, available to the press. The *EMR* publishes such prices when they are available. The forward prices represent the broker's bid to buy power and what they are asking to sell it, the difference being the broker's margin. These quotations are for a 25 MW block of "firm" electricity, but do not include transmission, shaping for routine hourly, daily, and monthly load fluctuations, etc.

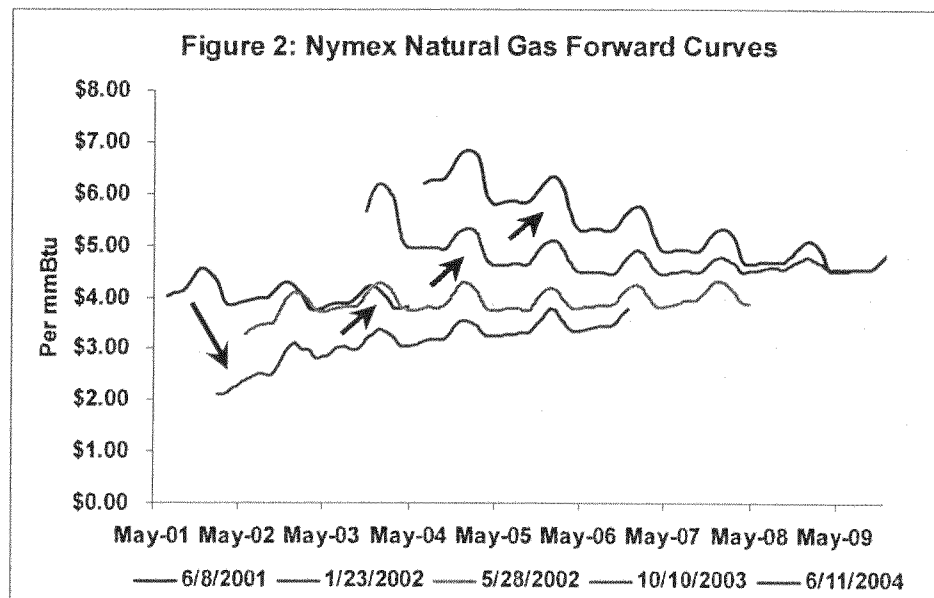
Forward quotations for Mid-C for June 8, 2004 were as follows:

Table 2
Mid-Columbia Forward Prices June 8, 2004

Delivery Date	On-Peak		Off-Peak	
	Bid	Ask	Bid	Ask
JUL 2004	46.25	47.00	39.25	40.25
AUG 2004	55.00	55.75	NA	NA
SEP 2004	54.00	55.00	NA	NA
OCT 2004	NA	NA	NA	NA
Q3 2004	51.75	52.75	43.50	44.50
Q4 2004	54.00	55.00	46.25	47.00
Q1 2005	54.00	55.00	46.50	47.50
Q2 2005	35.00	36.00	28.00	30.00
Q3 2005	NA	NA	NA	NA
Q4 2005	NA	NA	NA	NA
CAL 05	47.00	48.00	40.00	41.00
CAL 06	44.00	45.00	37.00	38.00
CAL 07	43.00	44.00	36.00	37.00
C 07-10	43.00	44.00	35.75	36.75

Source: EMR

The asking prices in Table 2 indicate that a buyer on June 8, 2004 could have secured 25 MW of power delivered at Mid-C during the 16 hours of peak demand 6 days per week for approximately \$48 per MWh in 2005, \$45 in 2006, and \$44 from 2007 through 2010. These prices are an indicator of the cost to a utility to purchase power, but for a number of reasons understate the full costs. As noted, the utility would have to wheel the power from Mid-C to its service area, paying all transmission and associated costs. In addition, these prices are reflective of small, standardized purchases and sales. A large block purchase request (without identifying a new generator to supply the power) will likely drive up asking prices.



Electricity forward prices parallel those of natural gas. Over the last few years, expectations about future North American gas supplies have become more pessimistic. Not only have spot prices risen, but long-term expectations have also adjusted. According to the Nymex futures market, natural gas prices for delivery in the last three years of this decade now average around \$5.00 per million Btu. If Canadian supplies are adequate, the Pacific Northwest may continue to enjoy a small discount as compared to mid-continent prices. Nonetheless, given the heat rate and O&M of the more efficient gas-fired generators, this translates into a variable cost of around \$40 per MWh for fuel alone - non-fuel operating costs and capital recovery have to be added to this.

Transmission Costs

Electricity available at Mid-C would have to be transmitted to Portland through high-voltage transmission lines and then distributed at lower voltage to customers through the local network. Power from Mid-C would move through BPA's transmission lines to the PGE distribution system and then to the Willamette Electric PUD. The wheeling or transmission costs of this power would be \$4 to \$5 per MWh from Mid-C and through the PGE system.

Shaping

Blocks of wholesale power are just that. Prices quoted for 25 MW or larger must be shaped to the hourly loads of a retail distribution company. Some of the variation in demand is predictable. Demand during peak hours, from 6AM to 10PM Monday

through Saturday, is almost always greater than demand during the remaining period when most people are asleep. As a consequence the most commonly sold wholesale blocks are for 24 hours or broken into on-peak and off-peak hours. The general shape of demand can be predicted, but the variation of demand for specific days cannot due to unpredictable weather.

The most important factor impacting electricity demand is temperature. Demand for power in the Pacific Northwest typically peaks during the coldest days of winter, but hot days in the summer can drive up air conditioning demand too. Unfortunately, the coldest and hottest days cannot be predicted more than a few days ahead. So, a utility is required to adjust its longer-term contract purchases as events unfold. On days with mild weather, surplus power will have to be sold and on days with extreme weather the deficit will have to be covered with short-term purchases. Typically sales of surplus power on a mild day are made at a loss, i.e. day-ahead prices are below long-term contract prices. Likewise, day-ahead prices are normally quite high during the hottest and coldest days, so additional purchases are made at prices above long-term contract prices.

Shaping adds considerable cost to the forward prices cited earlier, and these costs would be particularly high for the Willamette Electric PUD for three reasons. First, the utility would be composed mainly of residential and commercial customers, whose loads are more volatile and more weighted toward the peak period than industrial customers. Second, the PUD is small, which reduces the likelihood that statistical variation will smooth out among a large number of customers – the “small-numbers problem.” Third, because the Willamette Electric PUD would be a small-scale enterprise it would be quite costly to manage market shaping with its own staff. The activity requires a trading floor that must be manned twenty-four hours per day. Most small utilities contract these services to an Aggregator or Marketer. In our experience the overall shaping costs (management fees and the net loss from buying and selling) is about \$10 per MWh. The more volatile the prices day-to-day and the greater the load swings, the higher the cost will be.

Long-Term Marginal Cost

Before turning to the long-run marginal cost of procuring power it is worth discussing briefly what forward price strips represent. Forward prices are determined by the interaction of buyers and sellers that have expectations about future spot prices, taking into account their own costs and obligations. For example, if suppliers believe future spot prices will be higher than the forward strip, supplies will be withheld to be sold in the daily market, causing forward prices to rise. There is a reciprocal relationship for some buyers: if they think future spot prices are going to be lower they postpone purchases. Forward contracts that fix price over several months or years smooth out daily spot price fluctuations and utilities with an

obligation to serve at fixed prices usually seek to minimize dependence on the spot market by purchasing most power through long-term contracts.³

Forward prices, as expected future spot prices, do not necessarily reflect the long-run marginal cost of supplying adequate power to meet load. This is a fundamental point for electricity supply planning. If there is an over-supply of generation capacity forward prices simply reflect the expected variable cost of supplying power, without a return on capital for many plants. That is a signal not to build anything new. This is probably the most likely case for the Western power market through late in the decade, since so much capacity has been added.⁴ In almost all cases, however, prices quoted will reflect the variable cost of converting gas to power, except during seasonal periods of abundant hydroelectricity. In that respect electricity forward prices for coming years decline slightly, reflecting the present decline in the natural gas forward price curve.

Forward prices are not available after 2010, where expectations ought to reflect the long-term marginal cost of new generation supplies. Twenty-year power purchase contracts are common between IPPs and utilities, because such long arrangements are necessary to obtain financing for the power construction project. It is long-run marginal costs - prices that reflect both the variable cost of generation and a reasonable return on capital - that are most relevant to the Willamette Electric PUD. Their customers are going to want to avoid the volatility of exclusive reliance on the spot market and short-term purchase contracts. And, for incremental electricity supplies, the Pacific Northwest is definitely facing a higher-cost environment.

What then represents the long-run marginal cost of electricity supply? Cost data are available on the new facilities built to serve WECC and two examples will be cited here. As noted, new generation plants built in the last five years have almost all been dependent on natural gas. The reasons for this choice are the fact that gas-fired generation can be sited and built more quickly than coal or nuclear, the plant can be depended on to meet twenty-four hours of load, the facilities can be built closer to the load (reducing the need for transmission expansion), gas has the least environmental impact of fossil fuel plants, and natural gas suppliers are perceived to be dependable if no longer cheap.

If the Willamette Electric PUD is required to contract for electricity supplies it will need to do so in a hurry. Thus, some of the longer-term options are not available. The bulk of the utility's load will have to be met by gas-fired generation. Wind power and other renewable energy supplies are attractive options in the Pacific Northwest

³ In California, regulators forced the three major investor-owned utilities (IOUs) to depend almost exclusively on the spot market. This not only inhibited the development of the forward market, it removed the incentive for California to construct the generation capacity it sorely needed. This is because forward prices are also a signal to the industry to expand or contract supply capacity.

⁴ The notable exceptions would be a multi-year drought and an economy-wide growth spurt for the West.

when they can be cost-effectively integrated with other resources, such as hydroelectric. Without a hydroelectric plant, however, most production by renewable energy sources are not sufficiently reliable to solely meet an urban utility's load.⁵ Renewable energy can certainly supplement supply, but that is a limited role given the present load profile.

Recently PacifiCorp applied to re-license a hydroelectric facility in the Klamath Falls area.⁶ They provided the following data on alternative energy supplies:

Table 3
Cost of Replacement Power

	Annual Cost \$Million	MWh	\$/MWh
Coal	\$21.6	697,043	\$30.99
Wind	\$26.7	697,043	\$38.30
CT	\$27.7	697,043	\$39.74
Cogen	\$31.0	697,043	\$44.47

These costs are for units PacifiCorp would construct and are for both on-peak and off-peak power. They are based on a thirty-year amortization and do not include the cost of connecting to transmission lines, wheeling, shaping costs, etc. Costs would, of course, be higher if the units had a higher than expected downtime assumed by PacifiCorp.

Contracts with a merchant plant would be higher than the costs calculated by PacifiCorp. This is because the merchant would want to recover capital in a shorter time period and because the risk of higher than planned costs could not be passed on to ratepayers. During the hearings at FERC over California's long-term contract purchases, California's expert provided a model which estimated the cost of a 215 MW Combined Cycle gas-fired generator (the most efficient model available) at \$761,000 per installed MW of capacity for capital, \$35,210 per installed MW per year for overhead and fixed O&M, and \$3.00 per MWh for variable O&M. At a heat rate of 7,000, gas prices of \$5 per million Btu would result in a variable cost of \$38.00 per MWh. The total average cost for power, including capital expenditures over the first eleven years, would be \$77.00 per MWh. Again, these calculations do not include transmission and shaping.

⁵ One notable exception might be a distributed energy of fuel cells and small generation plants, but experience to date indicates these costs would be in excess of wholesale price alternatives. Such a system would, however, require years to construct within existing urban boundaries and the costs are unknown.

⁶ Exhibit D, State of Costs and Financing, PacifiCorp, Klamath Hydroelectric Project, FERC Project No. 2082, February 2004.

BPA Power

As a public utility the proposed Willamette Electric PUD may have access to power from BPA at preference rates. The process of obtaining such power is, however, complicated and possibly risky. In the end, it may not have all the expected advantages.

First a public utility must meet BPA's "standards for service."⁷ This includes owning the distribution system, demonstrating that the utility can purchase power in wholesale amounts, and have the financial ability to pay for the power.

If the new PUD meets BPA's standards it may apply for service. The rates charged would depend on the timing and acceptance of the application. If the application were made today, it would be too late to fall within the subscription window that accompanied BPA's last rate case. Consequently: "New publics that sign contracts after the subscription window closes will be served according to the notice and rate treatment (e.g., the targeted adjustment charge during the notice period)..."⁸ BPA supplemented this policy in June 2000, stating: "New utilities that sign contracts after the Subscription window closes will be served until the next rate period at the PF-02 rate plus a TAC."⁹

TAC – the "Targeted Adjustment Charge," is calculated on the incremental cost to serve the additional load: "BPA will establish the price based on BPA's monthly cost to purchase the incremental load by purchases of resources at market."¹⁰ The TAC, however, cannot be less than zero. That is, the public utility would not enjoy the benefits if market prices fell below BPA rates.

There are several important qualifications to this pricing scheme. The new public utility would continue to receive "its prorated share of the power delivery or financial benefits as if it had remained an IOU residential and small farm load."¹¹ Thus, there would be some protection in the event of continuing drought and high prices. And, eventually the new utility could re-subscribe in advance of another BPA rate hearing and be entitled to the same treatment as other preference customers.

Depending on the timing of BPA's next rate hearing and the commencement of the Willamette Electric PUD's operations there could be a window of one to five years in which ratepayers would be at risk for much higher rates. The D. Hittle & Associates report on the proposed Clackamas PUD recognized the uncertainty, noting that

⁷ BPA, "Standards of Service Policy," p.3, January 13, 2000.

⁸ BPA, "1998 Subscription Policy," p. 8, December 21, 1998

⁹ BPA, "Power Subscription Guide," p. 4, June 2000.

¹⁰ BPA, "2002 Wholesale Power Rate Schedules," p. 159.

¹¹ BPA, "1998 Subscription Policy," p. 7, December 21, 1998

before the next rate case the PUD “might need to pay a rate somewhat higher than the standard preference power rate paid by BPA’s existing preference customers.”¹²

BPA policies and the market uncertainty reflect the enormous variability of Pacific Northwest hydroelectric output. When water is abundant, BPA will have the power but prices from IPPs will be good also. The reverse is also true: in low water BPA may not be able to serve the requirements of all its customers and prices will be high.

The Economies of Scale

The small size and scope of the Willamette Electric PUD would put it at a disadvantage in procuring electricity supplies. This is because most of the least-cost projects (such as those identified by PacifiCorp) involve long lead times and substantial scale of operation and construction. Large-scale participation is particularly necessary for coal-fired generation and/or Liquefied Natural Gas (LNG) facilities, either of which, if successful, could have a significant impact on lowering cost.

Conclusion

In the Great Depression of the 1930s a New York Times reporter went, as usual, to get his shoes shined from an old immigrant that had been at the same spot for decades. Aware of Wall Street’s unusual climate of pessimism and self-doubt, the Reporter sought the opinion of a more objective observer. He asked: “You have been shining shoes in America for over a quarter of a century; what have you learned in all that time?” The immigrant replied: “I have learned that there is no such thing as a free lunch.” And so, economists have passed down this famous quote from generation to generation, and it is our sad task to offer the same advice again and again.

In contrast to assertions made by numerous public power advocates (including the D Hittle & Associates report), the cost of new electricity supplies in the Pacific Northwest has essentially doubled, as compared to the costs observed in the 1990s. Unfortunately, we don’t expect this cycle to end soon, barring major technological breakthroughs in the discovery and development of natural gas. There has been under-investment in energy supply projects all over the world and it will take time to realign demand and supply. In our view, the Willamette Electric PUD is unlikely to obtain wholesale delivered and shaped electric power by purchase or participation in new projects at costs much less than \$60 per MWh. At that level of wholesale cost, ratepayers in the new utility would see little or no difference from PGE rates and the PUD’s rates could be higher.

¹² D. Hittle & Associates, “Preliminary Feasibility Study Clackamas People’s Utility District Electric Facilities Acquisition and Establishment of New Electric Utility,” p. 6.

If the Willamette Electric PUD decides to obtain power from BPA, which is almost certainly its best option, its ratepayers will face several years of high-level risk. Another year of drought would not only increase wholesale prices in the region and raise the incremental rates charged the new utility, it would intensify competition for BPA power. Where Willamette Electric PUD would be placed in the queue for preference power at favorable rates is anybody's guess. It will be up to voters to decide if they want to take the risk.

**Inner SE/NE Portland PUD
Testimony of Thor Hinckley
Manager – Renewable Power Programs
Portland General Electric
Before the Oregon Department of Energy
June 15, 2004**

Good evening. I appreciate the opportunity to speak tonight. My name is Thor Hinckley. I am the Manager of Portland General Electric's Renewable Power Program and a seven year resident of southeast Portland. I am here tonight to talk about PGE's leadership and commitment to Green Power, and the renewable power programs that would be lost to this community and region under a PUD.

PGE's customers have a national reputation for making energy choices that are good for the environment. We offer three different programs: Clean Wind, Green Source, and Healthy Habitat.

The National Renewable Energy Laboratory, a division of the US Department of Energy, ranks PGE's green power program as #2 in the country in total sales of renewable power.

According to the Renewable NW Projects "Powerful Choices IV" report, PGE alone sells over 47% of all renewable power sold in Oregon, Washington, Idaho and Montana.

Businesses enrolled in PGE renewable power programs range from Oregon's largest employer - Intel - to hundreds of smaller businesses including Kettle Foods, Kinko's, Ben and Jerry's and others.

Portland General Electric was one of the first major utilities in the West to offer green power programs to its customers when it launched its Clean Wind and Salmon Friendly Power programs in December 1999.

PGE built Oregon's first utility-scale wind project - the VanSycle Ridge wind farm - in 1998. VanSycle Ridge has 25MW of renewable power and is part of PGE's base load. The company plans to add another 200MW of green power to the base as part of our Integrated Resource Plan over the next 5 years.

PGE partnered with the non-profit group *For the Sake of the Salmon* to develop PGE's Salmon Friendly Power, the first plan in the nation that combined renewable power with salmon habitat restoration. *For the Sake of the Salmon* recently closed its doors, so PGE is now in the process of contracting with the *Oregon Nature Conservancy* to provide these habitat restoration services.

Revenue from PGE's Green Power program was used to construct the Oregon Solar Pioneer which made Oregon's State Capitol the first in the nation to be illuminated by solar energy.

These are just some of the environmentally focused programs Portland General Electric provides. Because of the company's long history protecting and restoring the natural environment, I have been proud to be a part of PGE. Because I know what has been involved and the kind of financial and philosophical commitment it takes over time to create these kind of programs, I am concerned about the potential losses of these renewable power programs to the residents of this Inner SE Portland area.

Green power clearly is important to the customers within the proposed PUD boundaries, which contains PGE's highest concentrations of renewable power customers. Twelve percent of the customers in this area have chosen a "green" option, compared to 4.3% of PGE customers overall. Unlike investor-owned utilities, PUDs are not required to offer green power to their customers-- and, in fact, most PUDs offer few, if any, green power options.

Because of PGE's size, we are able to contract with green power providers at a lower rate than small utility customers could obtain. If this new small utility could be contracted for a significant amount of renewable energy, the electric costs to customers could increase dramatically. But if they don't offer a green option, they will lose this choice and the Northwest will lose too!

The politics of an elected board also concern me as it relates to green power. A person running on a platform of "keeping electric rates low" is very unlikely to be able to keep that promise and still support a substantial green portfolio. Conversely, a person promising a maximum amount of green power won't be able to keep rates low.

In closing, I want to remind our customers in this serviced area that they already have one of the leading green power providers in the country as their electric utility. They will lose that provider if a PUD is formed. This would be a big loss for the entire renewable power movement.

Thank you.

Inner SE/NE Portland PUD
Testimony of Dave Johnson
Senior Forester – Portland General Electric
Oregon Department of Energy Hearing
June 15, 2004

Good Evening. Thank you for the opportunity to testify tonight. My name is Dave Johnson and I am the Senior Forester at Portland General Electric. I supervise the Vegetation Management Program and have been doing so for the last 17 years. Prior to that I worked as a regional forester for PGE for 5 years. I was also General Foreman for Asplundh for 5 years. I am Chair of the City of Portland's Urban Forestry Commission, a founding member of Friends of Trees, and a Certified Arborist. A full list of my credentials is attached to my testimony. Briefly – it all means that for over twenty-five years I have helped the trees of Portland peacefully coexist with powerlines. I'd like to share tonight a glimpse of what that entails.

As part of our routine tree maintenance program, PGE's forestry staff inspects the tree conditions on all of our lines every other year. This totals a minimum of 6,000 line miles inspected each year. The last time routine maintenance was done in the proposed Inner SE Portland PUD boundary area was during the fourth quarter of 2003, at a cost of \$218,000. When we come through an area, we inspect for tree growth that may be encroaching into the clearance limits set by the Oregon Public Utility Commission. But unlike most utilities we don't stop there. We know that trees can cause most of our outages during stormy weather. We also know that most of those trees likely to break and cause outages are located off of the public right of way. So, besides simply looking for trees on the public right of way that maybe getting too close to powerlines, we also look for any trees tall enough to reach the lines that have visible signs indicating there maybe a potential problem. When it comes to assessing and mitigating tree failure risks in urban environments, PGE has helped write the book. Our tree failure analysis was the basis for the International Society of Arboriculture's publication entitled, "Evaluation of Hazard Trees in Urban Areas."

As the Senior Forester for PGE, tree and wire conflicts are a priority for me. But my involvement with urban trees doesn't stop there. I recognize the incredible value trees bring to our urban communities and am proud to work in Portland where trees help define so many of our neighborhoods. I also know that the incredible beauty we have with our treed city is accompanied by a great responsibility. I have been outspoken about Portland's need to plant trees for many years. As I mentioned earlier, I was a founding board member of *Friends of Trees* and even helped plant the incense cedars at Buckman School during one of *Friends of Trees*' very first school plantings. PGE was the presenting sponsor of *Friends of Trees*' *Seed the Future Campaign* that saw over 144,000 street trees successfully planted in Portland. Through it all, as PGE's forester, my message has been that simply planting trees is not enough. In our urban environments we have to place trees responsibly and give them every opportunity to develop and mature and enhance our neighborhoods naturally, without subjecting them to years of pruning to keep them from becoming a problem. To help get that message out PGE developed and makes available a TREES brochure that lists a number of tree varieties that can be planted around powerlines without interference in the lines. But the principal of *planning before we plant* or *right tree, right place* is applicable throughout the city, not just for electric utilities. Citywide, trees that are inappropriately planted can disrupt and damage other important urban infrastructure as well.

For many years PGE has been involved in enhancing Portland's urban forest. PGE was one of the very first utilities, back in 1958, to offer their customers a tree replacement program. PGE helped organize the first Street Tree Advisory Committee in 1974. That committee later became the Urban Forestry Commission and PGE has always been a member of this Commission. I currently serve as the Chair of the Urban Forestry Commission and was involved in getting the Neighborhood Tree Liaison Program off the ground. The Neighborhood Tree Liaison program is now run cooperatively with the Portland Parks and Recreation's Forestry Division, through the structure of the Neighborhood Associations to encourage and empower neighbors to work on projects that enhance their neighborhood trees. This is a great place to let folks know about

careful planning and care for trees. I continue to be involved every year as a Neighborhood Tree Liaison instructor.

Portland's trees are fortunate that years ago PGE saw the importance of hiring trained foresters. Of the more than 30 electric utilities in Oregon, most have personnel trained in electric line work managing their trees. PGE was the first in the Pacific Northwest and is still one of the few utilities that have professional tree people managing and caring for trees.

The voters on this PUD takeover need to know what they risk losing in PGE's professional care of the trees in their community. That is only one of the reasons that a PUD here is a bad idea. Respectfully, I urge the Oregon Department of Energy to move away from taking the usual neutral position on these PUD takeover attempts. I believe its time to help put a stop to this PUD and its boundaries drawn solely according to voting patterns. As the Oregon Department of Energy, you know that forming a PUD at this time is not going to lead to lower rates. In fact, the odds are that it will lead to higher rates and lower service reliability for these consumers.

PGE has done a good job of serving the residential and business customers in the area. I am proud of the history PGE has in enhancing Portland's urban forestry efforts. I am proud of the work that the PGE foresters have done with Portland's trees and I am proud of the work we have done in the proposed PUD boundary area. But I am also concerned. I am concerned that the proponents of the proposed PUD, or even the authors of the proposed study that would be paid for by the tax levy, aren't aware of the costs and complexities of properly caring for the urban forests of Portland. The coexistence of electrical lines and proper care of trees, especially in the proposed Inner SE Portland PUD is critical for service reliability and public safety. Once again, I urge you to let folks know this proposed PUD is a bad idea.

David A. Johnson
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Wilsonville, Oregon 97070

PROFESSION: Senior Utility Forester

EDUCATION: 1975 through 1985
Oregon State University - Forest Science
Portland State University - Sociology
Portland Community College - Landscape Technology

EXPERIENCE: August 1987 - present
Senior Forester, Portland General Electric Company (PGE). Responsible for the supervision and direction of PGE's vegetation management program. Responsible for annual operating budget development. Responsible for contract administration of line clearance contractors. Ensure that PGE's vegetation management goals and objectives are met within budgetary limitations while assuring the safe, efficient operation of electricity distribution. Examine and resolve unique and difficult vegetation management problems system-wide. Conduct ongoing public relations with Oregon Public Utility Commission, cities and communities.

April 1982 - August 1987
Regional Forester, PGE. Responsible for all vegetation management within PGE's Western region. Responsible for the direct daily operation of an average of ten contract tree crews. Responded to 250 to 350 customer requests for assistance each month. Pre-worked all primary maps for tree crews making all customer notification, designating trees to be removed, and trees to be pruned.

1977 - 1982
General Foreman, Asplundh Tree Expert Co. Responsible for the safe, productive removal of vegetation form around energized conductors for as many as 30 crews working in Washington, Oregon and California. Fielded and resolved all damage claims and utility customer complaints. Responsible for safety training and discipline.

**RELATED
PROFESSIONAL
EXPERIENCE:**

Oregon Urban and Community Forest Council
- 1990 - 1997
- Appointed by the Oregon State Forester
- Elected to the five person Executive Committee

- Elected Chairman of the Assessment Committee
- Authored the State's Implementation Plan
- Grant review committee member
- Contributing columnist for statewide newsletter

City of Portland's Urban Forestry Commission

- 1989 - present
- Appointed by Mayor Bud Clark
- Chairman

International Society of Arboriculture (ISA #9116)

- 1985 - present
- Certified Arborist (#PNW-45, #PN-0153)
- Past Pacific Northwest Chapter Board of Directors
- Past Pacific Northwest Chapter Treasurer

Utility Arborist Association

- 1985 - present
- Pacific Northwest Chapter Founding Member
- Past Pacific Northwest Chapter Vice President

Pacific Northwest Vegetation Managers Council

- 1989 - 1994
- Past Board Member

Hillsboro Street Tree Advisory Committee

- 1982 - 1992
- Past Board Member

Friends of Trees

- 1988 - present
- Founding Board Member
- Current Technical Advisor

Licensed Pesticide Consultant (#01670) Or Department of Agriculture

**HONORS AND
AWARDS:**

- Two PGE Notable Achievement Awards (1987)
- PGE Environmental Achievement Award (1991)
- Oregon Arbor Week Award (1991)
- Utility Arborist Award, PNW-ISA (1992)
- The Oregon and Community Forest Councils Individual of the Year Award (1995)
- Hillsboro Area Chamber of Commerce Beautification Award (1998)

Inner SE/NE Portland PUD
Testimony of Pamela Lesh
Vice President of Regulatory Affairs
Portland General Electric
Before the Oregon Department of Energy
June 15, 2004

Thank you for the opportunity to speak this evening regarding the proposed formation of an Inner SE Portland People's Utility District. I am Pamela Lesh, Vice President of Regulatory Affairs and a 16 year-employee of Portland General Electric.

Tonight, my colleagues and I will explain why the proposal to create an inner southeast PUD is not in the best interests of our customers. We will explain the high cost of forming and operating a PUD serving this small geographic area. We will describe the risks that its customers would face throughout the formation and operation stages. We also will highlight some of the current benefits residents and businesses will lose, not the least of which is the protection of regulatory oversight. Because we know that the residents of this area care deeply about control and oversight, we wanted to make sure everyone was clear about what exists today so that a context exists in which to decide whether to replace the current system of oversight. I will turn to that as soon as I introduce the others from PGE that are here to speak with you tonight.

Steve Hawke, Vice President of Customer Service, System Engineering & Utility Services at PGE, will outline the technical challenges, risk and costs associated with severing the customers in this proposed PUD from PGE's system. Next to Steve is Jim Piro, PGE's Executive Vice President and Chief Financial Officer, who will explain the financial implications of this proposed PUD.

Later tonight, you'll also hear from Thor Hinckley, PGE's Renewable Program Manager. Because renewable power is so important to our customers in these neighborhoods, we believe it's important to outline PGE's strong track record in this area, and the highly successful green power programs that would be lost to customers under this proposal.

Before my colleagues address these concerns, let me explain the regulatory issue. Under this proposed PUD, our customers would lose the experienced oversight of the Oregon Public Utility Commission on decisions central to the cost and reliability of electric service, including: what resources to acquire, what level of service reliability to provide, and what rates to charge.

Among my duties as the Vice President of Regulatory Affairs is overseeing PGE's interactions with the Oregon Public Utility Commission (OPUC). This state agency regulates Portland General Electric, Pacific Power, Northwest Natural and other investor-owned utilities in the State of Oregon. The OPUC is an independent state agency with a commission appointed by the governor, subject to confirmation by the Legislature. It oversees our accounting, our resource acquisitions, our sales of property, our issuance of securities, and – most importantly – our rates, terms and conditions of service. It also monitors our performance and can assess fines and penalties if we fail to meet certain reliability, safety and customer service standards. It brings to this critical role an experienced staff, with knowledge not only of PGE but all other investor-owned utilities in the state; knowledge that spans decades, not months.

all regulatory filings we are required to make
~~Here, in the foreground, are copies of all the regulatory filings we have publicly made in the first quarter of this year alone. (Point at the large stack of papers).~~ The OPUC handles these applications, and all others brought before it, in processes that are very transparent and very public. Participation is encouraged and all relevant information fully vetted. Currently, the OPUC is nearing the end of an exhaustive review of PGE's plans to secure future supplies of power for its customers – including a large renewable power component. This has been a highly public process that started more than two years ago.

Proponents of PUDs often claim that an elected board will ensure local control and bring decision-making to the local level. If the local board members, however, do not know this industry – and it is more complex than ever – then the possible negative results of this lack of knowledge may significantly outweigh any benefit of the local control. We know nothing about the experience and knowledge of the people who would be on this board. And the questions facing this start-up PUD will not be easy questions; they will be fundamental questions with huge long-term impacts. We know how such decisions, including new resources, get reviewed and

approved for PGE today; we don't know how it will work for the customers subject to a newly-formed, small PUD.

The OPUC has been specifically charged with protecting the interests of customers of Oregon's investor-owned utilities. If a PUD were to be formed, the OPUC is no longer responsible for the residents and businesses covered by the PUD. It does remain responsible, however, for protecting PGE's *remaining* customers, making sure they are held harmless from the costs and risks associated with the formation and operation of the new PUD. In other words, the costs of creating a new PUD that Jim and Steve will outline tonight cannot be passed along to or shared with PGE's remaining customers. Again – these costs are the legal responsibility of the new PUD's customers. This also means that the OPUC would defend remaining customers from any attempt to condemn our power generation facilities.

Before I turn the testimony over to my colleagues, I would like to thank the Department of Energy once again for its time and thoughtful consideration regarding PGE's concerns. The lack of regulatory oversight is one important reason we are convinced the proposed PUD is NOT in the best interests of our customers. Next, we'll hear from Steve Hawke, who will explain additional risks associated with this proposal.

Willamette Electric People's Utility District
Hearing on District Formation
Oregon Department of Energy
June 15, 2004
Portland, Oregon

Testimony by
Fergus A. Pilon
General Manager, Retired
Columbia River PUD
St. Helens, Oregon

I was the General Manager of Columbia River PUD in Columbia County Oregon for over 19 years. I was the first General Manager hired by the PUD's Board of Directors and lead the utility through two successful acquisitions of electric distribution facilities from Portland General Electric. Both the initial acquisition in 1984 and a subsequent acquisition following a successful annexation election in 2000 were accomplished under the threat of condemnation. Columbia River PUD presently provides electric service to over 17,000 accounts in the eastern portions of Columbia County.

In no particular order of importance, please allow me to address some of the issues that will likely be raised in the process of forming a new People's Utility District in Oregon.

Power Resources, Availability: When Willamette Electric PUD completes their formation pursuant to the requirements of ORS 261 they will automatically become a statutory preference customer of the Bonneville Power Administration. Absent a "letter of insufficiency" from the Administration, Willamette Electric PUD will have the same rights to federal power as does Columbia River PUD. Even though the BPA system is in near load-resource balance, a letter of insufficiency is not anticipated as the Agency has been acquiring the necessary resources to serve all its customer's requests. Under present laws and BPA policies, Willamette Electric PUD would be eligible to have all of its power resource requirements provided by BPA.

Power Resources, Rates: Every utility in the northwest is still paying for the energy crisis of 2000-01 to one extent or another. Nearly all of these costs will have "washed through" by September 30, 2006. Columbia River PUD's wholesale power cost during this time period will be around \$31 per megawatt-hour. Absent the energy crisis effect our cost would have been about \$22 per megawatt-hour. On October 1, 2006 new rates will go into effect. While the specificity of those rates is not yet known, given BPA's recent aggressive cost control efforts, it would be reasonable for one to expect prices in the \$26 to \$27 per megawatt-hour range. While there is a rate adjustment feature in the current BPA rates for a new PUD, the cost benefit study conducted for Clackamas County PUD indicated that the PUD's rates would still be substantially less than the rates presently charged by PGE. (I have reviewed that study and found that the planning assumptions used were very conservative.)

Retail Rates: Even during this period of relatively high wholesale power costs, PGE's retail rates have been on a system wide average about 32% higher than Columbia River PUD. PGE's residential rates on average through 2002 were 20% higher than those for

Columbia River PUD's residential customers. This rate comparison data is taken from the Oregon PUC Statistics for 2002. Columbia River PUD's retail rates have consistently been lower than PGE's for the past 20 years. The present rate difference is saving the people and businesses in Columbia River PUD about \$4,000,000 per year in aggregate.

Taxes and Fees: PUD's in Oregon PAY property taxes. Granted this is an anomaly, for a public entity to pay property taxes, which people tend not to understand. Columbia River PUD is the fifth or sixth largest property tax payer in Columbia County. PUD's are also required by statute to pay franchise fees up to the statutory limit of 5% as negotiated with the cities. Much is made by PUD opponents out of the tax levy that is often times associated with a PUD formation election. These levies are very small and the money is used to start the process of getting into business, such as commissioning the engineering (cost/benefit) study in preparation to selling bonds. The voters in Columbia River PUD approved an initial tax levy, I believe in the late 1970's. The PUD collected \$155,670 through this one-time voter-approved authorization.

Selling Bonds: Once the District is formed, a Board of Directors elected and the engineering study is complete, the PUD will have a second election to seek approval from the voters within the District to conduct a bond sale. These bonds most likely will be revenue bonds and as such will not be counted against the general obligation bonding limit of either the County or the State. Since these bonds will be sold for the purpose of acquiring property from an investor owned utility, they will not be tax exempt. However, a possible exception would be if all or a portion of the bonds could be classified as "private activity bonds" under the State's private activity bond volume cap, pursuant to ORS 286.605-286.645. The Private Activity Bond Committee would make a decision on any request for allocation of volume cap based on prevailing public policy priorities. Columbia River PUD was granted an \$11 million allocation of the State's volume cap in 2000 for the purchase of PGE's remaining distribution facilities in Columbia County. The volume cap is reset each year, so an allocation does not disadvantage projects in subsequent years.

Acquiring the Electric System: Once the bonds have been sold the PUD will be in a position to purchase the electric facilities from the incumbent private utility. One is always hopeful that a reasonable price can be arrived at through negotiations. Failing that PUD's in Oregon have clear and unequivocal authority to condemn these privately owned facilities. The People of Oregon granted this authority to PUD's and that authority resides in Section 12, Article XI of the Oregon Constitution.

Price: The starting place is depreciated net book value. This is the value that is allowed by the PUC for rate making purposes and the value upon which the private utility's property taxes are based. The PUC also has an obligation to see that the sale price is sufficient to hold the incumbent utility's remaining customers harmless. Columbia River PUD's purchase price in 1984 was about 2.4 times net book value. There was admittedly a "getting into business" premium on this price. But, bear in mind, while we paid what

could be called an inflated price, our rates have always been substantially below PGE's. In the 2000 acquisition we paid 1.9 times net book value. The Oregon PUC approved this sale and made the determination that PGE's remaining customers received nearly \$4 million of benefits. So, even at 1.9 times net book value, the price was excessive. In a condemnation trial, a jury made up of Multnomah County residents would determine the price.

Local Control: PUD's in Oregon are regulated by their locally elected Boards of Directors. The Board has full authority to set rates, establish policy and determine budget priorities. Consequently, since the people receiving service from the utility set these operating policies; local values, goals and objectives are embodied by the PUD.

Service Reliability: Because of the local control, service reliability will generally improve through public ownership. The Board's obligation is to the people and to the extent that reliability is important, the funds will be budgeted to provide that reliability.

System Separation: Separating the distribution and transmission system from the PGE system is not a complicated task. Even though Willamette Electric PUD is in the center of PGE's service territory, system "separation" is still achievable. To the extent costs are incurred to move power through PGE's remaining system to Willamette Electric, those costs will be paid by BPA except for low voltage delivery. Transition of electric service from PGE to the PUD can be accomplished in a manner that is transparent to your customers, except the bill they will receive from the PUD will be lower than the bill they were receiving from PGE.

Public Purposes: Investor owned utilities in Oregon are paying 3% of their gross revenues to the Oregon Energy Trust for investment by the State in renewable energy project development and electric energy conservation programs. Investor owned utilities are also collecting a monthly "meter charge" from their customer that is used by the State for low-income energy assistance. While PUD's do not have statutory requirements for either of these two programs, the PUD's Board of Directors may elect to offer similar programs. The Board of Directors for Columbia River PUD has consistently had in place investments in conservation and low-income energy assistance that exceeded these statutory requirements. And the money stays in the local economy without going to the State for redistribution and being diminished by administrative costs.

This concludes my formal testimony. Thank-you for the opportunity to provide input on the formation of a People's Utility District in Multnomah County. Are there any questions?

BOGSTAD Deborah L

From: SOWLE Agnes
Sent: Monday, June 28, 2004 1:14 PM
To: 'Annette Mattson'
Cc: KINOSHITA Carol; BOGSTAD Deborah L
Subject: RE: WePUD Boundary Hearing

1. Yes. All that the commissioners have the authority (as well as the responsibility) to do by statute is determine the boundaries and call the election. The boundaries are all that is relevant to them.
2. I believe we set aside a total of 90 minutes for testimony from all and for voting. At least one of the commissioners told me she thought they should go as long as necessary for whomever wanted to speak, but I have not had a chance to speak with Chair Linn about that. She has been off on bereavement going right into a vacation. I don't know if I will have any time to talk to her about it before the hearing.
3. I believe that Chair Linn or I will interrupt anyone who goes on about issues other than the boundaries and ask them to confine their comments to the boundary issues at this hearing. Let me know if I can be of any further help.

-----Original Message-----

From: Annette Mattson
To: SOWLE Agnes
Sent: 6/28/2004 10:45 AM
Subject: WePUD Boundary Hearing

Agnes - I am coordinating the testimony for PGE for the public meeting July 8th. I understand from the board clerk that at the July 8th WePUD Boundary Hearing, the Commission will take testimony on the Boundary only. I have a few questions. (If these should go to Chair Linn, please let me know.)

1. When the proponents testify and the companies testify - they have 10 minutes for each group. Is this testimony to be on boundary only also?
2. I understand public testimony statements can be 3 minutes each. How much total time will be allowed for public testimony on the 8th?
3. I understand public testimony is to be on the boundary only. What will the procedure be if people start talking about other matters related to the WePUD, PGE, etc.?

Thank you so much for your time!

Annette Mattson
PGE Gov't Affairs & Public Policy
503-464-2400

----- TEXT.htm follows -----

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BOGSTAD Deborah L

From: SOWLE Agnes
Sent: Tuesday, June 29, 2004 5:29 AM
To: KINOSHITA Carol
Cc: BOGSTAD Deborah L
Subject: RE: Revised PUD docs

I have one suggested change, which I am sending from my home email address to you, Carol. Minor tweak. John Ball and Andy are the only ones around to look at this, and I doubt that they will have any substantive input.

If one of the clerks (or you) have time, a short summary of the DOE written testimony for the Board to look at would be great. I would separate out the testimony about the boundaries (if there is any) with that about other matters so that they can concentrate on the issue before them.

I will be in for the staff meeting tomorrow, and around until about 11 am if you need any last minute look. -----Original Message-----

From: KINOSHITA Carol
To: SOWLE Agnes
Cc: BOGSTAD Deborah L
Sent: 6/28/2004 7:42 PM
Subject: Revised PUD docs

Hi Agnes!

I'm sorry, but in revising the ballot title resolution, I realized we should add a finding in the boundary resolution that the petition complies with ORS chapter 261 (to mirror the explanatory statement and ORS 261.171 "(1)...upon receipt of an elector's petition.....which the county governing body finds to be in compliance with this chapter shall, at the earliest practical date submit the question of district formation..."). And then I did some more tweaking to more closely mirror ORS 261.161. As you'll recall, the resolution on the Multnomah County PUD was quite lengthy with respect to the Energy Dept.'s report and testimony (proponents, opponents and written), so I felt we needed to stick more closely to the statute, especially since we're determining the boundaries at the same time as the hearing.

I've also attached redlined and clean versions of the ballot titles for your editing enjoyment. We should be getting the total levy estimate from John Riles to insert in the titles. We also received the written testimony from the Energy Dept. - please let me know if you'd like me or one of the law clerks to summarize or what you'd like done with the docs. Thanx! <<WEPUD-ballotres-6-28-04.doc>>
<<WEPUD-ballotres-redlined.doc>>

<<APR-WEPUD-ballot.doc>> <<RES_WEPUD-Boundaries-6-28-04.doc>>
<<RES_WEPUD-Boundaries-redlined.doc>>

-----Original Message-----

From: KINOSHITA Carol
Sent: Monday, June 28, 2004 4:26 PM
To: SOWLE Agnes
Cc: BOGSTAD Deborah L
Subject: RE: PUD Territory Description Check

Thanx Agnes! Do you want me to send the APR and Reso. To the Chair's office? (if so, who should it go to - Andy? And probably should go to John Kauffman too)

-----Original Message-----

From: SOWLE Agnes
Sent: Monday, June 28, 2004 4:07 PM
To: KINOSHITA Carol
Cc: BOGSTAD Deborah L
Subject: RE: PUD Territory Description Check

Looks OK by me.

-----Original Message-----

From: KINOSHITA Carol
To: SOWLE Agnes
Cc: BOGSTAD Deborah L
Sent: 6/28/2004 1:53 PM
Subject: FW: PUD Territory Description Check

Here's a revised resolution (the only thing I did was take off Exhibit B since we received just the map in pdf format; I marked the black and white map exhibit B but the color map may be clearer for onscreen viewing. <<RES_WEPUD-Boundaries.doc>>

-----Original Message-----

From: RICHARDSON Richard H
Sent: Monday, June 28, 2004 12:23 PM
To: STODDARD Janice L; KINOSHITA Carol
Cc: TUNEBERG Kathleen A
Subject: RE: PUD Territory Description Check

<<ExB-WillamettePUDbw.pdf>> <<WillamettePUDcolor.pdf>>



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

RECEIVED
06.29.04

June 15, 2004
WL-031-04

Deborah Bogstad, Board Clerk
501 SE Hawthorne Blvd., Suite 600
Portland, OR 9721

Dear Ms. Bogstad:

Attached for your consideration is written testimony from me on the matter of the Inner SE/NE PUD.

Thank you.


Wayne Lei, Director
Environmental Policy

WL:wl

Copy: Annette Mattson, Kimberly Hamling

Testimony of Wayne Lei
Oregon Department of Energy Hearing – Inner SE/NE PUD
June 15, 2004

Thank you for the opportunity to submit a few words to describe Portland General Electric's commitment to environmental stewardship and how it relates to the proposed PUD in inner SE Portland and a small piece of inner NE Portland.

I grew up here and together with my family reside in Portland. Coincidentally, I've been a long time member of Chinese Baptist Church in Ladd's Addition. In fact, my uncle designed this church as well as Trinity Baptist – also in the proposed PUD area. Due to past red lining policies, many Chinese in my generation have deep roots in this part of the City.

For the past 12 years, I have been Director of Environmental Policy for PGE. My career has spanned public, private and academic settings and has allowed me to live in different parts of the country. In completing my doctorate in Environmental Health I was able to also gather some international experience.

In previous testimony I have given in ODOE hearings, I have spoken of the State's high environmental ethic. I wish to re-affirm that PGE is well aware of this stewardship ethic and the accompanying requirements we must meet to operate our facilities in local communities and with the permission of all stakeholders.

In the distant past, perhaps we learned this the "hard way", but in the last several decades it's been a lesson well learned, and if I may say so – well implemented.

In 1991, PGE issued its first environmental policy. In 1992, when I was given this job, the Company re-crafted it so that stakeholders and others could hold the Company even more accountable for its environmental performance.

Annually, we write two reports that document our performance to that policy. These are blunt instruments. If you want know whether or not we violated a rule or law; we tell you. If you want to know how many fines we received; we trend it for you in a graph. If you want to know how many times PGE was audited by a Federal or State agency and how many findings they leave behind; we analyze that for you as well as trend it over a ten-year period. These are just a few of the performance indicators we keep to internally judge whether we are being true to our policy in protecting the environment. Other data include ten-year trends in declining hazardous waste production, PCB elimination from transformers and substation switches and so on.

We willingly give this data to anyone who requests it in neatly bound reports, including our customers, potential investors, government agencies and advocacy groups.

Compliance with environmental regulation is the very bottom line in our actions to protect the environment. You may know that an electric utility has a large environmental “footprint”. How we reduce or mitigate that footprint is a large thrust of our environmental policy. It’s just good business and we say so in our policy.

But in our view, it’s even better business to go beyond the minimum. Some examples:

In two decades of effort, PGE’s energy efficiency programs delivered enough “NEGAWATTS” to offset the construction of a 270 MW power plant.

When I went to work for PGE in 1988, our Boardman coal plant made 500 MW of power; 15 years later it produces 600 MW and burns the same amount of coal. Similar power plant efficiencies have been made at our hydropower and natural gas fired turbine plants.

In 1992, PGE issued the country’s second all green RFP for power that did not utilize fossil fuels. That effort eventually resulted in providing a long-term power contract for Oregon’s first wind power plant – the 24 MW Van Sycle ridge project near Pendleton.

In our latest Integrated Resource Plan (IRP), Energy Efficiency efforts and renewable power will supply about half of the incremental load increase to 2007.

In 1995 we provided 20% of the budget for *Friends of Trees* 5-year "Seed the Future" tree planting program in our service territory. We entered into this partnership because we understand our impacts on trees in urban settings and we have a very strong commitment to ensuring the right trees are planted in the right locations for both esthetic and safety reasons.

In every year where we have been asked, PGE has quietly contributed support to the Ladd's Addition "Save the Elms" preservation efforts. And for many years, PGE allowed Community Gardeners to thrive on our vacant land near Brooklyn School. Later these plats were converted to the close in, *EarthSmart*, "Affordable Street of Dreams".

These are just a few examples that hopefully demonstrate our serious and systematic commitment to our policy and its implementation and some of the positive effects in the communities we serve.

I would only add that even though these are highly visible projects and partnerships, there are other PGE people not generally seen who are involved personally in helping protect and enhance Oregon's environment. By my count we have employees from Vice Presidents on down sitting on Boards or very active with nearly 30 non-profit groups that seek to advocate for and protect the environment. Our CEO Peggy Fowler leads this charge, by working on a number of non-profit Boards that include the Founders Circle for SOLV.

As someone who has worked in the utility business for over 20 years, I would observe that a new PUD will not be able to duplicate this kind of program sophistication and corporate ethic overnight. What I have described has taken years of thoughtful development and, if you will, corporate maturing.

Formation of a new PUD could very well distract from this record of achievement. And that would be a shame – especially so, if it occurred at the expense to the environment.

Thank you.

* * * * *

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Determining the Boundaries for Willamette Electric People's Utility District and Calling an Election on District Formation and Related Matters

The Multnomah County Board of Commissioners Finds:

- a. On April 26, 2004, an electors' petition was filed with Multnomah County Elections Division (Elections) for formation of Willamette Electric People's Utility District (PUD).
- b. On April 27, 2004, Elections certified the petition (ORS 261.131) and sent the petition to the Office of Energy (ORS 261.151) on April 28.
- c. The petition complies with Oregon law.
- d. ORS 261.161(2) requires the Board to determine the boundaries of the proposed PUD based on the evidence at hearing and the report of the Oregon Office of Energy.
- e. A hearing on the boundaries was held on July 8, 2004, and the record was closed at the July 8 meeting. The record contains the report from the Oregon Department of Energy dated June 22, 2004, and all written communications received by the Clerk of the Board on this matter. The Board has reviewed the entire record.
- f. ORS 261.161(4) directs the Board to correct any deficiencies in the description of the boundaries of the proposed district. No evidence was presented at the hearing or is contained in the record which demonstrates that any areas are not permitted within the PUD's boundaries under ORS 261.110(6) and (7).
- g. The Board has not received any petitions for inclusion within the boundaries of the proposed PUD.
- h. The County Assessment and Taxation Division has reviewed the boundary description contained in the petition. No deficiencies in the proposed boundary description were found.
- i. If the petition complies with ORS chapter 261, the Board is required to refer the initiative to establish a PUD to the voters at the earliest practical date.
- j. Based on testimony presented by the Multnomah County Director of Elections, November 2, 2004, is the earliest practical date to submit the question of district formation and special levy to the electors within the proposed district at a special election, as required by ORS 261.171.

The Multnomah County Board of Commissioners Resolves:

1. The boundaries of the proposed Multnomah County People's Utility District shall be those presented in the petition as described in the attached Exhibit A and illustrated in the attached Exhibit B.

2. The question of whether the district should be formed, the election of district directors, and the proposal for authorization of the district to impose a one-time special levy of 6 mills per one thousand dollars of assessed valuation (equal to \$0.60 per \$100,000 of assessed valuation) shall be submitted to the voters at the November 2, 2004, election.
3. The Director of Elections shall publish the notices required by law and place the PUD proposal on the November 2, 2004, ballot.

ADOPTED this 8th day of July 2004.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

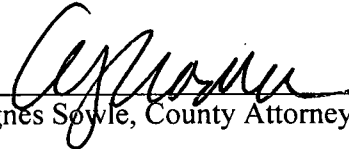
By _____
Agnes Sowle, County Attorney

EXHIBIT A

Willamette Electric People's Utility District Boundaries

A portion of Multnomah County, within the City of Portland, as follows: starting at the midpoint of the Steel Bridge, south along the centerline of the Willamette River to the midpoint of the Ross Island Bridge, then east along the centerline of Ross Island Bridge to the east bank of the Willamette River, then south along the east bank of the Willamette River to a westerly extension of SE Holgate Blvd, then east along the centerline of SE Holgate Blvd (and its westerly extension) to the centerline of SE 42nd Ave, then north along the centerline of SE 42nd Ave to the centerline SE Powell Blvd, then east along the centerline of SE Powell Blvd to the centerline of SE 52nd Ave, then north along the centerline of SE 52nd Ave to the centerline of SE Division St, then west along the centerline of SE Division St to the centerline of SE 50th Ave, then north along the centerline of SE 50th Ave to the centerline of SE Hawthorne Blvd, then west along the centerline of SE Hawthorne Blvd to the centerline of SE 49th Ave, then north along the centerline of SE 49th Ave to the centerline of SE Stark St, then west along the centerline of SE Stark St to the centerline of SE 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of SE Ankeny St, then east along the centerline of SE Ankeny St to the centerline of SE 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of Interstate-84, then west along the centerline of Interstate-84 to the centerline of Interstate-5, then north along the centerline of Interstate-5 to the centerline of Lloyd Blvd, then west along the centerline of Lloyd Blvd to the centerline of NE Oregon St, then west along the centerline of NE Oregon St to the midpoint of the Steel Bridge.

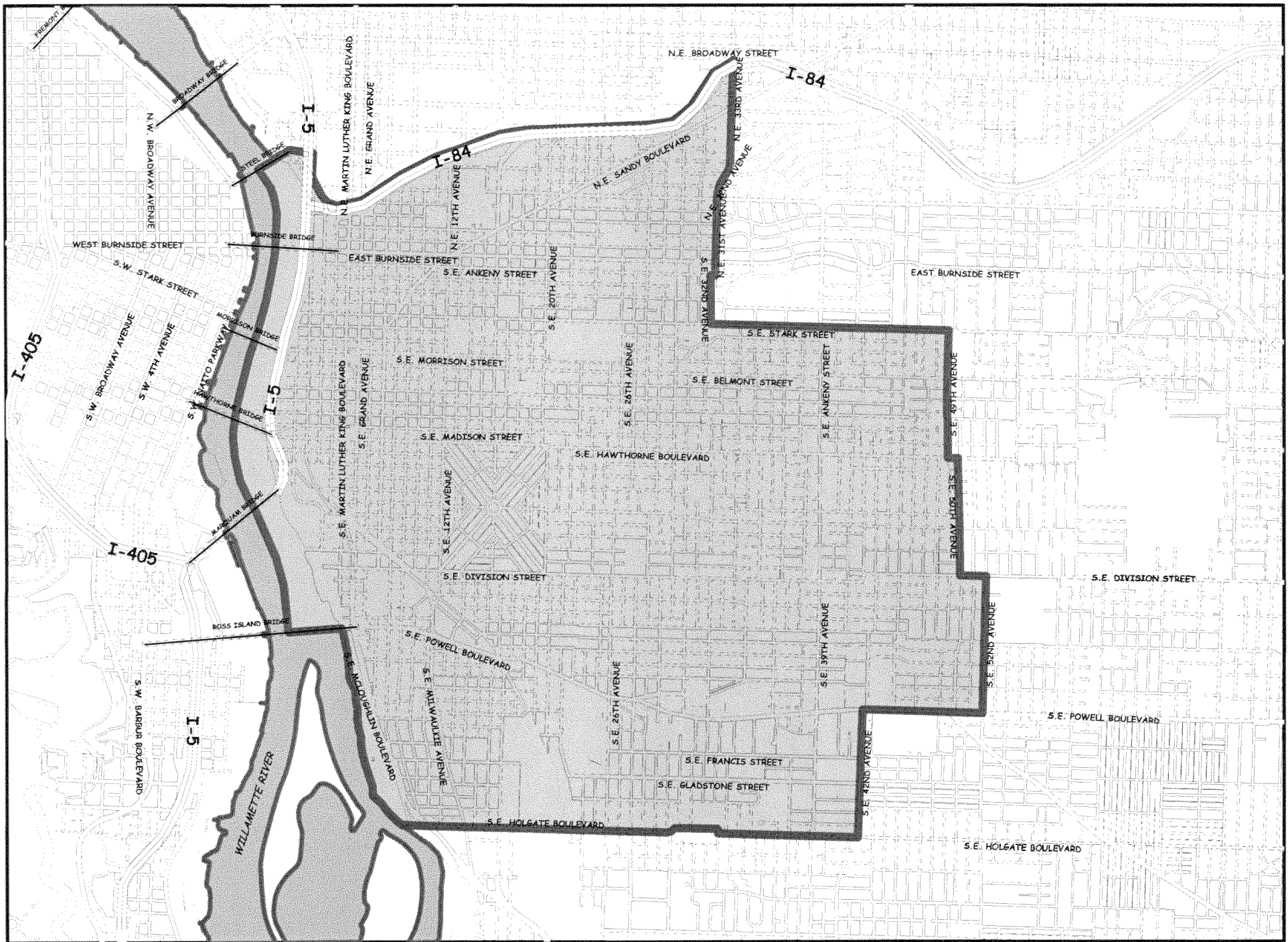


Exhibit B

WILLAMETTE ELECTRIC PUD BOUNDARY:



MEMORANDUM

Received
06.30.04

TO: Agnes Sowle

FR: Kim Taylor
Law Clerk

RE: Summarized Testimony
DOE Hearing on Petition for Willamette Electric PUD

PROPONENTS

Kris Nelson
Citizen

Accountability. Oregon's largest investor-owned utility has state sanctioned territory where it may profit from an essential service while ratepayers cannot choose utilities. A publicly owned utility district is more accountable to the people.

Fergus A. Pilon
General Manager, Retired, Columbia River PUD

Resources. The BPA is in near load-resource balance and a letter of insufficiency is not anticipated. The new PUD would be eligible to have all of its power resource requirements provided by BPA.

Cost. Columbia River PUD has demonstrated consistently lower rates than those offered by privately owned utilities. It is likely the new PUD would charge lower rates as well.

Taxes and Fees. PUD's in Oregon pay property taxes.

Bonds. The PUD will likely conduct a revenue bond sale and as such will not be counted against the general obligation bonding limit.

Condemnation. The new PUD will likely negotiate the purchase of the incumbent private utility but if a reasonable price cannot be arrived at, the PUD would have condemnation authority.

Control. Through local control, service and reliability will generally improve. Since the people receiving service from the utility set the operating policies; local values, goals, and objectives are embodied by the PUD.

System Separation. Separating the transmission system from the PGE system is not a complicated task. Also, to the extent costs are incurred to move power through PGE's remaining system to the PUD, those costs will be paid by BPA except for low voltage delivery.

Public Programs. Although the PUD does not have state mandated programs such as those for conservation or low-income energy assistance, the PUD Board of Directors may elect to offer similar programs.

Eulia Quan Mishiima

Citizen/ Member of the Oregon Public Power Coalition

Practices. Since the Enron purchase of PGE, records show that more than one billion dollars has been usurped from ratepayers through rate increases. Any PUD established by the vote of the people within any segment of the six counties Enron/PGE territory can be an electric utility superior to an investor-owned electric utility.

Gary Duell

Citizen/Planning, Investments & Insurance, LLC

WPUD Report. Requests the Oregon DOE to forbid any use of the WPUD report without the use of a disclaimer that the Oregon DOE does not have the resources to make a useful evaluation as to the feasibility of any PUD. Also requests the WPUD report to reference the Clackamas PUD feasibility study. Insists that the DOE require the WPUD report only be used either in its entirety or not at all in communications with the public. Requests the DOE to refute testimony claiming that power lines must be severed at the PUD boundaries, and that there would be no prolonged litigation over eminent domain between the PUD and PGE.

Chris Kerchum

Citizen

Cost. PGE is a monopoly whose interest is to make a profit no matter what happens to residents.

Workers. Concerned for the future of current PGE workers and their pensions should another company purchase it.

Jeff Cropp

WEPU Campaign Manager

Cost/Reliability. Every Oregon PUD has lower rates than PGE. Oregon PUDs have an excellent record for customer service, emergency response, and reliability.

Workers. PUDs are required to hire the existing workforce and honor their contracts thus, many of the PUD workers would be the same highly skilled PGE workers currently serving the area.

Accountability. Ratepayers have no method for holding PGE's Board and executives accountable for their decisions. The PUD Board will be directly elected by the people within the district, working for the public benefit rather than corporate shareholders.

Liz Trojan

Citizen

Campaigning. PGE and PacifiCorp used their own employees to run their anti PUD campaign. They spent \$3.5 million opposing the Multnomah County PUD. It is no surprise PGE is willing to spend any amount opposing public ownership. Publicly owned utilities are prohibited by law from running political campaigns.

Noris Thomlinson
Citizen

Environment. PGE's concerns about losing green programs are unfounded and misleading. Although PUDs are not forced to establish green energy programs, they do anyway and the goal is not to meet the minimum requirements and then pursue a bottom line profit beyond that. The inner-eastside residents are even more aware than most customers of the necessity for long-term thinking, energy conservation, and renewable energy.

OPPONENTS

Bernard Bottomly
PacifiCorp.

Cost. The formation of a new PUD that relies on BPA for some or all of its power needs will exacerbate BPA's need to purchase wholesale power to supplement its own generation. The cost of buying so much power on the wholesale market has been passed through to customers in the form of higher rates.

Jim Piro
CFO & Treasurer, PGE

Inefficiency. A new PUD would have to duplicate or replace most of the systems already in place by PGE at a higher per-customer cost, spread over fewer customers.

Cost. A new PUD would unlikely have access to BPA preferential power at the lowest rates. It would have to rely on market purchases to meet most of its generating load which leads to increased cost and exposure to market volatility.

Debt. The new PUD would start out with close to \$200 million dollars debt, which exposes customers to uncertain interest rates, financing terms, and conditions that could impact electric rates.

Risk. If a PUD runs into financial trouble it would need to raise rates to cover all their costs.

Thor Hinckley
Manager, Renewable Power Programs, PGE

Environment. Unlike investor-owned utilities, PUDs offer few, if any, green power options. He is concerned about potential losses of the current renewable power programs utilized by the residents in SE Portland.

Politics. The politics of an elected board as it relates to green power is that their stance must either be lower rates or options for "green power". The PUD cannot afford to meet both goals.

Dave Johnson
Senior Forester, PGE

Tree Maintenance. A new PUD risks losing the skills of tree maintenance professionals currently employed by PGE.

Cost. The new PUD would have to be responsible for the high cost of tree maintenance and care.

Bill Miller
International Brotherhood of Electrical Workers Local 125

Cost. Severing the existing system at arbitrary boundaries will cost a fortune.

Sam Van Vactor and Fred Pickel
On behalf of PGE

Cost. The PUD is unlikely to obtain, delivered and shaped wholesale electric power by purchase or participation in new projects at costs much less than \$60 per MWh because wholesale electricity prices are increasing and the PUD is disadvantaged by a limited buying power. Ratepayers in the new utility would see little or no difference from PGE rates and the PUD's rates could be higher.

Pamela Lesh
VP, Regulatory Affairs, PGE

Regulation. The new PUD would result in the loss of currently existing regulatory oversight by the Oregon Public Utility Commission.

James Litchfield
President, Litchfield Consulting Group, Inc.

Resources. The PUD would have to secure the generation to meet the needs of the customers in the neighborhood. The most readily available power to meet these needs is through Mid-C. However this market is extremely volatile and uncertain. Alternatively the PUD could build or acquire its own generation. But this is unlikely to produce lower costs because it will require the time to design, site, license, and construct the new resources. The PUD could also place its loads on BPA, but given the financial crisis at BPA this cost would be equal to the Mid-C market prices.

Cost. Only way for the PUD to avoid the volatility of the market is through a contract with a party who has excess generation but the market price is in the \$40's per MWh range not including the cost of transmission, or cost of capital to purchase the distribution system and install other necessary equipment. These costs increase the rates paid by customers.

Ron Eachus
Citizen

Cost. It is unlikely that the new PUD could acquire the distribution facilities at book value. Instead, market value of the property will be required plus the costs of separation and severance of distribution facilities from the PGE system. These costs could be two or three times as much as PGE ratepayers now pay. If the new PUD will not have access to any of the existing PGE generation, they must rely on purchasing power or building their own generation, both of which are likely more expensive than the current PGE generation. Should the PUD receive its power from BPA, chances are that the rates will be comparable to the market price because BPA is already oversubscribed and must obtain power from the same market as private utilities.

Loss of Benefits. The PUD will be exempt from the requirements mandating public purpose programs like those offered by PGE. Potential that industrial users may not have the option of choosing an alternative provider with lower rates, as is currently the practice.

Time. Concern regarding the length of time it will take to resolve issues of conflict if the PUD is created.

Stephen R. Hawke
VP, System Engineering, Customer Service & Utility Services, PGE

Cost. The technical impacts of system separation are significant which increases the cost of creating the proposed PUD.

Risk/Reliability. Because the current system is so complex and PGE will not extend their zone one protection designs to this very small island, reliability will decrease to the PUD customers.

Anne Snyder
Citizen/ PGE Customer Service Employee

Community Involvement. PGE is a benefit to the community through its public purpose programs and culture of volunteerism.

Wayne Lei
Director of Environmental Policy, PGE

Environment. PGE's commitment to protect and enhance Oregon's environment will not be duplicated by a new PUD and may distract from the accomplishments of PGE programs in the area concerned.

Gregory R. Mowe
Partner, Stoel Rives LLP
On Behalf of PGE

Condemnation/Cost. Fair market value of assets in a condemnation case is different from “rate base” of assets in utility regulation. Valuation in a condemnation case is based upon current fair market value, which may be significantly higher than rate base, depending upon the type of asset. In addition, severance damages must be paid in a partial taking to compensate the utility and its remaining customers for reconfiguration costs, stranded assets and damage to the remaining system. Severance damage will likely be a significant obstacle for any start-up PUD in this portion of Multnomah County attempting to carve service territory out of a larger integrated system.

Gary Coe
Citizen/Industrial Business Owner

Taxation. Industrial business owners’ property is located within the proposed PUD boundary yet most of the owners of the businesses live outside the proposed boundary. Consequently, these owners have no vote in this matter. Yet the proposed “one-time special levy” is a property tax that amounts to taxation without representation.

Cost/Reliability. As a customer of PGE, service is reliable and affordable. The two closest PUDs to the proposed area (Tillamook PUD and Clark County PUD) charge higher rates than current PGE customers pay.

Experience. The chief petitioners have no apparent business background.

Regulation. PGE’s rates and customers rights are regulated by the PUC but the PUD is not overseen by anyone but its own board. Thus, there is no control over how much the directors are paid, what rates they charge, or customer protection from wasteful and expensive business decisions.

BOUNDARY. Requests the Oregon DOE remove the Central Eastside Industrial District from the proposed PUD borders.

NUETRAL

Walter E. Pollock
Citizen

Power Supply. Concerned whether the new PUD will have ownership of, or access to, adequate reliable sources of low cost power, diversity of resources and fuel, access to low cost federal power, access to transmission.

Financing. Concerned whether the new PUD will have adequate access to capital.

Employees. Concerned whether the PUD will attract the necessary skilled work force.

Collaboration. Concerned whether the PUD will be collaborative or adversarial.

Plan. Concerned whether the PUD will have a clear future plan.

BOUNDARY. Concerned that boundaries have not been chosen with any consideration of the technical feasibility of the proposed utility. This creates risk of future reliability problems, transmission issues and duplication of facilities.

Hon. Randall Edwards
Oregon State Treasurer

Funding. Given the extremely large size of the PUD's acquisition bonds coupled with the relatively small amount of volume cap that becomes available each year and the competing demands for alternate uses of that volume cap, one can see the difficulties in the PUD's efforts to secure enough volume to allow even a significant portion of its acquisition bonds to be federally tax-exempt.

2 July 2004
1615 S.E. Holly
Portland, OR 97214

RECEIVED
07.06.04

Deborah Bogstad, Board Clerk
For Multnomah County Board of Commissioners
501 SE Hawthorne Blvd., Suite 600
Portland, OR 97214

Re: Testimony on Boundaries for the Proposed Willamette PUD

I am a 12 year resident of Southeast Portland in the Hosford- Abernathy Neighborhood and have extensive personal knowledge, experience and educational background to support the below listed conclusions. Some of my personal information and background germane to the question before the Board includes the following:

- ◆ My father was a Lineman for a Utility (in Kentucky) and for many years an Electrical Foreman while I was growing up thus I learned a great deal at an early age about electrical systems.
- ◆ I have qualified via intense 2 day exam to be an Engineer in the US Navy.
- ◆ I was awarded a license by the State of Oregon to be a Professional Engineer based upon completing two exams of one day each, the EIT exam and the Professional Engineer exam.
- ◆ I have 28 years adult life working experience with a variety of electrical systems.

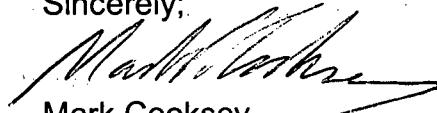
The boundaries of the proposed Willamette Electric PUD are solely based upon the politics of the proponents without any consideration of technical or economic feasibility.

It is my strong personal opinion based upon my extensive education, experience and proven licensed capabilities that the proposed boundaries make no justifiable technical or economic sense and will reduce reliability of electrical service while increasing costs. I'm sure any reasonable, knowledgeable person putting the best interests of affected residents foremost would agree with my conclusion.

To move forward on this political action without independent technical input would ill serve the citizens and taxpayers of Southeast Portland. I strongly urge that you to put all political considerations aside and halt any action toward setting boundaries or establishing this proposed PUD at this time. I further recommend the Commissioners seek an unbiased, but knowledgeable assessment, from an independent source such as an unaffiliated Oregon Licensed Engineer and Economist familiar with the Power Markets to study the proposed boundaries for technical and economic feasibility before moving forward with any action.

I would further submit that in no way should additional expense be borne by the taxpayers but rather have the proponents of this measure fund this study under the direction of the Board. The \$200,000 expense already borne by the taxpayers of Multnomah County for their last election is far too much!

Sincerely,


Mark Cooksey



900 S.W. Fifth Avenue, Suite 2600
Portland, Oregon 97204
main 503.224.3380
fax 503.220.2480
www.stoel.com

CHARLES F. HINKLE
Direct (503) 294-9266
cfhinkle@stoel.com

July 6, 2004

COPY

RECEIVED
JUL 06 2004
COUNTY COUNSEL FOR
MULTNOMAH COUNTY, OR

BY HAND DELIVERY

Ms. Agnes Sowle
Multnomah County Attorney
Suite 500
501 SE Hawthorne Blvd.
Portland, OR 97214

Re: Proposed Inner-Southeast Portland PUD Formation

Dear Agnes:

I understand that a petition for the formation of a People's Utility District in Southeast Portland has been submitted to the Board of County Commissioners, and that on July 8, 2004, the Board will hold a hearing required by ORS 261.161 to consider the boundaries of the proposed PUD. I also understand that at the July 8 hearing, the Board will consider a resolution calling for an election on the proposal, pursuant to ORS 161.171(1).

I am writing on behalf of certain interested persons to request that the Board reject the petition, and decline to call an election on the proposal, on the ground that the district proposed by the petition violates Article XI, section 12, of the Oregon Constitution. The first sentence of that section governs the creation of PUDs; it reads in part as follows:

"Peoples' Utility Districts may be created of territory, contiguous or otherwise, within one or more counties, and *may consist of an incorporated municipality, or municipalities*, with or without unincorporated territory, *** ." (Emphasis added.)

Under the plain meaning of that language, a PUD may not be created from a portion of a municipality. Article XI, section 12, was adopted through the initiative process, and "[i]n interpreting a constitutional provision adopted through the initiative process, our task is to discern the intent of the voters. The best evidence of the voters' intent is the text of the provision itself. * * *



Ms. Agnes Sowle, County Attorney
July 6, 2004
Page 2

if the intent is clear based on the text and context of the constitutional provision, the court does not look further.” *Stranahan v. Fred Meyer, Inc.*, 331 Or 38, 56, 11 P3d 228 (2000) (citation omitted).

The methodology set out in *PGE v. Bureau of Labor and Industries*, 317 Or 606, 859 P2d 1143 (1993), for analyzing the text of a statute also “applies *** to the interpretation of laws and constitutional amendments adopted by initiative or referendum ***.” *Id.* at 612 n 4. In the first level of analysis under that methodology, “the court considers rules of construction ***.” *Id.* at 611. One of the well-established rules of construction for statutes (and therefore for constitutional provisions as well, under *PGE*) is the rule that “[w]hen the legislature [or, in the case of an initiated measure, the electorate] uses different terms in related statutes [or constitutional provisions], [courts] presume that the legislature [or voters] intended different meanings.” *State v. Guzek*, 322 Or 245, 265, 906 P2d 272 (1996).

In describing the territory that can be included in the creation of a people’s utility district, Article XI, section 12, uses different language to describe counties and municipalities: a PUD may be created “*within* one or more counties,” but it “may *consist* of an incorporated municipality, or municipalities.” (Emphasis added.) The different words indicate the voters’ intent to differentiate between counties and cities, and to allow a PUD to be created in part of a county, but not in part of a city. When PUDs are created, counties can be divided between PUD and non-PUD territory, but cities may not be so divided.

That conclusion is supported by the historical context of Article XI, section 12. In construing a constitutional provision adopted through the initiative, “caution must be used before ending the analysis *** without considering the history of the constitutional provision at issue.” *Stranahan*, 331 Or at 56-57. There are two items of historical evidence that are particularly relevant in demonstrating that Article XI, section 12 bars creation of a PUD in a portion of a municipality. First, the “purpose” of the proposed constitutional amendment, as described in the Voters’ Pamphlet for the 1930 general election, was as follows:

“Purpose: To amend article XI of the constitution so as to authorize the creation by the people of utility districts consisting of territory which is contiguous or otherwise, within one or more counties, which may include one or more incorporated municipalities, with or without territory outside of such municipalities ***.”



Ms. Agnes Sowle, County Attorney
July 6, 2004
Page 3

Thus, the voters' pamphlet led voters to understand that a PUD formed under the authorization of the proposed constitutional amendment might *include* municipalities, but nothing in that statement of purpose indicates any intention to allow a PUD to be formed from a *portion* of a municipality.

Second, the virtually contemporaneous action of the legislature supports that same conclusion even more expressly. The concluding sentence of Article XI, section 12, provides that "[t]he legislative assembly shall and the people may provide any legislation, that may be necessary, in addition to existing laws, to carry out the provisions of this section." Article XI, section 12, was adopted at the election of November 1930, and pursuant to the mandate of its concluding sentence, the legislature adopted implementing legislation at its very next session, which began in January 1931. Or Laws 1931 ch 279. Section 3 of that statute read, in part, as follows:

“ *** Such peoples' utility districts may consist of territory, contiguous or otherwise, within one or more counties, and may consist of a municipality or municipalities, with or without unincorporated territory. *No municipality shall be divided in the formation of any such district.*” (Emphasis added.)

Plainly, the legislators who were elected at the same election in which Article XI, section 12, was adopted believed that a ban on the “division” of municipalities in the formation of PUDs was the appropriate manner in which to carry out the mandate of Article XI, section 12, that the legislature enact legislation “to carry out the provisions of” that section. In other words, the 1931 legislature believed that the constitution prohibited the division of a city when a PUD is created, and when it adopted legislation “to carry out the provisions of” the constitution, it carried forward the prohibition that it believed was contained in the constitution itself.

Thus, anyone who contends that Article XI, section 12, authorizes creation of PUDs in a portion of a city is forced to take the position that the legislature, just a few months after Article XI, section 12, was enacted, adopted a statute that violated that section. That is an implausible contention, especially in light of the fact that the statutory ban on “dividing” a municipality remained on the books for 48 years, without anyone challenging its constitutionality.

(I should add that it is appropriate to refer to actions by the 1931 legislature in determining the meaning of a constitutional amendment adopted in the preceding year, because the Oregon Supreme Court has acknowledged that after-the-fact historical resources may be helpful in determining the meaning of constitutional language. In *Smothers v. Gresham*



Ms. Agnes Sowle, County Attorney
July 6, 2004
Page 4

Transfer, Inc., 332 Or 83, 23 P3d 333 (2001), for example, the Court quoted an opinion by Judge Deady issued 30 years after the drafting of the Oregon Constitution for assistance in construing a term used in that Constitution, *id.* at 122, and it cited several court opinions from the 1880s for assistance in determining the content of Oregon's common law in 1857, *id.* at 129-31.)

As I noted above, the statutory prohibition on dividing municipalities in the creation of a PUD remained part of the PUD statutes for 48 years, until it was deleted by 1979 Or Laws ch 558, § 8. As a result of that amendment (and of a later amendment that changed the word "municipality" to the word "city" in several statutes), ORS 261.110(1) now provides that "[p]eople's utility districts may consist of territory, contiguous or otherwise, within one or more counties, and may consist of one or more cities, or a portion of a city, with or without unincorporated territory." If the legislature intended by that amendment to allow creation of a PUD in "a portion of a city," that amendment failed of its purpose, because the legislature cannot, by statute, confer a power that is barred by the constitution. "[A] state legislative interest, no matter how important, cannot trump a state constitutional command." *State v. Stoneman*, 323 Or 536, 542, 920 P2d 535 (1996). The constitutional command of Article XI, section 12, is that a PUD may be created only from territory that includes "an incorporated municipality, or municipalities." It does not authorize creation of a PUD from "a portion" of a municipality.

Members of the Multnomah County Board of Commissioners have taken an oath to support the Oregon Constitution, and they have a duty to follow a constitutional mandate in the face of an inconsistent statute, regardless of whether a court has ruled on the constitutionality of the statute. *Cooper v. Eugene Sch. Dist. No. 4J*, 301 Or 358, 364-65, 723 P2d 298 (1986). We request that the Board act in accordance with that duty. The Board should follow the clear mandate of Article XI, section 12, and decline to authorize placement on the ballot of a proposal to form a PUD in "a portion" of the City of Portland.

Very truly yours,

Charles F. Hinkle

/cfh

BOGSTAD Deborah L

From: nancy harper [nancy@IBEW125.com]
Sent: Wednesday, July 07, 2004 2:37 PM
To: BOGSTAD Deborah L
Subject: RE: Local 125 testimony

How is this? By the way thanks.

Have a nice evening.
Nancy

From: BOGSTAD Deborah L [mailto:deborah.l.bogstad@co.multnomah.or.us]
Sent: Wednesday, July 07, 2004 2:32 PM
To: nancy harper
Subject: RE: Local 125 testimony

Nancy, this should be addressed to the Multnomah County Board of Commissioners, then sent to me. Do you mind tweaking it and sending it again? Thank you!!

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

-----Original Message-----

From: nancy harper [mailto:nancy@IBEW125.com]
Sent: Wednesday, July 07, 2004 2:28 PM
To: BOGSTAD Deborah L
Subject: Local 125 testimony

Ms. Bogstad,

Attached please find written testimony from Bill Miller, Business Manager of IBEW Local 125, to be considered for the public hearing on the PUD proposal tomorrow.

Thank you.

Nancy Harper

RECEIVED 07.07.04

July 7, 2004

Multnomah County Board of Commissioners
501 SE Hawthorne, Suite 600
Portland, OR 97214

Dear Commissioners:

We are the 3,700 Union electrical workers who are dedicated to providing Multnomah County residents with safe, reliable power. Our Local Union is not opposed to public power nor are we opposed to people's utility districts. But, we believe that forming a new PUD in inner Southeast Portland is a worthless proposal. The proposed PUD boundary was drawn only for political purposes to try and win an election. It was not designed for the efficient, reliable delivery of electricity.

Severing the existing system at arbitrary boundaries will cost a fortune. The estimated cost to PUD ratepayers would be about 125 million dollars just to buy the electricity system and break it apart from PGE.

Oregonians understand the risks and costs of breaking up integrated electricity delivery systems — that's why Multnomah, Yamhill and Clackamas County voters overwhelmingly defeated PUD formation initiatives in November 2003, March 2004 and May 2004. These elections are costing taxpayers a lot of money and it makes no sense to revote on this issue yet again. It's unfortunate that a handful of people keeping focusing on a bad idea that voters in three counties have already strongly rejected.

We understand what it takes to bring Multnomah County residents safe, reliable electricity and effectively respond to emergencies. We believe that cutting a hole in the middle of PGE's electrical system is an idea that should be put to a halt as soon as possible.

Thank you.

Respectfully,

Bill Miller
Business Manager
IBEW Local 125

PUD HEARING SCRIPT

I. Introductory Comments:

1. I am Multnomah County Chair Diane Linn. I will be presiding over this hearing. Commissioner Lonnie Roberts is excused today. [Commissioner Roberts has a doctor appointment and will be with the Governor in Gresham this morning.]

The Commissioners present today are:

- a. Lisa Naito
- b. Serena Cruz
- c. Maria Rojo de Steffey
- d. Chair Diane Linn

This is the time set for hearing on the electors' petition to form a "Willamette Electric People's Utility District." It is the Board's duty under ORS 261.161 to hold a hearing on the boundaries described in the electors' petition for the proposed district.

It is the Board's intent that at the close of the hearing today, the Board will determine the boundaries of the district and call the election of the proposed PUD.

2. This is a quasi-judicial proceeding. All parties are entitled to an impartial hearings board. This is the time for Board members to declare any of the following:

- a. Potential or actual conflicts of interest
- b. Prejudgment or bias in this matter
- c. Ex parte contacts with Board members regarding this matter

Does any Board member wish to make any disclosures described above?

Does anyone at this hearing wish to challenge any member of the Board on any of these grounds?

Does anyone at this hearing wish to challenge this hearing on any procedural ground?

II. Hearing Record

This hearing will be recorded and all written comments or testimony received will be added to the record and considered by the Board in making its decision. The June 22, 2004 report prepared by the Oregon Office of Energy, as well as written testimony submitted to it, is already in the record. In addition, the record contains any written comment received by the Board or Board staff prior to the beginning of this hearing regarding the hearing.

III. Order of Presentation

It is the duty of the board to "determine the boundaries" of the proposed district. It is not the responsibility of the Board to determine whether publicly owned utilities are better than privately owned or whether the current service to the proposed district is good or bad. That will be a matter for the voters of the proposed district. The purpose of this hearing is to determine the boundaries. Therefore, testimony about boundaries is all we will hear today. If a speaker begins to testify about issues other than the boundaries, he or she will be stopped and asked to speak only about the proposed boundaries. The hearing will proceed this morning in the following manner:

1. Petitioners will have a total of 10 minutes to make a presentation about the boundaries proposed in the petition, including reserved rebuttal time, if requested. (At the end of the presentation, and any Board questions, the Clerk will provide time remaining for rebuttal, if requested).

2. Next, the opponents of the boundaries suggested by petitioners will have a total of 10 minutes each to make a presentation.

3. These presentations will be followed by Petitioners' Rebuttal, if time has been reserved.

4. Other members of the public who have requested time to comment about the boundaries may speak. Any member of the public wishing to speak should complete a sign-up sheet located on the table by the door and submit it to the Board Clerk.

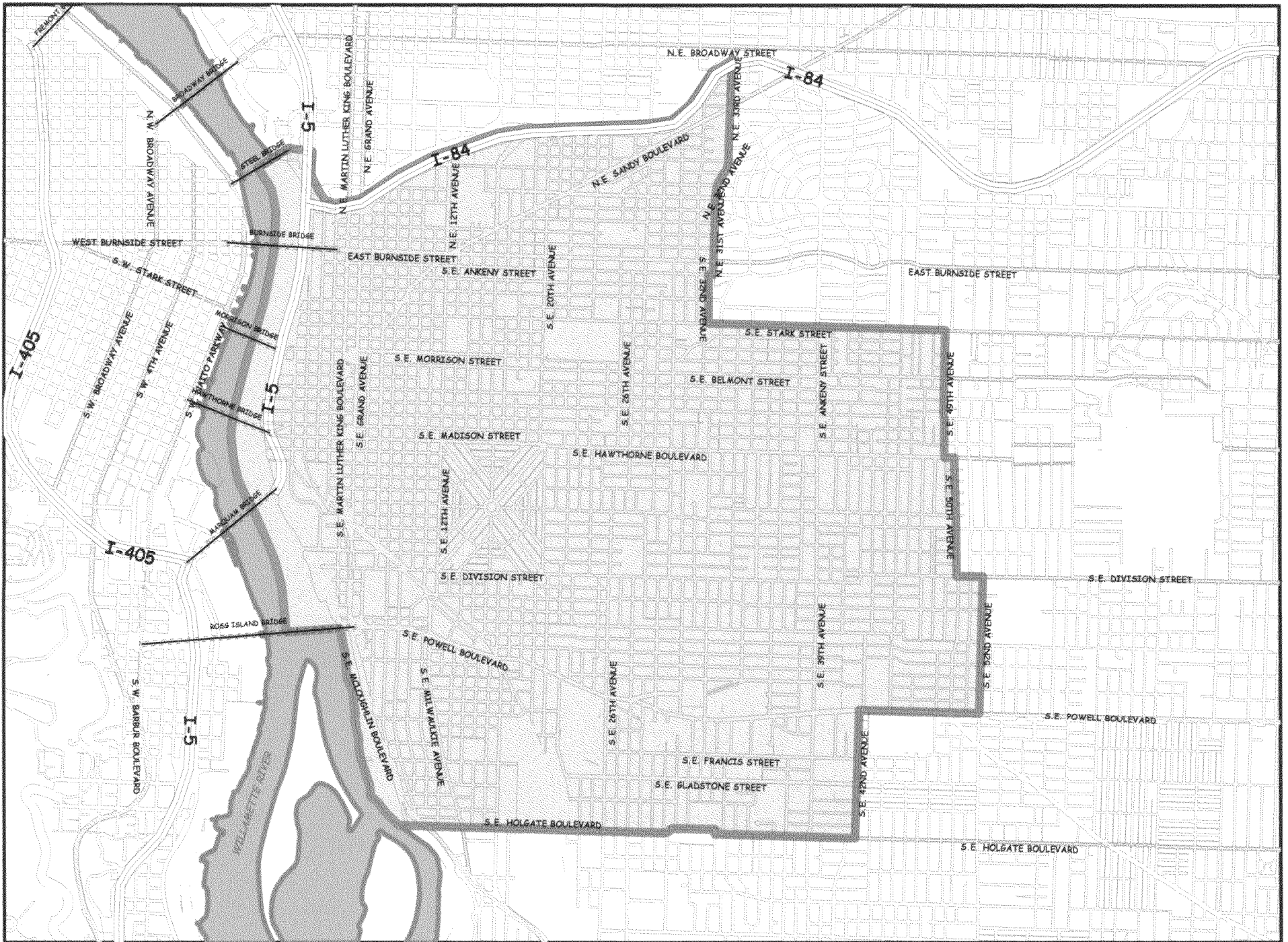
5. Public comment will be limited to 3 minutes per person. To be fair, we will be sticking to this time limit. The right to speak is an individual right and cannot be "given to" or "shared with" any other speaker.

IV. Testimony. Speakers should present testimony as follows:

1. State your name clearly for the record.
2. State your position regarding the proposed boundaries as clearly and succinctly as possible.
3. Public testimony will be limited to three minutes. Members of the public are invited to submit their testimony in writing.

During the hearing, we ask those in the audience to refrain from demonstrations in support or opposition to the hearing. We also ask that Board members, when possible, hold their questions until the end of the individual's testimony.

This hearing is concluded. Move to vote



WILLAMETTE ELECTRIC PUD BOUNDARY:



BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. _____

Determining the Boundaries for Willamette Electric People's Utility District and Calling an Election on District Formation and Related Matters

The Multnomah County Board of Commissioners Finds:

- a. On April 26, 2004, an electors' petition was filed with Multnomah County Elections Division (Elections) for formation of Willamette Electric People's Utility District (PUD).
- b. On April 27, 2004, Elections certified the petition (ORS 261.131) and sent the petition to the Office of Energy (ORS 261.151) on April 28.
- c. The petition complies with Oregon law.
- d. ORS 261.161(2) requires the Board to determine the boundaries of the proposed PUD based on the evidence at hearing and the report of the Oregon Office of Energy.
- e. A hearing on the boundaries was held on July 8, 2004, and the record was closed at the July 8 meeting. The record contains the report from the Oregon Department of Energy dated June 22, 2004, and all written communications received by the Clerk of the Board on this matter. The Board has reviewed the entire record.
- f. ORS 261.161(4) directs the Board to correct any deficiencies in the description of the boundaries of the proposed district. No evidence was presented at the hearing or is contained in the record which demonstrates that any areas are not permitted within the PUD's boundaries under ORS 261.110(6) and (7).
- g. The Board has not received any petitions for inclusion within the boundaries of the proposed PUD.
- h. The County Assessment and Taxation Division has reviewed the boundary description contained in the petition. No deficiencies in the proposed boundary description were found.
- i. If the petition complies with ORS chapter 261, the Board is required to refer the initiative to establish a PUD to the voters at the earliest practical date.
- j. Based on testimony presented by the Multnomah County Director of Elections, November 2, 2004, is the earliest practical date to submit the question of district formation and special levy to the electors within the proposed district at a special election, as required by ORS 261.171.

The Multnomah County Board of Commissioners Resolves:

1. The boundaries of the proposed Multnomah County People's Utility District shall be those presented in the petition as described in the attached Exhibit A and illustrated in the attached Exhibit B.
2. The question of whether the district should be formed, the election of district directors, and the proposal for authorization of the district to impose a one-time special levy of 6 mills per one thousand dollars of assessed valuation (equal to \$0.60 per \$100,000 of assessed valuation) shall be submitted to the voters at the November 2, 2004, election.
3. The Director of Elections shall publish the notices required by law and place the PUD proposal on the November 2, 2004, ballot.

ADOPTED this 8th day of July 2004.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Agnes Sowle, County Attorney

EXHIBIT A

Willamette Electric People's Utility District Boundaries

A portion of Multnomah County, within the City of Portland, as follows: starting at the midpoint of the Steel Bridge, south along the centerline of the Willamette River to the midpoint of the Ross Island Bridge, then east along the centerline of Ross Island Bridge to the east bank of the Willamette River, then south along the east bank of the Willamette River to a westerly extension of SE Holgate Blvd, then east along the centerline of SE Holgate Blvd (and its westerly extension) to the centerline of SE 42nd Ave, then north along the centerline of SE 42nd Ave to the centerline SE Powell Blvd, then east along the centerline of SE Powell Blvd to the centerline of SE 52nd Ave, then north along the centerline of SE 52nd Ave to the centerline of SE Division St, then west along the centerline of SE Division St to the centerline of SE 50th Ave, then north along the centerline of SE 50th Ave to the centerline of SE Hawthorne Blvd, then west along the centerline of SE Hawthorne Blvd to the centerline of SE 49th Ave, then north along the centerline of SE 49th Ave to the centerline of SE Stark St; then west along the centerline of SE Stark St to the centerline of SE 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of SE Ankeny St, then east along the centerline of SE Ankeny St to the centerline of SE 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of Interstate-84, then west along the centerline of Interstate-84 to the centerline of Interstate-5, then north along the centerline of Interstate-5 to the centerline of Lloyd Blvd, then west along the centerline of Lloyd Blvd to the centerline of NE Oregon St, then west along the centerline of NE Oregon St to the midpoint of the Steel Bridge.

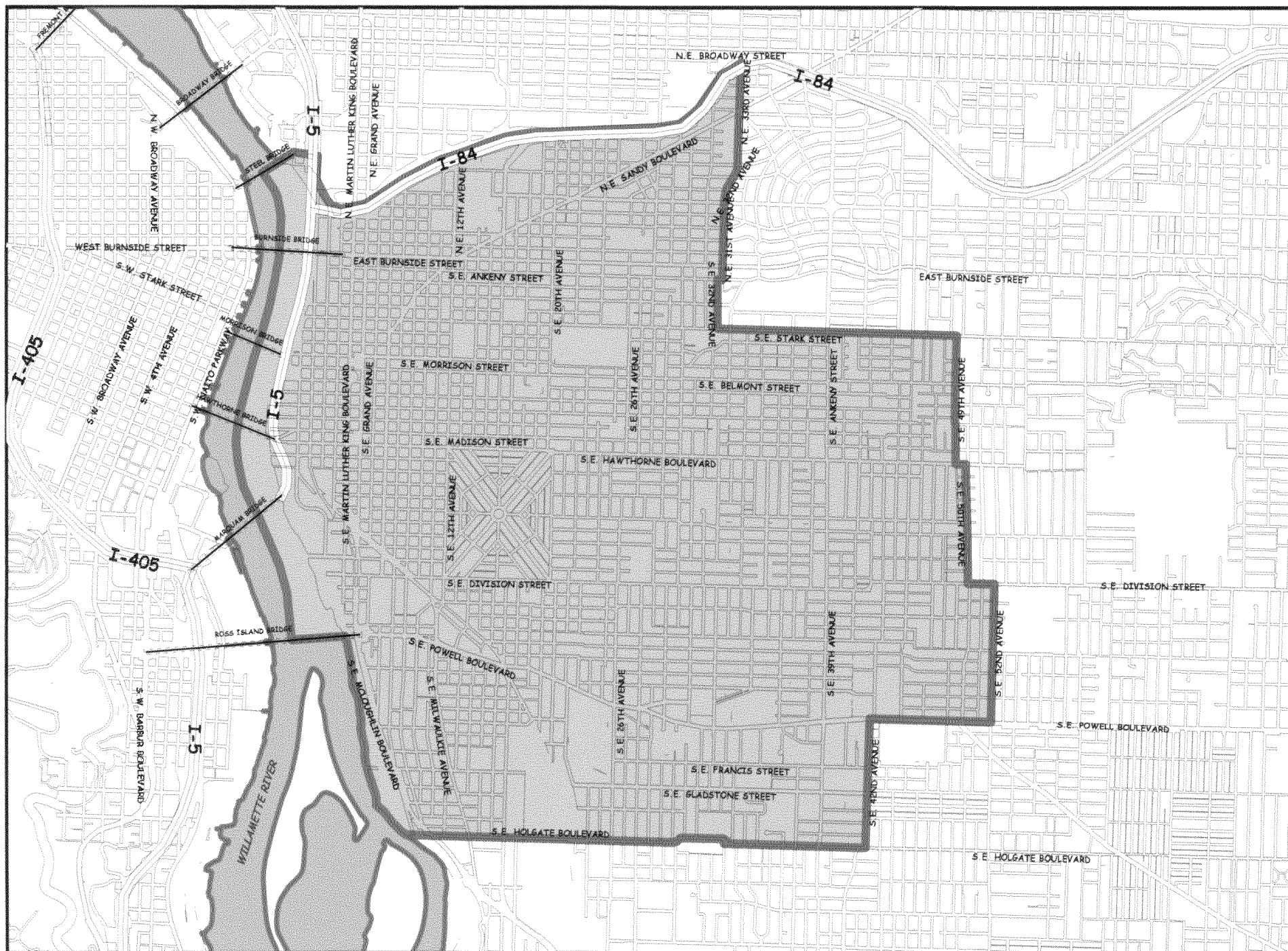


Exhibit B

WILLAMETTE ELECTRIC PUD BOUNDARY:



#1

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7/8/04

SUBJECT: WILLAMETTE ELECTRIC R/O BANDAR HEARINGS

AGENDA NUMBER OR TOPIC: _____

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: JEFF CROPP

ADDRESS: 3129 SE FRANKLIN ST.

CITY/STATE/ZIP: PORTLAND, OR 97202

PHONE: _____

DAYS: 503-235-0962

EVES: 503-752-2388

EMAIL: jepp@runbox.com

FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#2

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 07.08.04

SUBJECT: Willamette Electric People's Utility
District Boundary Hearing

AGENDA NUMBER OR TOPIC: R-5

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: STEPHEN R. HAWKE, VP, PCIE

ADDRESS: 121 SW SALMON ST. 1 WTC 0301

CITY/STATE/ZIP: PORTLAND, OR 97204

PHONE: DAYS: _____

EVES: _____

EMAIL: _____

FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: SEE ATTACHED

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1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

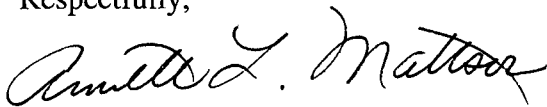
1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

July 8, 2004.

Deborah Bogstad, Board Clerk
Multnomah County Commission
501 SE Hawthorne Bl
Portland OR 97214

The attached documents are submitted to the Multnomah County Commission and Legal Counsel, for the record and for consideration of the Boundary Hearing regarding the Inner SE/NE Portland PUD.

Respectfully,

A handwritten signature in cursive script, reading "Annette L. Mattson". The signature is written in dark ink and is positioned above the printed name and address.

Annette L Mattson
Portland General Electric
121 SW Salmon St 1wtc0301
Portland OR 97204

The Availability and Cost of Power Resources
For New Public Power Utilities
Testimony before the Oregon Department of Energy
On Behalf of Portland General Electric
Hearings
Portland, Oregon June 15, 2004

By
Sam Van Vactor
And Fred Pickel

Executive Summary

- The region's surplus generating and delivery capacity has not led to lower prices, because the West is still short of **energy** – water flows on the major river drainages are below normal, natural gas prices remain high, and global demand for oil has surged, driving up petroleum product prices.
- It is fair to say that the Western power market has become hooked on natural gas. Of the 37,000 MW installed since 1999, natural gas fuels almost 96% of the total dependable electricity supply.
- Since 1995 the average on-peak wholesale price has been \$51 per MWh or 5.1¢ per kWh. Significantly, however, the standard deviation of daily prices has been \$112 per MWh, reflecting the extreme volatility of the market.
- On June 8, 2004 a buyer in the forward market could have secured 25 MW of power delivered at Mid-C during the 16 hours of peak demand 6 days per week for approximately \$48 per MWh in 2005, \$45 in 2006, and \$44 from 2007 through 2010.
- The forward price does not include transmission and shaping costs. Transmission fees are approximately \$2 to \$3 per MWh and shaping adjustments necessary to deal with the variability in load and unit outages are up to \$10 per hour.
- Forward prices, as expected future spot prices, do not necessarily reflect the long-run marginal cost of supplying adequate power to meet load because when there is surplus capacity the prices may not include a return on capital.
- Excepting the long-term development of Rocky Mountain coal facilities, PacifiCorp has calculated the cost of new resources to range from \$38 to \$44 per MWh, excluding hookup to the grid, transmission costs, and shaping expenses
- California's experts calculated the cost of new gas generation at \$77 per MWh.
- Wind is the most economic renewable resource, but it is best integrated with a hydroelectric system.
- Depending on the timing of BPA's next rate hearing and the commencement of the Willamette Electric PUD's operations there could be a window of one to five years in which ratepayers would be at risk for much higher rates.
- The small size and scope of the Willamette Electric PUD would put it at a disadvantage in procuring electricity supplies.
- In our view, the Willamette Electric PUD is unlikely to obtain delivered and shaped wholesale electric power by purchase or participation in new projects at costs much less than \$60 per MWh. And, it is possible that the cost could be much higher.

Introduction

Samuel A. Van Vactor of Economic Insight, Inc., assisted by Fred Pickel of Tabors Caramanis & Associates, has prepared this testimony. Brief resumes of our qualifications and backgrounds are included as Appendices A & B.

Portland General Electric (PGE) has asked us to provide comments on the cost of power resources that would likely be available to the Willamette Electric Peoples' Utility District (P.U.D.) if formed from a portion of the PGE service territory in Multnomah County. For a variety of reasons, we expect that these costs would be high, as compared to historic norms for the region. Moreover, the level of these costs and their impact on the new utility's rates is highly uncertain, depending to a large extent on the weather, the price and availability of natural gas, and BPA's policies.

Pricing Cycles

Energy markets are cyclical in nature, and in the extreme, the up- or down-swing may last for decades. High oil and gas prices in the 1970s and early 1980s provoked a variety of conservation programs and energy supply investments as the nation struggled to come to terms with choking energy demand growth and the depletion of its low cost resources. The era left a worldwide surplus of energy that benefited the nation and the region with low prices for a decade and a half. The California energy crisis of the summer of 2000 and the Pacific Northwest drought in 2001 signaled an abrupt end to the era of surplus and another swing in the cycle.

Table 1									
New WECC Generation Facilities by Energy Source									
Year	Un- defined	Coal	Oil	Gas	Hydro	Wind	Other Re- newable	Total	
1999		0	0	0	0	0	41	0	41
2000		0	37	0	1,966	103	54	159	2,319
2001		100	42	220	7,604	10	181	44	8,200
2002		51	54	200	9,265	170	345	12	10,097
2003		0	90	19	13,624	109	826	0	14,668
2004		0	0	0	1,785	0	0	0	1,785
1999-2004		151	223	439	34,244	392	1,447	215	37,110
Effective Energy (TWh)		0.9	1.4	2.7	210.0	1.7	1.9	1.3	219.9
Percent		0.4%	0.6%	1.2%	95.5%	0.8%	0.9%	0.6%	100.0%

Source: Energy Market Report

The California energy crisis did stimulate the development of a large number of power generating resources. As Table 1 demonstrates, since 1999 the Western Electricity Coordinating Council has installed over 37,000 MW of capacity, easily capable of generating an additional 220 TWh. The capacity figure also represents

26.4% of the total 2004 summer peak demand of 140,465 MW in WECC¹. However, some of the new generation capacity may be sited in areas far from the principal demand centers, and thus would be effectively unable to serve the demand without incurring additional charges for transmission or congestion. In a similar fashion the natural gas pipeline delivery system has been expanded, with an approximate 20% increase in capacity to California. The increase in generating capacity and gas pipelines has outstripped recent demand growth, and barring a series of drought years, the energy shortages and extremely high prices experienced in 2000 and 2001 are unlikely to reappear in the near future.

In this case, however, the surplus generating and delivery capacity has not led to lower prices. This is because the West is still short of **energy** – water flows on the major river drainages are below normal, natural gas prices remain high, and global demand for oil has surged, driving up petroleum product prices. Another aspect of the high cost of electricity is increasing dependence on natural gas-fired generation.

In the 1980s the “avoided cost” of power generating stations steadily declined, primarily because the efficiency of natural gas combustion turbine (CT) and Combined Cycle (CC) plants improved to unexpected levels. The traditional view of utility planning – base load was to be met by high-capital cost units like coal and nuclear, while peak load was met by gas turbines or hydro – eroded as the cost of generating power with natural gas tumbled and the siting of coal and nuclear plants became more costly and prolonged. No one expected the price of natural gas to rise as much as it has. And, since coal plants can take a decade to plan and develop, gas-fired generation is now the key factor in setting wholesale electricity prices.

It is fair to say that the Western power market has become hooked on natural gas. Of the 37,000 MW installed since 1999, natural gas fuels almost 96% of the total dependable electricity supply. The second greatest round of investments has been in wind power, with almost 1,500 MW of capacity installed. However the effective energy output from wind generators is only about 15% of their capacity, as compared to thermal systems, which are capable of 70% or more. Because of the growing dependence on natural gas, its availability and price has become the single most important factor determining the cost of electricity.

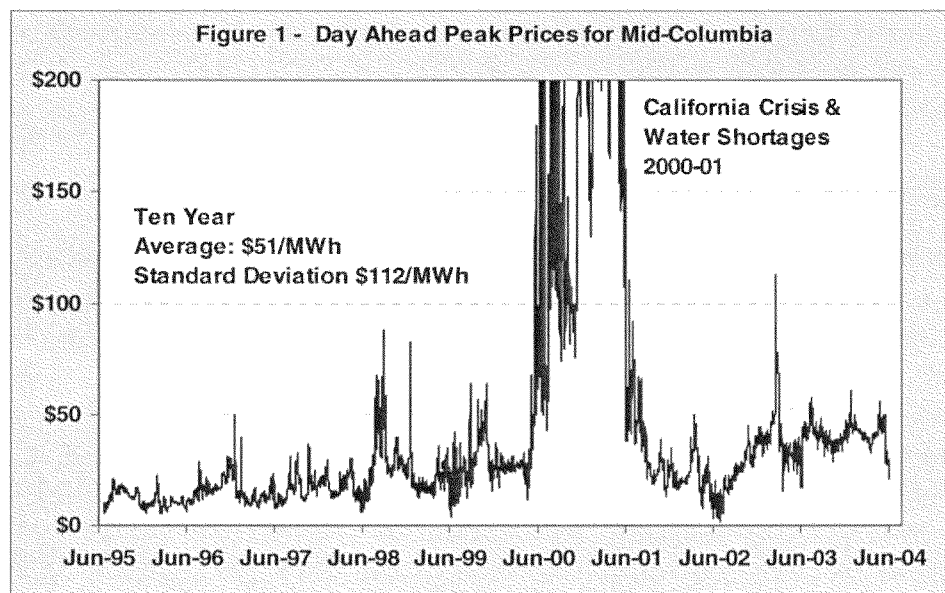
Wholesale Prices in the Pacific Northwest

The *Energy Market Report (EMR)* has been collecting data on Pacific Northwest electricity prices since 1995. Generally prices at Mid-Columbia (Mid-C) are considered representative of the region. They are usually the lowest prices in the West since they are at the center of the Columbia River’s hydroelectric production

¹ Source: Western Electricity Coordinating Council 2004 Summer Assessment.

infrastructure. Prices closer to California or at load centers west of the Cascades are normally higher, reflecting transmission rates and occasional bottlenecks.

Since 1995 the average on-peak wholesale price has been \$51 per MWh or 5.1¢ per kWh. Significantly, however, the standard deviation of daily prices has been \$112 per MWh, reflecting the extreme volatility of the market.² This period of time includes the disruptions of 2000 and 2001 that originated in California and spread to the Pacific Northwest, when in November 2000 it became evident that water availability could be substantially below normal.



Columbia River water flows during 2001 were the second worst on record and such events are not common, occurring approximately once every twenty years. The ten-year history of wholesale prices, however, also includes the 1996-99 period when snowfall was significantly above average and gas prices were low. During this period of water surplus, wholesale electricity prices were quite low. Since November 2002, daily peak prices at Mid-C have averaged \$40 per MWh, reflecting lower than average water availability and high natural gas prices.

Avoiding the Volatility

As a general rule, utilities do not attempt to procure power to meet their load from the daily spot market because prices are so volatile. A utility's rates are normally fixed well in advance and customers resist radical changes. For this reason Independent

² On-Peak periods are defined as the sixteen hours between 6:00 AM and 10:00 PM, Pacific Prevailing Time, excluding Sundays and NERC holidays. Off-peak hours are those remaining.

Power Producers (IPPs), brokers, and marketers offer longer-term fixed price contracts. These contracts vary enormously in terms and conditions: for example, volumes may vary with the season, there may be both a capacity and an energy charge, penalties may apply for over- or under-consumption, etc. Utilities use a combination of their own production, long-term contracts, and daily purchases and sales to balance loads and resources.

Although most of the details of long-term power sales contracts are proprietary, brokers make representative prices, known as forward price strips, available to the press. The *EMR* publishes such prices when they are available. The forward prices represent the broker's bid to buy power and what they are asking to sell it, the difference being the broker's margin. These quotations are for a 25 MW block of "firm" electricity, but do not include transmission, shaping for routine hourly, daily, and monthly load fluctuations, etc.

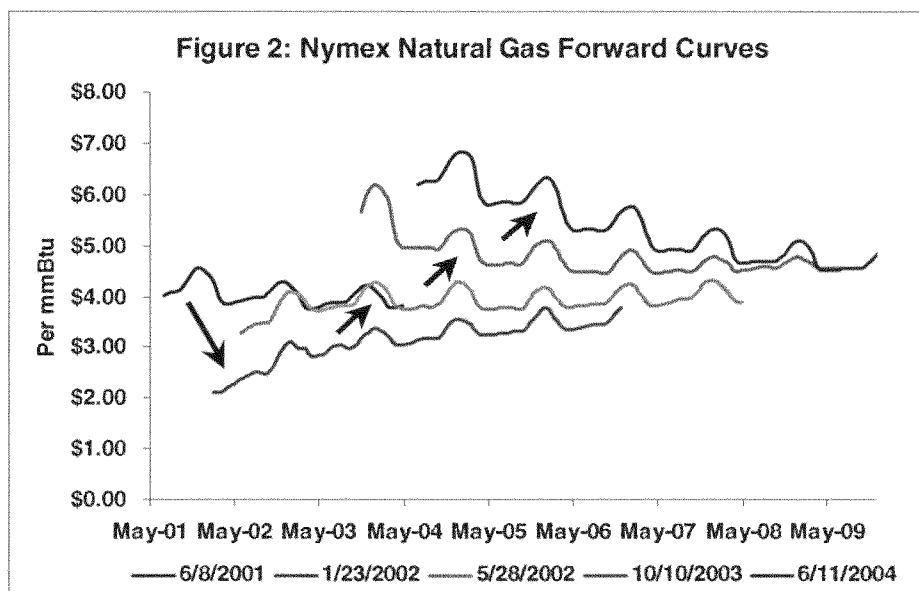
Forward quotations for Mid-C for June 8, 2004 were as follows:

Table 2
Mid-Columbia Forward Prices June 8, 2004

Delivery Date	On-Peak		Off-Peak	
	Bid	Ask	Bid	Ask
JUL 2004	46.25	47.00	39.25	40.25
AUG 2004	55.00	55.75	NA	NA
SEP 2004	54.00	55.00	NA	NA
OCT 2004	NA	NA	NA	NA
Q3 2004	51.75	52.75	43.50	44.50
Q4 2004	54.00	55.00	46.25	47.00
Q1 2005	54.00	55.00	46.50	47.50
Q2 2005	35.00	36.00	28.00	30.00
Q3 2005	NA	NA	NA	NA
Q4 2005	NA	NA	NA	NA
CAL 05	47.00	48.00	40.00	41.00
CAL 06	44.00	45.00	37.00	38.00
CAL 07	43.00	44.00	36.00	37.00
C 07-10	43.00	44.00	35.75	36.75

Source: EMR

The asking prices in Table 2 indicate that a buyer on June 8, 2004 could have secured 25 MW of power delivered at Mid-C during the 16 hours of peak demand 6 days per week for approximately \$48 per MWh in 2005, \$45 in 2006, and \$44 from 2007 through 2010. These prices are an indicator of the cost to a utility to purchase power, but for a number of reasons understate the full costs. As noted, the utility would have to wheel the power from Mid-C to its service area, paying all transmission and associated costs. In addition, these prices are reflective of small standardized purchases and sales. A large block purchase request (without identifying a new generator to supply the power) will likely drive up asking prices.



Electricity forward prices parallel those of natural gas. Over the last few years, expectations about future North American gas supplies have become more pessimistic. Not only have spot prices risen, but long-term expectations have also adjusted. According to the Nymex futures market, natural gas prices for delivery in the last three years of this decade now average around \$5.00 per million Btu. If Canadian supplies are adequate, the Pacific Northwest may continue to enjoy a small discount as compared to mid-continent prices. Nonetheless, given the heat rate and O&M of the more efficient gas-fired generators, this translates into a variable cost of around \$40 per MWh for fuel alone - non-fuel operating costs and capital recovery have to be added to this.

Transmission Costs

Electricity available at Mid-C would have to be transmitted to Portland through high-voltage transmission lines and then distributed at lower voltage to customers through the local network. Power from Mid-C would move through BPA's transmission lines to the PGE distribution system and then to the Willamette Electric PUD. The wheeling or transmission costs of this power would be \$2 to \$3 per MWh from Mid-C and \$_ through the PGE system.

Shaping

Blocks of wholesale power are just that. Prices quoted for 25 MW or larger must be shaped to the hourly loads of a retail distribution company. Some of the variation in demand is predictable. Demand during peak hours, from 6AM to 10PM Monday

through Saturday, is almost always greater than demand during the remaining period when most people are asleep. As a consequence the most commonly sold wholesale blocks are for 24 hours or broken into on-peak and off-peak hours. The general shape of demand can be predicted, but the variation of demand for specific days cannot due to unpredictable weather.

The most important factor impacting electricity demand is temperature. Demand for power in the Pacific Northwest typically peaks during the coldest days of winter, but hot days in the summer can drive up air conditioning demand too. Unfortunately, the coldest and hottest days cannot be predicted more than a few days ahead. So, a utility is required to adjust its longer-term contract purchases as events unfold. On days with mild weather, surplus power will have to be sold and on days with extreme weather the deficit will have to be covered with short-term purchases. Typically sales of surplus power on a mild day are made at a loss, i.e. day-ahead prices are below long-term contract prices. Likewise, day-ahead prices are normally quite high during the hottest and coldest days, so additional purchases are made at prices above long-term contract prices.

Shaping adds considerable cost to the forward prices cited earlier, and these costs would be particularly high for the Willamette Electric PUD for three reasons. First, the utility would be composed mainly of residential and commercial customers, whose loads are more volatile and more weighted toward the peak period than industrial customers. Second, the PUD is small, which reduces the likelihood that statistical variation will smooth out among a large number of customers – the “small-numbers problem.” Third, because the Willamette Electric PUD would be a small-scale enterprise it would be quite costly to manage market shaping with its own staff. The activity requires a trading floor that must be manned twenty-four hours per day. Most small utilities contract these services to an Aggregator or Marketer. In our experience the overall shaping costs (management fees and the net loss from buying and selling) is about \$10 per MWh. The more volatile the prices day-to-day and the greater the load swings, the higher the cost will be.

Long-Term Marginal Cost

Before turning to the long-run marginal cost of procuring power it is worth discussing briefly what forward price strips represent. Forward prices are determined by the interaction of buyers and sellers that have expectations about future spot prices, taking into account their own costs and obligations. For example, if suppliers believe future spot prices will be higher than the forward strip, supplies will be withheld to be sold in the daily market, causing forward prices to rise. There is a reciprocal relationship for some buyers: if they think future spot prices are going to be lower they postpone purchases. Forward contracts that fix price over several months or years smooth out daily spot price fluctuations and utilities with an

obligation to serve at fixed prices usually seek to minimize dependence on the spot market by purchasing most power through long-term contracts.³

Forward prices, as expected future spot prices, do not necessarily reflect the long-run marginal cost of supplying adequate power to meet load. This is a fundamental point for electricity supply planning. If there is an over-supply of generation capacity forward prices simply reflect the expected variable cost of supplying power, without a return on capital for many plants. That is a signal not to build anything new. This is probably the most likely case for the Western power market through late in the decade, since so much capacity has been added.⁴ In almost all cases, however, prices quoted will reflect the variable cost of converting gas to power, except during seasonal periods of abundant hydroelectricity. In that respect electricity forward prices for coming years decline slightly, reflecting the present decline in the natural gas forward price curve.

Forward prices are not available after 2010, where expectations ought to reflect the long-term marginal cost of new generation supplies. Twenty-year power purchase contracts are common between IPPs and utilities, because such long arrangements are necessary to obtain financing for the power construction project. It is long-run marginal costs - prices that reflect both the variable cost of generation and a reasonable return on capital - that are most relevant to the Willamette Electric PUD. Their customers are going to want to avoid the volatility of exclusive reliance on the spot market and short-term purchase contracts. And, for incremental electricity supplies, the Pacific Northwest is definitely facing a higher-cost environment.

What then represents the long-run marginal cost of electricity supply? Cost data are available on the new facilities built to serve WECC and two examples will be cited here. As noted, new generation plants built in the last five years have almost all been dependent on natural gas. The reasons for this choice are the fact that gas-fired generation can be sited and built more quickly than coal or nuclear, the plant can be depended on to meet twenty-four hours of load, the facilities can be built closer to the load, reducing the need for transmission expansion, gas has the least environmental impact of fossil fuel plants, and natural gas suppliers are perceived to be dependable if no longer cheap.

If the Willamette Electric PUD is required to contract for electricity supplies it will need to do so in hurry. Thus, some of the longer-term options are not available. The bulk of the utility's load will have to be met by gas-fired generation. Wind power and other renewable energy supplies are attractive options in the Pacific Northwest when

³ In California, regulators forced the three major investor owned utilities (IOUs) to depend almost exclusively on the spot market. This not only inhibited the development of the forward market, it removed the incentive for California to construct the generation capacity it sorely needed. This is because forward prices are also a signal to the industry to expand or contract supply capacity.

⁴ The notable exceptions would be a multi-year drought and an economy-wide growth spurt for the West.

they can be balanced with hydroelectric water inventories. Without a hydroelectric plant, however, most renewable energy sources are not sufficiently reliable to meet an urban utility's load.⁵ Renewable energy can certainly supplement supply, but that is a limited role given the present load profile.

Recently PacifiCorp applied to re-license a hydroelectric facility in the Klamath Falls area.⁶ They provided the following data on alternative energy supplies:

Table 3
Cost of Replacement Power

	Annual Cost \$Million	MWh	\$/MWh
Coal	\$21.6	697,043	\$30.99
Wind	\$26.7	697,043	\$38.30
CT	\$27.7	697,043	\$39.74
Cogen	\$31.0	697,043	\$44.47

These costs are for units PacifiCorp would construct and are for both on-peak and off-peak power. They are based on a thirty-year amortization and do not include the cost of connecting to transmission lines, wheeling, shaping costs, etc. Costs would, of course, be higher if the units had a higher than expected downtime assumed by PacifiCorp.

Contracts with a merchant plant would be higher than the costs calculated by PacifiCorp. This is because the merchant would want to recover capital in a shorter time period and because the risk of higher than planned costs could not be passed on to ratepayers. During the hearings at FERC over California's long-term contract purchases, California's expert provided a model which estimated the cost of a 215 MW Combined Cycle gas-fired generator (the most efficient model available) at \$761,000 per installed MW of capacity for capital, \$35,210 per installed MW per year for overhead and fixed O&M, and \$3.00 per MWh for variable O&M. At a heat rate of 7,000, gas prices of \$5 per million Btu would result in a variable cost of \$38.00 per MWh. The total average cost for power, including capital expenditures over the first eleven years, would be \$77.00 per MWh. Again, these calculations do not include transmission and shaping.

⁵ One notable exception might be a distributed energy of fuel cells and small generation plants, but experience to date indicates these costs would be in excess of wholesale price alternatives. Such a system would, however, require years to construct within existing urban boundaries and the costs are unknown.

⁶ Exhibit D, State of Costs and Financing, PacifiCorp, Klamath Hydroelectric Project, FERC Project No. 2082, February 2004.

BPA Power

As a public utility the proposed Willamette Electric PUD may have access to power from BPA at preference rates. The process of obtaining such power is, however, complicated and possibly risky. In the end, it may not have all the expected advantages.

First a public utility must meet BPA's "standards for service."⁷ This includes owning the distribution system, demonstrating that the utility can purchase power in wholesale amounts, and have the financial ability to pay for the power.

If the new PUD meets BPA's standards it may apply for service. The rates charged would depend on the timing and acceptance of the application. If the application were made today, it would be too late to fall within the subscription window that accompanied BPA's last rate case. Consequently: "New publics that sign contracts after the subscription window closes will be served according to the notice and rate treatment (e.g., the targeted adjustment charge during the notice period)..."⁸ BPA supplemented this policy in June 2000, stating: "New utilities that sign contracts after the Subscription window closes will be served until the next rate period at the PF-02 rate plus a TAC."⁹

TAC – the "Targeted Adjustment Charge," is calculated on the incremental cost to serve the additional load: "BPA will establish the price based on BPA's monthly to purchase the incremental load by purchases of resources at market."¹⁰ The TAC, however, cannot be less than zero. That is, the public utility would not enjoy the benefits if market prices fell below BPA rates.

There are several important qualifications to this pricing scheme. The new public utility would continue to receive "its prorated share of the power delivery or financial benefits as if it had remained an IOU residential and small farm load."¹¹ Thus, there would be some protection in the event of continuing drought and high prices. And, eventually the new utility could re-subscribe in advance of another BPA rate hearing and be entitled to the same treatment as other preference customers.

Depending on the timing of BPA's next rate hearing and the commencement of the Willamette Electric PUD's operations there could be a window of one to five years in which ratepayers would be at risk for much higher rates. The D. Hittle & Associates report on the proposed Clackamas PUD recognized the uncertainty, noting that

⁷ BPA, "Standards of Service Policy," p.3, January 13, 2000.

⁸ BPA, "1998 Subscription Policy," p. 8, December 21, 1998

⁹ BPA, "Power Subscription Guide," p. 4, June 2000.

¹⁰ BPA, "2002 Wholesale Power Rate Schedules," p. 159.

¹¹ BPA, "1998 Subscription Policy," p. 7, December 21, 1998

before the next rate case the PUD “might need to pay a rate somewhat higher than the standard preference power rate paid by BPA’s existing preference customers.”¹²

BPA policies and the market uncertainty reflect the enormous variability of Pacific Northwest hydroelectric output. When water is abundant, BPA will have the power but prices from IPPs will be good also. The reverse is also true: in low water BPA may not be able to serve the requirements of all its customers and prices will be high.

The Economies of Scale

The small size and scope of the Willamette Electric PUD would put it at a disadvantage in procuring electricity supplies. This is because most of the least-cost projects (such as those identified by PacifiCorp) involve long lead times and substantial scale of operation and construction. Large-scale participation is particularly necessary for coal-fired generation and/or Liquefied Natural Gas (LNG) facilities, either of which, if successful, could have a significant impact on lowering cost.

Conclusion

In the Great Depression of the 1930s a New York Times reporter went, as usual, to get his shoes shined from an old immigrant that had been at the same spot for decades. Aware of Wall Street’s unusual climate of pessimism and self-doubt, the Reporter sought the opinion of a more objective observer. He asked: “You have been shining shoes in America for over a quarter of century; what have you learned in all that time?” The immigrant replied: “I have learned that there is no such thing as a free lunch.” And so, economists have passed down this famous quote from generation to generation, and it is our sad task to offer the same advice again and again.

In contrast to assertions made by numerous public power advocates (including the D Hittle & Associates report), the cost of new electricity supplies in the Pacific Northwest has essentially doubled, as compared to the costs observed in the 1990s. Unfortunately, we don’t expect this cycle to end soon, barring major technological breakthroughs in the discovery and development of natural gas. There has been under-investment in energy supply projects all over the world and it will take time to realign demand and supply. In our view, the Willamette Electric PUD is unlikely to obtain wholesale delivered and shaped electric power by purchase or participation in new projects at costs much less than \$60 per MWh. At that level of wholesale cost, ratepayers in the new utility would see little or no difference from PGE rates and the PUD’s rates could be higher.

¹² D. Hittle & Associates, “Preliminary Feasibility Study Clackamas People’s Utility District Electric Facilities Acquisition and Establishment of New Electric Utility,” p. 6.

If the Willamette Electric PUD decides to obtain power from BPA, which is almost certainly its best option, its ratepayers will face several years of high-level risk. Another year of drought would not only increase wholesale prices in the region and raise the incremental rates charged the new utility, it would intensify competition for BPA power. Where Willamette Electric PUD would be placed in the queue for preference power at favorable rates is anybody's guess. It will be up to voters to decide if they want to take the risk.

Feasibility of Inner Southeast/Northeast Portland PUD Key Issues

Many considerations are relevant to the feasibility of forming a PUD incorporating parts of the existing Portland General Electric Company. The key issues include the following:

1. Power Supply. Will the new utility have ownership of, or access to, adequate, reliable sources of low cost power to meet the needs of its customers? These needs include energy (megawatt hours) and peak needs (megawatts). Each of the following considerations are important.
 - a. Utility resources versus market purchases- It is highly desirable for a utility to own or have long term entitlements to resources sufficient to meet the majority of its expected future loads. Market volatility of recent years has underscored the importance of maintaining a modest exposure to the short term marketplace, both to moderate the impact of changing market conditions on customers, and assure adequate supply when times are tight.
 - b. Diversity of resources and fuel- It is highly desirable for a utility to have a mix of resource types and fuel supply. A balanced portfolio of hydro power, coal, gas, oil, long term and short term purchases minimizes risk.
 - c. Access to low cost Federal Power- A new PUD cannot safely assume its needs will be met by power supplied by BPA. For a number of years BPA has wrestled with the difficult issue of supply to newly formed public agencies. The reduction of capability of the Federal Columbia River Power System due to actions necessary for salmon recovery has compounded this problem, in effect, resulting in a smaller pie to be divided among current customers, let alone new ones. Firm commitments in advance would be prudent if a newly formed PUD is counting on the availability of Federal power as part or all of its power supply portfolio.
 - d. Access to transmission- All utilities, except those with contracts with others to supply full net requirements, need access to transmission. Utilities dependent on market purchases to meet substantial portions of their needs must pay particular attention to this issue. Ownership of transmission, or firm transmission rights to trading hubs such as the mid-Columbia area, the California-Oregon border, and eastern Montana generating plants is extremely beneficial.
2. Access to Financing. Will the new utility have adequate access to capital? The distribution, transmission, and generation parts of the utility business are all capital intensive. Replacements, system expansion, and improvements in technology and efficiency all require capital investments.

3. Retention and Recruitment of Employees. Will the new utility be able to retain and attract the necessary skilled workforce? The utility business is labor intensive, requiring highly skilled employees, with a competent and experienced management team. This is a particularly critical issue for a small utility with uncertain future power supply. Arranging for power supply and necessary transmission service is highly complex, risky, and demanding of very specialized expertise.
4. Collaboration. Will the creation of the new utility be collaborative, or adversarial? Creation of a new publicly-owned utility from an investor-owned utility is most feasible if the process is a willing buyer/willing seller one. A complex, adversarial process can lead to the outcome recently experienced in Las Cruces, New Mexico; years and years of contention and litigation with no tangible results.
5. Few Loose Ends. Will the creation of the PUD define a clear, successful, future plan for PGE's impacted customers and service territory? Less than a comprehensive resolution of these matters will lead to many future problems. This PUD proposal is particularly troublesome in this regard since boundaries have not been chosen with any consideration of the technical feasibility of the proposed utility. This creates significant risk of future reliability problems, transmission issues, duplication of facilities, and other contentious issues.

Walter E. Pollock
June 14, 2004



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OOE Technical Testimony

Willamette Electric PUD Feasibility

James Litchfield
President, Litchfield Consulting Group, Inc.
June 17, 2004

Introduction

My name is James W. Litchfield. I am the President of Litchfield Consulting Group, Inc. (LCG) based in Portland, Oregon. My business address is 101 SW Main Street, Suite 900, Portland, OR 97204 and my phone number is 503-222-9480. LCG provides consulting services concerning energy and salmon recovery issues for clients including public and private utilities, independent power producers, industrial customers, regulatory agencies and regional planning commissions. A copy of my resume is attached.

Issues Address in this Testimony

In this testimony I will address the following issues:

- **Background and History of the Electric Power Industry**
- **Joint Customer Proposal for the Future Role of BPA in the Region**
- **The Northwest Power Planning Council's Recommendations on BPA's role**
- **Assessment of the Risks in forming a Willamette Electric PUD.**

Background and History of the Electric Power Industry

About 100 years ago, individual industrial companies began producing electric power for consumption on site. Electric power was first produced by generation plants operated by

the local industrial host but small isolated electric power systems soon evolved to serve residential and other business needs in the surrounding towns. Because of the cleanliness of electric energy and the ease of transmitting and controlling the application of energy at the point of consumption, electric power was rapidly adopted as a preferred energy form. Today, electric energy is the fuel of choice for lighting and motive power and it competes with most energy forms in providing other energy services.

The electric power industry requires large capital investments to construct the infrastructure needed to generate, transmit and deliver electric power. This capital intensity created natural monopolies because it is economically inefficient to duplicate electric power systems that would allow more than one company to serve a single customer.

The physics of generating and transmitting electric power motivate a vertically integrated industrial structure because electric generation must be constantly in balance with the amount of load on the system. Utilities developed vertically integrated systems with a single entity controlling generation, transmission and distribution to provide the real-time control necessary to assure reliable electric service. The combination of capital intensity and a vertically integrated industrial structure provided the necessary ingredients for the development of natural monopolies.

By the 1930s, abuses with the economic power of monopoly electric utilities caused both investors and consumers to call for increased regulation. The public policy response at that time was to create state regulatory commissions to oversee and control investor owned electric utilities by setting the electricity rates the utility could charge its customers. Territorial protections were also provided to utilities in exchange for the utility accepting an obligation to serve the needs of all customers within its territory. Power rates were set by the public utility commissions (PUCs) at levels that would recover the utility's prudently incurred costs plus a reasonable rate of return on the utility's capital investment.

The creation of regulated monopolies served to limit the investment risks thus encouraging investors to make the large capital investments needed to build what is now a national electric power system. While a large portion of the nation's electric power system was developed by private, investor owned utilities an alternative economic and regulatory framework was also introduced based on publicly owned utilities (publics). Publics were designed around several alternative governmental structures. Municipal utilities are based on the local city government, public utility districts (PUDs) are usually based on county government, cooperatives are non-profit organizations with consumer membership and federal agencies such as BPA were formed as power marketing agencies (PMA) of the federal government.

Publics are usually regulated by the local governing boards which are often elected by the voters in the community served by the utility. This provides a degree of self regulation because consumers that are unhappy with the service or prices provided by their local utility can, and do, vote to change the board. The federal agencies are governed by Presidential appointments of their Boards or Administrators and regulated by FERC and Congress through laws and policies that affect PMA operations.

While the regulatory framework was different for many of the public utilities the operational requirements and economic results were similar. Both public and private utilities had prescribed service territories with the obligation to serve the needs of all customers in their area. All costs of providing electric energy services would be passed on to the utility's customers through the power rates established by the utility's governing board or regulatory commission. Consumers had little choice but to pay the rates required to recover the utility's costs with the exception of costs not allowed by regulators. Utility costs that are found to be imprudent by a regulatory commission are shifted to shareholders by not including them in the allowable rates that can be charged by privately owned utilities. For public utilities there are no shareholders to bear the costs of imprudent investments and all of their costs must be recovered from the rates they charge their customers.

For most of the last century electric power rates declined in real terms. This was due to dramatic cost reductions caused by improvements in the economies of scale of generating, transmitting and distributing electric power. Load growth allowed the development of larger power plants and a high-voltage transmission grid. This allowed the development of larger integrated power systems that were more efficient than the smaller systems that cannot support the necessary infrastructure development costs. Growth in electric power usage also allowed the high fixed costs of developing generation, transmission and distribution systems to be amortized over more units of power sales which reduced the unit cost of electricity. In addition the efficiency gains, the interconnection of utility systems allowed significant reductions in the amount of generating reserves that were necessary to maintain adequate system reliability. These factors were largely responsible for the steady decline in the real price of electricity from 1890 until 1970.

In the late 1930's the federal government chose to enter the electric power production business to further economic development in the Northwest by constructing federal dams for the purposes of navigation, flood control, irrigation, recreation, fish, wildlife, municipal and industrial water supply and power generation. Beginning with the passage of the Bonneville Project Act, August 20, 1937, the federal government began development of the nation's largest hydro based power system on the Columbia River and its tributaries. The BPA Administrator was directed by the Project Act to build the transmission necessary to market the surplus power produced by federal dams with the goal of encouraging the widest possible use of electric power in the region.

The Administrators primary mission was to allocate the output of the federal projects to regional utilities for resale to customers in the region and later to Direct Service Industrial (DSI) customers. DSIs are primarily large aluminum smelters that utilize large amounts of electric power to produce aluminum. Utility and DSI customers that agreed to accept power from BPA would agree to purchase that power and the necessary transmission services at the full cost to BPA of generating and transmitting this power. BPA was to provide priority access to purchase federal power to public utilities. This is called "public preference".

The Northwest Power Act

Prior to the NW Power Act of 1980, there was no obligation for the Administrator to meet the needs of any of the region's utilities. BPA's role was to market the power from the federal system at a price that recovered its costs. If utilities or DSIs required more power than the federal system could generate the Administrator had no obligation to provide it. The Administrator's obligations to deliver power to its customers were limited to the amount of power the federal system could actually produce and the price was set to recover all of BPA's costs.

In the 1970s the cost of BPA's power was from 0.3 to 0.7 cents/kWh. Because the price of BPA power was so far below the cost of alternatives, the demand for BPA power began to exceed the generation capability of the federal system. Regional loads were growing quickly at nearly a seven percent annual rate of growth and the need for new generating resources far exceeded the ability of the utilities to finance and construct the needed resources. BPA was forced to reduce the sale of federal power to private utilities in response to the increasing demands of Bonneville's "preference" customers, the public utilities, and its industrial customers the DSIs. This forced the private utilities to develop new more expensive generation to substitute for relying on low cost federal power.

Even with the private utilities developing their own generation resources the growth in public power loads along with the DSI loads was more than BPA could continue to meet. There were efforts to expand the size of the federal generating system through "net billing" the costs of developing Washington Public Power Supply System (WPPSS) plants. While net billing was "successful" as a financial strategy for WPPSS Nuclear Plants, WNP 1, WNP 2 & seventy percent of WNP 3 the net billing strategy was limited by the Internal Revenue Service (IRS) due to issues surrounding WPPSS's tax exempt bonding authority. The result was that beyond the first three nuclear plants, the amount of federal generation was again constrained and forecast to be less than the amount of power needed by BPA's public and DSI customers during the 1980s. This led BPA to issue a

“notice of insufficiency” in 1976 that informed the public utilities and DSIs that BPA could not meet their future needs for electric power and that the public utilities would have to make other arrangements to serve the needs of their customers and that the DSIs might be cut off from federal power because of the demands of preference public utilities. The perceived shortage of federal power to meet the needs of the public utilities led 88 of the publics to attempt to develop two more nuclear power plants, WNP 4 & 5 without backing from BPA. These plants were not completed and their economic collapse led to a \$2.25 billion municipal bond default by the public utilities that sponsored the development of WNP 4 & 5.

BPA’s notice of insufficiency was one of the primary motivators for the region’s utilities to seek Congressional legislation that obligated the Administrator to meet the needs of regional utilities and DSIs. This resulted in the NW Power Act, 1980 (Act) that authorized BPA to acquire new generating and conservation resources to meet its obligations under new power sales contracts it was directed to offer by the Act.

The Act established a new role for BPA by imposing a statutory obligation to offer power sales contracts that would meet the requirements¹ of BPA’s customers in exchange for agreeing to pay BPA’s costs. The Act directed BPA to establish cost based rates that would recover the costs of the federal power system plus any new resources acquired by BPA to meet the load growth of its customers. For the first time in BPA’s history, the Act obligated BPA to offer “requirements” contracts and the Administrator was authorize to acquire the output of new conservation and generation resources to meet BPA’s contractual obligations under these contracts. The Act defined the scope of BPA’s obligations to include all public and private utilities and DSIs in the region. BPA’s customers had the right, under the Act and BPA’s power sales contracts, to determine how much of their loads they wanted to place on BPA and even the flexibility to remove loads from BPA if they so chose.

Two different approaches were used to provide external regulatory oversight of BPA's activities. The Act established a regional planning body, the NW Power Planning Council², to develop long term (20 year) region wide electric power plans. The Act conditioned BPA's resource acquisition authority by requiring a finding of consistency with the Council's plan before BPA could acquire the output of a major resource of more than 50 MW for longer than 5 years.

The Act delegated regulatory oversight of BPA's rates to FERC. However, the standards for FERC's regulatory review of BPA's rates are significantly different than those used by Public Utility Commissions. FERC's primary regulatory responsibility was to ensure that BPA's rates were set high enough to recovery its costs and assure repayment of the federal debt owed the US Treasury³.

The Introduction of Competition

Since the passage of the Act in 1980 there has been a policy shift in the nation to encourage competitive power markets. Beginning with the passage of Public Utility Regulatory Purposes Act (PURPA) in the late 1970s the door to competition in electric power generation was opened. PURPA was designed to encourage non-utility development of co-generation and renewable resources that would compete with conventional utility generation. To encourage independent power plants to be developed, PURPA required private utilities to post estimates of its "avoided costs" based on the predicted cost of the resource the utility planned to build in the future. New resources that met PURPA requirements could be developed by independent power producers (IPPs) and the utility was ordered to purchase IPP output at the utility's posted avoided cost. The

¹ A requirements contract is used to obligate a supplier of power to meet the load growth of the purchasing utility. Requirements contracts place the obligation to acquire sufficient power to meet the needs of the purchaser on the seller.

² The Council is now known as the "Northwest Power and Conservation Council".

³ BPA's rates are required to recover all of BPA's costs. This is precisely why BPA included cost recovery adjustment clauses in its current 5 year base rates to allow for rate increases if costs increased more rapidly than BPA assumed in its ratecase. PUCs establish private utility rates to recover the prudently incurred costs plus a regulated rate of return on the utility's investments. PUCs are responsible for ensuring that private utility management, operations and resource decisions are in the best interest of the

initial start of competition in the electric power industry was significantly expanded by the Energy Policy Act, 1992 and the subsequent FERC Orders 888 and 889 in 1996.

There have been several significant changes in the electric power industry with the policy efforts to introduce competition by Congress and FERC. First, transmission system owners are required to provide open, non-discriminatory access to all buyers and sellers of electric power wishing to use the transmission system. This open access encouraged owners of generation to compete to serve loads throughout the interconnected power grid that spans the Western U. S. and the two Western Canadian Provinces. This resulted in the formation of regional power markets to provide centralized points for power transactions and to provide market information and price discovery for all market participants. In the region the relevant power market is called Mid-C because it is located in central Washington in the area served by the Mid-Columbia PUDs.

The advent of a competitive wholesale power market and open access transmission policies made it possible for all regional utilities, both public and private, to buy power from independent power producers and other utilities with surplus power to sell. This created a vibrant and low cost regional power market for most of the 1990s. Many public utilities sought to diversify their power purchases from BPA during this time because the prevailing competitive market price was lower than BPA's power rates which were in the low \$20s per MW-hr. This created a financial crisis at BPA because as customers left, the prices BPA could get in the competitive market for the freed up surplus power were less than BPA's cost to generate it. This forced BPA to either raise rates to those customers that chose to stay or to seek new sources of revenues outside the region. BPA did both.

The low market prices of the 1990s abruptly ended in the summer of 2000 when a west coast power crisis began. The Council referred to the power crisis as the "perfect storm" because of the similarities to the movie by that name. The Council found that there were fundamental supply-demand drivers that initially caused market prices to spiral out of

utility's customers. In this way PUCs often decide on the appropriate rate of return on the utility's investments and the assignment of responsibility to shareholders for imprudently incurred costs.

control. In fact, more than a year before the crisis hit, the Council sounded the warning that system reliability was at risk if the region were to experience a low water year. However, as we now know the dysfunctional power market had lots of help thanks to California's failed attempt to "deregulate" its power industry. Market manipulation by certain market players and to regulatory failures by state and federal regulatory agencies clearly accentuated the crisis.

To make matters even worse, BPA was in the process of trying to conclude negotiations for new 5 to 10 year power sales contracts with its customers. This process was called "subscription" because these contracts would determine BPA's obligations to serve public agency and DSI loads. In addition, BPA had to resolve the benefits that they would provide residential and small farm customers of private utilities under the Act. The end result of the subscription process was that BPA ended up with load service obligations that exceeded its generation capability by more than 3000 average megawatts. The huge hole in BPA's power supply portfolio forced the agency to try to balance its electrical generation with its load obligations at exactly the worst time when the competitive power market was most super-heated. BPA undertook a strategy to both buy power from other suppliers and to pay its customer to reduce their demands for BPA power. The extreme costs of this strategy created significant financial impacts on BPA's rates which are still being felt. An important driver that caused part of the spectacularly high market prices was the general knowledge of BPA's extremely short power supply position.

Joint Customer Proposal for the Future Role of BPA in the Region

One result of the power crisis was to bring the public and private utilities together to negotiate a more stable and predictable role for BPA in the future. This stimulated discussions that developed what is called the "Joint Customer Proposal" because it involved virtually all the public and private utilities in the region.

The Joint Customer Proposal (JCP) was an extensive negotiation that took more than two years. A broad coalition of the region's utilities negotiated the JCP agreement and presented it to the region in the summer and fall of 2002. The JCP utilities include municipal utilities, PUDs, investor-owned utilities, and cooperatives that collectively serve virtually all of the region's retail electric consumers. The goals of the JCP effort were:

1. To create a common interest between BPA's regional preference utility and investor owned utility customers by allocating to such customers equitable, secure and long-term benefits of the Federal base system (FBS).
2. To expose all BPA's customers to the same risks and benefits of changes to the costs and output of the FBS.
3. To reduce BPA's presence in the wholesale power market as a buyer and seller of power.
4. To enhance the ability of BPA to make its Treasury payments in full and on time across a broad range of possible futures.
5. To allocate the costs of procuring power for future load growth to the serving utility.
6. To reduce BPA's need to augment the FBS and its reliance on market revenues from the sale of secondary energy by shifting to utilities, through expanded use of the Slice product, the obligation to procure resources to serve their load growth and the marketing of secondary energy.
7. To settle outstanding litigation in a manner that is fair to all parties, and that avoids future litigation over the allocation of FBS benefits.
8. To implement the foregoing consistent with existing statutes, without federal legislation.

The energy crisis of 2000-2001 brought home to the Northwest the urgent need to secure a stable, affordable energy supply for the region. During the energy crisis, a drought in the region drastically cut hydroelectric production. In response, BPA was forced to spend hundreds of millions of dollars acquiring power in a dysfunctional wholesale power

market in order to meet the needs of its utility customers. This resulted in an initial BPA rate increase of 46 percent which has since risen to 49 percent.

The utilities negotiating the JCP knew that they could not prevent future droughts, but they sought to put local utilities in a better position to protect their consumers in the event of such a crisis. Currently, when BPA must pay high prices in the wholesale market, it blends those costs into the price of all the power it sells. This causes all of BPA's utility customers to pay a substantially higher price for all of the power that they buy from BPA. In turn, this forces most of BPA's utility customers to impose substantial rate increases on the region's consumers.

The JCP envisioned a better way to manage power supply problems by allocating the available low cost federal power⁴ among the region's existing utilities, undiluted by the high cost of BPA's market purchases. With a portion of the Federal system as a solid, affordable foundation, utilities can then decide how best to meet the remainder of their consumers' load, now and into the future.

The JCP approach was designed to enhance competition in the Western wholesale power market. Currently, BPA is such a large market participant that its purchases and sales cause substantial price movements. Wholesale prices climb on news that BPA is about to purchase power (as it did during the energy crisis), and drop on news that BPA is about to sell as routinely happens during a wet spring when there is excess hydropower available on the federal system.

These swings distort the market by sending volatile price signals to both sellers and buyers. When prices are very high, even the most inefficient generation facility in the region is economic to run, while in times of very low prices, even the most efficient generation facility is uneconomic to run. By reducing BPA's "footprint" in that market, in favor of diversified actions by smaller participants, the swings would be moderated and

the price signals would more accurately reflect the costs of the most efficient generation facilities needed to meet regional needs.

The JCP was negotiated to settle pending litigation regarding BPA's Subscription power sales contracts.⁵ The region's federal hydropower resources are finite and can only be put to the highest and best use if BPA's future obligations are limited and clear. The JCP achieves this clarity by allocating the benefits of the Federal system among the region's existing utilities.

The JCP envisioned that BPA would offer 20-year contracts to the region's utilities, beginning in 2006.⁶ Three types of contracts would be offered: (a) a "slice" contract; (b) a "requirements" contract; and (c) a contract that provides financial benefits to the residential and small farm customers of investor-owned utilities.

A slice contract provides that the utility pays a fixed percentage of BPA's generation costs in exchange for a power supply equal to the same fixed percentage of the electrical output of the Federal system. For example, a contract for three percent of the electrical output of the Federal system would also pay for three percent of the Federal system costs. The utility would procure any additional power it needs to meet the obligations of its consumers.

A requirements contract is intended for those existing public utilities that want BPA to continue to be responsible for providing the resources needed to meet their loads. BPA has traditionally provided this service to many of the smaller preference utilities in the region,

⁴ The Federal system consists of the electricity produced by the federally-owned hydroelectric dams on the Columbia and Snake River systems, as well as the output of Energy Northwest's Columbia Generating Station (formerly known as WPPSS Plant No. 2).

⁵ Subscription was the regional public process that BPA conducted in 1999-2000 to formulate, negotiate, and execute power sales contracts with its utility customers, to replace the BPA power sales contracts that expired on September 30, 2001. Upon the conclusion of the Subscription process, lawsuits were filed in the Ninth Circuit Court of Appeals challenging the legality of BPA's investor-owned utility and slice power sales contracts. These lawsuits are still pending.

⁶ In 2006, some of the Subscription power sales contracts between BPA and the region's utilities expire; others expire in 2011. Utilities with contracts expiring in 2011 will be able to stay under those contracts until expiration.

and would continue to do so under this proposal, but on one important condition: that the utility agrees to pay a rate that reflects all of the costs BPA incurs to provide such service.

Those utilities choosing a slice contract and those choosing a requirements contracts would become responsible for the costs of serving their load growth, either because they are procuring additional electricity on their own, or because they are paying BPA the full cost of procuring additional electricity on their behalf. This means that both groups of utilities would have a strong incentive to invest in conservation and renewable resources to avoid higher cost new resources provided by competitive power markets.

Finally, a contract providing financial benefits would be available only to investor-owned utilities, solely for the benefit of their residential and small farm customers. This type of contract would provide the Residential Exchange benefits in the Act, and compensate residential customers of private utilities for the statutory obligations BPA has to those customers under the Act. The financial benefits BPA pays to residential and small farm customers of private utilities will reflect the value of actual power purchased from BPA by preference customers. In this way the JCP was designed to align the interests of the public and private utilities.

Service to New Preference Utilities

The JCP included recommendations in the event that a new preference utility is formed in the future. BPA's current public agency customers recommend that new public agencies would be able to receive service from BPA on a first-come first-served basis as they are formed. However, only the cost of the first 75 average MW of service for new public agencies would be treated as a system cost, borne by all of BPA's customers. Any additional power above the 75 average MW needed by new preference utilities would be priced at the full cost incurred by BPA to procure such power. The purpose of this provision was to limit the risk to existing preference utilities that BPA would have to purchase large amounts of power for a new public agency at market prices far above the embedded costs of federal power. This could lead to rate increases for all of BPA's

customers and was judged to be an unacceptable risk that would limit the ability of current customers to contract with BPA for long-term service.

The Northwest Power Planning Council's Recommendations on BPA's role

Following the preparation of the JCP, the Council and BPA conducted a “regional dialog” with hearings during the fall of 2002 throughout the region. The purpose of this dialog was to receive input from other parties on what should be BPA's future role in providing power to utilities and DSI's in the region. In general the Council's recommendations to BPA on their future role were very consistent with the recommendations included in the JCP and were reflective of the broad base of public input received in the formal hearings and through the vast amount of written comments sent into the Council and BPA.

The Council identified a set of current problems that threaten the benefits of the Federal Columbia River Power System. The Council described these problems as resulting from inconsistencies between Bonneville's statutory obligations and the realities of the evolving and increasingly competitive electricity system. The problems identified by the Council include:

- Periodic lack of clarity regarding load-serving responsibility.
- Lack of clear economic signals to many parties in the region regarding the true costs of new power supplies and the value of alternatives.
- Exposure of Bonneville to volatile electricity market risks resulting from the periodic ability of customers to place load on or take load off of Bonneville.
- A perception of inequality in the distribution of the benefits of the federal power system within the region.
- The financial risk to the U.S. Treasury and the resulting political risk to the long-term interests of the region if at some time, Bonneville is unable to absorb the risks of uncertain loads, a highly variable hydroelectric system and a potentially volatile wholesale market.

These observations were first addressed in the Comprehensive Review of the Northwest Energy System, which was chartered by the region's governors and concluded in December 1996. The Council's most recent recommendations on the future role for BPA were sent to BPA on May 17, 2004⁷.

The Council's recommendations to BPA continue to validated the work done by the public and private utilities and their recommendations in the JCP. While there are recommendations on a variety of important issues the key consensus that exists in the region is that BPA should not grow the system to meet the obligations of all utilities. This vision is fundamentally different than that of the NW Power Act and was not reached quickly or without a great deal of thought and debate.

The consequences of BPA shouldering the risk of new resource acquisition, is currently being demonstrated by the financial crisis griping the agency. BPA is currently implementing what are called the "Load Based", "Financial Based" and "Safety Net" cost recovery adjustment clauses (LB-CRAC, FN- CRAC and SN-CRAC). One of the key drivers for the need to increase BPA's rates to historically unprecedented levels is the obligation to serve loads placed on it by utilities that exceeded the federal system's capability by more than 3000 average megawatts. There now a regional consensus that BPA should return to its historic role of marketing the output of the federal dams and Energy Northwest and **NO MORE!**

Risk Assessment for Proposal to form a Willamette Electric PUD.

There has never been a more volatile or uncertain time in the history of the electric power industry. The changes that have occurred with national energy policy have caused a fundamental rethinking of the roles of electric utilities. In response to the changes driving the restructuring of the industry there has been a mixture of national and state regulatory

⁷ The Council's recommendations can be found at: <http://www.nwcouncil.org/library/2002/2002-19.pdf> and more recently at: <http://www.nwcouncil.org/library/2004/2004-5.pdf>

changes that further complicate the strategic direction for both public and private utilities. These fundamental policy changes are far from finished and significant debates over the basic approach continues between the states and the federal government. There will continue to be policy shifts driven by the real world problems seen during the economic fallout of the power crisis and in response to the policy directions that will be established by Congress should a new energy bill emerge in the future.

There are lessons from the failed attempts in California that should be heeded as we evaluate the possible risks of forming a PUD in northeast-southeast Portland. California's restructuring strategy was driven by the belief that in order for competitive power markets to work it would be necessary to break up the market power of vertically integrated utilities. The California legislature achieved this by separating the generation, transmission and distribution functions of the largest utilities in the state. This broke the historic connection between the owners of generation and the obligation to serve the utility's loads. Most of the generating resources that were owned by load-serving utilities were sold to independent power companies and the transmission systems were sold to a new transmission-only organization called the California Independent System Operator (ISO). The goal was for distribution utilities to not own generation and therefore need to purchase all the power their customers needed from the competitive market. The generators would sell their generation into the market and the California ISO would match generation with loads. The competitive power market was to clear at the cost of the highest cost generator needed to serve the loads on each hour and that would be the price paid by all customers.

We all know what happened when the crisis hit. The utilities were without generation to meet their loads. Even worse, the prices shot up in the market and the only way to meet load was to pay the prices demanded by a dysfunctional market that was subject to manipulation. All utility customers were exposed to the full volatility and tremendous uncertainty of having loads that were not covered by generation resources or long-term contracts. The failure of the California PUC to allow the high costs of purchased power to

be included in rates forced Pacific Gas and Electric to declare bankruptcy with Southern California Edison narrowly missing this same fate.

The situation in California has some striking similarities to what is likely to happen if the Willamette Electric PUD is formed. The first step of forming the PUD would create a distribution utility without the necessary generation to meet the needs of its customers. This is precisely the structural condition in California as the state broke up the utilities and formed distribution utilities without any generation to meet the needs of the customers. Like the utilities that were forced to sell their generation in California the PUD would have to secure the generation need to meet the needs of the customers in the neighborhood.

Power to meet the needs of customers of Willamette PUD is most readily available from the competitive power market at Mid-C. But power prices at Mid-C are extremely volatile and uncertain. At a particularly difficult time during December 2000 the price at Mid-C was reported to be as high as \$5000 per MW-hr. Relying on short-term purchases from Mid-C would also expose customers to the risks of a market failure because the Mid-C price is a reflection of the prices in western power markets to which the region is electrically connected.

The PUD could seek to manage the risk of the Mid-C market but there are only a few ways to do this. One would be to purchase power under a long-term contract. This contract could be with any willing party that has excess generation but the price for this type of contract will be based on the long-term expectations of future market prices and the costs of new generation. The Council's most recent analysis of the likely long-term market price in the region is in the \$40s per MW-hr range. This is a very high price and it does not include the costs of transmission to get the power to load nor does it account for the costs of having generation available to meet the daily load swings and peaking requirements of the PUD's customers. It would not be unreasonable to see a long-term contract cost the PUD in excess of \$50 per MW-hr for delivered and shaped energy. The actual rate charged customers would need to also include the costs of capital to purchase

the distribution system and install the new meters and control equipment along with the operations and maintenance cost of the distribution utility. These costs could further increase the rates charged customers to levels significantly higher than the current rates.

Another strategy that the PUD could use to mitigate the risk of being totally reliant on the competitive power market is to build or acquire its own generation. This too is unlikely to provide lower costs than those estimated by the Council because the Council's future price forecasts are based on the costs of new combined cycle generation and future natural gas price forecasts. New generation will also require the time to design, site, license, and construct the new resources. Meanwhile the PUD would be exposed to market purchases and all the risks associated with new resource development including failure to get the necessary site permits and approvals and the uncertainties associated with future fuel supplies.

The final strategy is for the PUD to place its loads on BPA. This sounds like a simple strategy and is often advocated by those that do not now receive any BPA power. However, the fundamental problem of finding a power supply for the PUD's customers remains. This strategy merely transfers this responsibility to BPA. Given the current financial crisis at BPA there is very little stomach for BPA incurring additional costs that would be spread to all public utilities in the region. It is for this reason that BPA developed the "targeted adjustment charge" which is designed to pass on the costs of serving new public utility loads to those individual utilities that are asking BPA to securing new power supplies for them. Here again the prices in the Mid-C market are likely to be the costs that BPA will have to use to price any power sold to the PUD. This will be closely watched by BPA's existing customers to insure that there is no transfer of costs from the new PUD to BPA's other customers.

The long-term future for BPA is particularly cloudy at this point. BPA has not agreed with the JCP or the Council's recommendations. The current financial crisis at BPA has over taken the regional discussions concerning BPA's role and implementation of any changes in BPA's future role has been delayed for several years. This means that it is

impossible to determine whether BPA will be able to reduce its market exposure and return to cost-based rates that are in the mid 20-dollar per megawatt hour range or not! If the basic recommendations of the customers are implemented, the available federal generation will be allocated to those customers with existing subscription contracts. There may be some amount of melded power available for new public agencies but that is far some certain and it is not likely that whatever is available will be entirely available for the new PUD because others, such as tribal utilities, are also seeking service from BPA at this time.

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RESUME

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Education

1971 B.S. Civil Engineering - University of Washington
1973 M.S. Management - Massachusetts Institute of Technology

Professional Experience

1/92 - President of Litchfield Consulting Group (LCG). LCG is focused on strategic power system planning, electric power restructuring, power marketing, electric power transmission, power contracting and regulatory needs of clients in the utility industry. LCG's clients include public and private utilities, industrial customers, regulatory agencies, state and regional planning commissions and independent power producers (see attached for a list of LCG's recent projects). Mr. Litchfield has twenty-three years of experience in the Pacific Northwest region in energy planning and decision analysis, environmental and power systems modeling and analysis, and strategic planning.

Mr. Litchfield was one of a team of seven scientists on the Snake River Salmon Recovery Team for the National Marine Fisheries Service (NMFS). NMFS formed the Snake River Salmon Recovery Team to develop a recovery plan for the endangered salmon stocks on the Snake River which is required under the Endangered Species Act. The Salmon Recovery Team was responsible for developing a recovery plan entitled, *Snow River Salmon Recovery Team: Final Recommendations to the National Marine Fisheries Service*, May, 1994. Mr. Litchfield provided technical knowledge and understanding of the hydropower system and how hydropower operations could be changed, within physical constraints, to improve the survival of salmon.

9/81 - 1/92 Director of Power Planning for the Northwest Power Planning Council, Mr. Litchfield led the development of the Northwest

Conservation and Electric Power Plans in 1983, 1986 and 1991. He was responsible for the management and direction of 12 professional staff with a budget of approximately two million dollars per year. Mr. Litchfield pioneered the design and implementation of integrated resource planning methodologies. The Council's plans are based on state of the art techniques for analyzing both demand side and supply side resources and incorporating uncertainty into integrated resource planning.

One of the basic assumptions of integrated resource planning is that conservation of electric power through efficiency improvements is treated as a resource on equal footing with conventional and emerging electricity producing technologies. Through the application of risk assessment and decision analysis methods, risk management strategies were designed and incorporated into integrated resource plans.

Mr. Litchfield was responsible for close coordination between the Council's plans and the regulatory policies of the four Northwest Public Utility Commissions in Idaho, Montana, Oregon and Washington. In this capacity, Mr. Litchfield chaired the State Agency Task force with representatives from the commission staffs in each state.

Mr. Litchfield has often testified before all of the Northwest's Public Utility Commissions and before regulatory and legislative hearings in England and Canada. Mr. Litchfield testified to the Ontario Canada Provincial Government Energy Committee on the first integrated resource plan by Ontario Hydro. He was one of two Americans on a five member strategic review team formed by the Ministry of Energy in Ontario to review Ontario Hydro's planning. Mr. Litchfield has also chaired two workshops organized by the Hawaii PUC on integrated resource planning and its application to the state's power system.

- 9/90 - 8/91 Member of the Academy of Science - National Research Council Committee to review the US Department of Energy's National Energy Modeling System. The Committee reviewed the models and analysis that DOE used for the National Energy Strategy. The Committee's recommendations called for the DOE to develop a national energy modeling system incorporating many of the concepts and methods developed and implemented by the Council.
- 7/86 - 11/91 Participant in scientific and technical exchanges between the United States and the Soviet Union. This exchange was initiated by the Academy of Science of both countries in the 1970s. Mr.

Litchfield has participated in technical conferences on planning techniques and efficient technologies for conservation, generation and transmission of electric power. Due to the rapid changes in what was the Soviet Union, there is tremendous need for improved technology for every aspect of electric power production, transmission and end use. Mr. Litchfield has helped to transfer planning and conservation experience in the Pacific Northwest to colleagues in Russia and other eastern european countries.

- 6/76 - 8/81 Manager of Energy Systems and Decision Analysis Section at Battelle Northwest. Responsible for the management of a contract research section with 15-20 research staff. Clients included the State of Alaska, the US Department of Energy, the Nuclear Regulatory Commission and the States of Washington and Oregon. The group conducted research into emerging energy technologies and developed multiattribute decision analysis techniques to set priorities for long range planning, research and development.
- 7/73 - 6/76 Research Engineer at Battelle Northwest responsible for the design and development of management information systems for the Nuclear Regulatory Commission and the development of decision analysis and risk assessment techniques.

Litchfield Consulting Group (LCG), Inc. List of Clients and Brief Project Description

1. Duke Energy – Mr. Litchfield prepared an assessment of commercially available conservation and power supply alternatives in the Pacific Northwest. This analysis evaluated all potentially available electric power resources and determine the extent to which they were commercially available to meet regional power needs in the future.
2. The Idaho Office of the Northwest Power Planning Council – Mr. Litchfield is providing strategic advice on salmon recovery and Federal Implementation Planning for implementation of the Biological Opinion for the Federal Columbia River Power System.
3. Expert Testimony for Load Serving Utilities – Mr. Litchfield provided expert testimony in the FERC ordered process to investigate possible refunds for power sold into the California Power markets during the winter and spring of 2000-2001. His clients were Arizona Public Service Company / Pinnacle West Capital Corporation, Avista Corp., Puget Sound Energy, Public Service Company of New Mexico, Public Service Company of Colorado, Nevada

Power Company, Sierra Pacific Power Company, Portland General Electric Company and Tucson Electric Power Company.

4. Newport Northwest – Mr. Litchfield has been retained by Newport Northwest to provide expert testimony in the Energy Facility Site Evaluation Council review of the Wallula site in Washington State.
5. Utility and Industrial Customers – Mr. Litchfield was retained by a group of utility and industrial customer to work with Senator Derfler in Oregon on a study of restructuring the Bonneville Power Administration. The report evaluated a range of possible roles for BPA that included the current situation provided in the NW Power Act to full privatization of the agency.
6. City of Cove – Mr. Litchfield is providing the City with expert advice to help resolve a power contract dispute that the City is having with the sale of power from a City owned small hydropower plant.
7. Hafslund Power Marketing – Mr. Litchfield has provided advice concerning hydropower operations in the region based on the recommendations of salmon managers and his knowledge of the hydropower system in the region and the requirements for fish and wildlife protection under the Endangered Species Act and the NW Power Act.
8. Pacific Northwest Utilities Conference Committee (PNUCC) - Mr. Litchfield is working on a wide variety of issues associated with changes that are resulting from the NW Power Act and the Endangered Species Act (ESA). This effort is designed to insure that the region is clear about the goals for both ESA protected salmon and other fish and wildlife stocks and to encourage objective scientific analysis of alternative proposed actions.
9. The State of Montana - Mr. Litchfield has been retained to be the Montana State's representative on the Technical Management Team (TMT) and the Implementation Team (IT). The TMT and IT provide input to the Federal Agencies on operation of the federal hydropower system under the National Marine Fisheries Service (NMFS) biological opinions under the Endangered Species Act.
10. National Energy Systems Company - Mr. Litchfield is working with NESCO, a power plant developer, to assist with analysis of transmission and other siting and power plant development decisions in the Northwest. The focus of this work is to provide West Coast power market price forecasts and to evaluate the possible transmission pricing, access and availability issues associated with planned development of new power plants and existing plant expansions.
11. Portland General Electric – Mr. Litchfield was retained to facilitate a series of ratecase workshops. These workshops were conducted during the fall and winter of 1987 and were attended by a wide spectrum of PGE's customers and interest groups. The subject of the workshops was primarily the implications for PGE's rates of the "Customer Choice" proposals that would provide open access to competitive power markets for all consumers in PGE's service territory.

12. Washington Water Power Company – Mr. Litchfield has been retained by WWP to assist with regional energy issues that require a presence in Portland. The specific nature of the tasks that Mr. Litchfield will be asked to perform will be determined as issues of a policy nature important to WWP are identified and regional processes are established.
13. Puget Sound Energy (PSE) – Mr. Litchfield prepared and presented expert testimony in litigation between PSE and a cogeneration facility. The scope of Mr. Litchfield's testimony focused on the changes in national energy policy and specifically FERC regulation, that have introduced competition to the electric power industry at currently the wholesale level but ultimately the retail level. Mr. Litchfield also testified as to the regulatory requirements that face utilities with respect to management of their purchase power contracts.
14. LCG was retained by six Northwest Investor Owned Utilities and Sierra Pacific Resources which serves the Reno area to represent them in the Comprehensive Regional Review of the Northwest Power System initiated by the Governors of the four Northwest states. Mr. Litchfield participated in the Regional Review's processes to provide technical and policy on issues related to BPA's roles in power marketing and transmission.
15. Regional Review - LCG provided technical and policy advice to the Governor's public process to evaluate and recommend changes to the region's electric power industry and especially to recommend changes in BPA's role that are consistent with the requirements of a competitive electric power market. Mr. Litchfield delivered a kick-off speech at the request of the four governors of the states of Idaho, Montana, Oregon and Washington. Mr. Litchfield also evaluated alternative industrial structures and identified issues for the Regional Review to resolve as BPA's electric power system is restructured to meet the needs of a competitive electric power marketplace.
16. BPA - LCG provided technical assistance to BPA's outside counsel in the development of litigation strategy with respect to a contract dispute between BPA and a resource developer. Mr. Litchfield researched changes in the National Energy Policy Act, 92 and reviewed FERC's regulatory changes in the proposed Mega-NOPR and its orders 888 and 889. Mr. Litchfield identified how changes in policy and regulation have reshaped the competitive bulk power marketplace and impacted on BPA's statutory mission.
17. BPA-Puget Power – Mr. Litchfield was retained as a facilitator to resolve a transmission dispute between BPA, Puget Power and Tanner Electric. The dispute resolution was undertaken under the guidelines of the NW Regional Transmission Agreement. Mr. Litchfield assisted the parties in understanding their respective positions and help them to identify alternative solutions that met all interests. The dispute was successfully resolved.
18. The Oregon Business Council (OBC) - LCG was retained by the OBC to evaluate the State of Oregon's current salmon policies. The state and the region are spending large amounts of resources in an effort to recover

threatened and endangered wild salmon stocks. LCG worked with the OBC staff and the Natural Resources Committee to develop management guidance and direction that will help the State improve the effectiveness of salmon recovery efforts.

19. Pacific Northwest Utility Conference Committee (PNUCC) - LCG worked with representatives of public and private utilities, the Direct Service Industries and the Bonneville Power Administration to evaluate alternative industrial structures to address the formation of a competitive marketplace in bulk power. The goal of this project was to design alternative transmission system operations models that could better implement the Federal open access transmission policies that are currently required by FERC. Mr. Litchfield facilitated the work of several technical, legal and policy committees of PNUCC.
20. PacifiCorp - LCG is working with another consultant to facilitate a group discussion of the policy alternatives for treating conservation efforts as the electric power industry becomes more competitive. The traditional approach to acquiring conservation as a resource through utility integrated resource plans will not be effective in the face of increasing competition in the energy marketplace. This project involves representatives of the relevant interest groups and is designed to identify changes in public policy that will ensure that the appropriate levels of efficiency are achieved.
21. Portland General Electric - LCG was retained as a technical expert in a power sales contract dispute. The long-term power contract is being disputed before FERC and Mr. Litchfield was retained as a technical expert to evaluate the terms and conditions of the contract and provide expert testimony.
22. Direct Service Industries, Inc. - LCG provides technical and policy advice on salmon recovery measures and scientific analysis of the impacts on salmon of alternative hydropower operations. The issues vary depending on the regional salmon debate and policies that are currently under discussion.
23. Oregon Business Council - LCG provided the OBC Board a presentation on the endangered salmon issue and its impact on Oregon and the economy. This presentation highlighted the management complexity surrounding salmon recovery and the need for a better management approach to recovery efforts.
24. Industrial Customer of a Northwest Utility - LCG conducted confidential power market research to determine alternative power supplies to meet the client's electricity needs. A Request for Power Supply was prepared and power supply proposals were evaluated against the terms, conditions and prices of the client's current supplier.
25. Modifications to Oregon's Siting Statutes - LCG worked for both Portland General Electric and PacifiCorp in the development and negotiation of changes to the Oregon Energy Facility Siting laws. Mr. Litchfield testified

before the Energy Siting Council and the Senate Energy Committee on the changes occurring in the electric power industry.

26. Puget Sound Power and Light - LCG worked with Puget in evaluation of West Coast power markets to aid in the development of a strategic plan.
27. Northwest Power Planning Council - LCG worked with Merrill Schultz and Associates to evaluate regional utility needs for Integrated Resource Planning and to advise the Council's staff on the development of improved planning data, analysis and models.
28. Public Power Council, Pacific Northwest Generating Company and the Direct Service Industries, Inc. - LCG has been retained to participate in settlement negotiations on the development of a new Biological Opinion on hydropower operations.
29. Sierra Pacific Resources - LCG is reviewing the utility's integrated resource planning and the decision criteria used to select new resources. The purpose of the review is to provide an objective expert review of the planning and decision making process and to suggest any improvements that may be appropriate.
30. Direct Service Industries, Inc. - LCG reviewed the System Operations Review (SOR) Environmental Impact Statement under development by the US Army Corps of Engineers, the Bonneville Power Administration and the Bureau of Reclamation. The SOR is a review of the federal hydropower system in the Northwest and the many constraints on, and competing uses of, water. The resulting EIS provided operational criteria and constraints that seek to balance the physical system's constraints and the amount and quality of power that can be produced with the environmental impacts of alternative operational regimes. LCG participated on behalf of the DSIs to provide technical review and input on the costs and benefits of alternatives analyzed in the EIS.
31. Davis Polk & Wardwell - LCG developed an appraisal of the value of the WNP 3 Power Exchange Agreement between BPA and Portland General Electric (PGE.) This power exchange agreement involves the transfer of energy and capacity between the utilities for a 32 year period beginning in 1987. The Exchange was a result of litigation following the termination of construction at the Washington Public Power Supply (WPPSS) nuclear plant 3. The value of the Exchange contract was needed for determination of the appropriate tax treatment for PGE's investment in the nuclear plant.
32. Puget Power - LCG developed expert testimony in a Washington Utilities and Transportation (WUTC) case involving the utility's planning and decision making process that led to the acquisition of several independent power projects. LCG testimony centers on the planning process used by Puget in the 1980s and the congruence between Puget's methods and those developed by the Northwest Power Planning Council.

33. Pacific Gas and Electric - LCG was an expert witness on the availability of non-firm power and intertie transmission between the Northwest and California during the 1980s and 1990s. The expert testimony was needed in a contract dispute that was, in part, caused by the availability of low cost non-firm power from the Northwest.
34. Great Whale Public Review Support Office - LCG provided expert assistance on the review of the Great Whale Project EIS. This project resulted in a publication entitled, Integrated Resource Planning and the Great Whale Public Review, Litchfield, J., Hemmingway, L., and Raphals, P.
35. Mouvement Au Courant - LCG developed a paper describing the interactions between regulatory and IRP processes in the United States. This paper also provided background on current planning and hydro licensing processes used in the U.S. The analysis of current regulatory and planning processes was presented in hearings on Hydro-Quebec's proposed St. Marguarite 3 hydroelectric project.
36. Pacific Power - LCG conducted an analysis of the financial and rate impacts of aggressive conservation program implementation. The introduction of high capital cost conservation increases the early costs and reduces sales. This led to higher rates in the short-run followed by lower rates in the long-run. LCG analyzed current rate making methods used to allocate costs and benefits and identified equity concerns that are presented by conservation resources.
37. Great Whale Public Review Support Office (Quebec) - LCG developed a paper describing integrated resource planning criteria and their relationship to the Guidelines developed for the review of the Great Whale Project.
38. British Columbia Utilities Commission - LCG acted as a technical facilitator for a workshop on Integrated Resource Planning / Least Cost Planning in Vancouver, BC. The workshop was sponsored by the BCUC and was designed as a preview of IRP methodologies and requirements. The BCUC was considering IRP as a new planning requirement for Electric and Gas utilities.
39. MicroGrid - LCG provided assistance with the development of a Demand Side Management resource proposal to secure conservation from the commercial buildings sector. This proposal was submitted to two public utilities and BPA.
40. Intercompany Pool (ICP) - LCG was retained by the ICP to assist with the renegotiation of the power sales contracts between BPA, the region's utilities and Direct Service Industries (DSIs.) The current power contracts expire in 2001, however, the importance of these contracts to all of BPA's customers makes it necessary to renegotiate the contracts before the end of the contract term. This process is also involved efforts to restructure BPA by development of a marketing plan, tiered rates and redesign of transmission access, terms, conditions and pricing.

41. Montana Power Company - LCG provided an independent audit and evaluation of MPC's first resource bid evaluation process. The company asked LCG, as outside experts, to evaluate the methods and approaches used by the MPC staff in evaluating the new resources bids they received from independent developers. Alternative evaluation methods were applied to independently rank the projects developed by the MPC staff. The results were similar to those reached by the MPC staff.
42. Calpine Corporation - LCG provided assistance with the development of a marketing strategy for cogeneration development and assisted Calpine in marketing of their project to northwest utilities. This resulted in a successful letter of intent between Calpine and Pacific Power and Light.
43. Northwest Wind Advisory Council and the Electric Power Research Institute - LCG worked with Decision Focus, Inc. to provide an assessment of the utility industry's decision making needs with respect to wind resources. This resulted in the development of a *Wind Resource Primer* to assist utility planning and decision making for the acquisition of new Wind resources.
44. Bonneville Power Administration - LCG conducted a review of BPA's energy system planning models and developed a strategic plan for future model development, analysis and maintenance. This work involved interviews with analysts, management and policy makers to determine their perspectives on the adequacy of current quantitative analysis and any additional information needs. LCG recommended the formation of a new internal group called the Analytical Review Team (ART) to provide analytical quality assurance and strategic direction for additional model development.
45. The Northwest Power Planning Council - LCG assisted the Council in the development of a strategic plan for achieving the conservation targets in the plan. Recognizing the rapidly changing utility industry and the increase in competition from non-utility sources, the traditional centralized methods of conservation delivery mechanism need to be rethought and redesigned.
46. Pacific Power & Light - LCG developed a paper describing a economic methodology for incorporating environmental externalities into IRP. Based on economic and decision theory, this methodology recommends the use of multi-attribute decision analysis methods to incorporate the many non-price factors into the resource selection process used in utility's IRP. This work was presented in testimony before the PUC and discussed and evaluated by the PUC staff and interest groups in PUC working sessions.
47. Makowski & Assoc. - LCG provided assistance with gas-fired resource marketing to BPA and other utilities in the Northwest. Specific consultations included participation in a regional advisory committee to Makowski and assistance with marketing and communication to BPA in the bid evaluation process.
48. Tacoma City Light - LCG provided assistance in the development of the Integrated Resource Plan (IRP.) This assistance included conducting

analysis of the costs, benefits and uncertainties associated with gas-fired resources. LCG also provided assistance with the incorporation of environmental externalities into the planning and resource selection process.

49. Portland General Electric Co. - Assistance with analysis of alternatives to the Trojan nuclear power plant for the Least Cost Plan published in 1992. LCG provided expertise in Regional power systems analysis and modeling of uncertainties. The Northwest Power Planning Council's power systems model (ISAAC) was used to test alternative courses of action for PGE and a new model was built to analyze the uncertainties associated with the Trojan decision.
50. National Marine Fisheries Service - Snake River Salmon Recovery Team - LCG is one of a seven member scientific team responsible for drafting a Recovery Plan for the endangered salmon stocks on the Snake River.

**TESTIMONY OF
GREGORY R. MOWE, STOEL RIVES LLP
BEFORE THE OREGON DEPARTMENT OF ENERGY
Proposed Inner SE Portland PUD
June 15, 2004**

I am Greg Mowe, a partner in the law firm Stoel Rives LLP. My practice is primarily focused on condemnation litigation. I represent governmental bodies, public utilities, and private property owners. I have represented electric utilities in prior condemnation litigation and provide this testimony on behalf of Portland General Electric ("PGE").

Overview of Testimony

My testimony will cover two aspects of condemnation law: (1) the power to take, and (2) compensation and damages. The general principle of condemnation is that private property may be taken by government for public use upon payment of just compensation. This concept is complicated in the utility context by the fact that investor-owned utility property is already devoted to public use and subject to public regulation. Thus, a number of limitations on power to condemn utility property have been created by statute and case law. Those limitations will be at issue for any start-up PUD, as assets supporting delivery of electrical service in this portion of Multnomah County are part of an integrated system serving customers elsewhere in Oregon. The concept of just compensation is also complex for utilities. Just compensation is usually defined as the fair market value of the property taken, plus damages to remaining property. Fair market value of assets in a condemnation case is different from "rate base" of assets in utility regulation. Ratemaking in a regulatory context is based upon original cost of assets. Valuation in a condemnation case is based upon current fair market value, which may be significantly higher than rate base, depending upon type of asset. In addition, severance damages must be paid in a partial taking (a taking of less than the entire utility) to compensate the utility and its remaining customers for reconfiguration costs, stranded assets and damage to the remaining system. Severance damage will likely be a significant obstacle for any start-up PUD in this portion of Multnomah County attempting to carve service territory out of a larger integrated system.

Source of Condemnation Authority

PUD condemnation authority derives from Article XI, Section 12 of the Oregon Constitution. Such authority is subject to legislative implementation, however, and PUDs are subject to statutory limitations on the exercise of condemnation authority. *Emerald PUD v. PacifiCorp*, 100 Or App 79, 83-84, 784 P2d 1112 (1990). Statutory condemnation authority is granted by ORS 261.305, which grants PUDs authority "to exercise the power of eminent domain for the purpose of acquiring any property, within or without the district, necessary for the carrying out of the provisions of this chapter." This general proposition is subject to a number of important limitations.

Territorial Limitations

At the outset, no Oregon PUD can condemn any property located outside the state of Oregon, even if such property is owned by a person or corporation located within the state. Since the state of Oregon itself has no sovereign powers beyond its borders, no other condemnors relying on state authority have such power either. The practical impact is that any property, real or personal, tangible or intangible, located outside Oregon on the date condemnation is filed is not subject to condemnation by an Oregon governmental entity.

Public Necessity Limitations

Under ORS 261.305(5), PUD authority is limited to acquisition of property “necessary” for carrying out the provisions of ORS Chapter 261. Determinations of necessity are subject to court review. ORS Chapter 35, which governs all condemnation proceedings, provides that a condemnation resolution of a governmental body is entitled to a rebuttable presumption that acquisition is necessary and most compatible with the greatest public good and the least private injury. ORS 35.235(2). However, a condemnee may rebut the presumption and defeat a condemnation by demonstrating that the public and private injuries resulting from condemnation are greater than the purported public benefit. This is what happened in *Emerald PUD v. PacifiCorp*, 100 Or App 79, 784 P2d 1112 (1990), in which the trial court and the Oregon Court of Appeals overturned a PUD finding of “public necessity” where the economic benefit of condemnation of hydroelectric facilities located outside the PUD’s service territory would be exceeded by the economic dislocation caused by condemnation of those facilities.

Public Use Property Limitations

Under the doctrine of *Little Nestucca Road Company v. Tillamook County*, 31 Or 1, 5, 48 P 465 (1897), “public use” facilities (including utility properties operated by investor-owned utilities) are subject to condemnation only if authorized by statute. The fact that a public agency has general condemnation authority to acquire property necessary for its operations does not in and of itself permit condemnation of property already devoted to public use by other governmental agencies or public utilities. Rather, a statute must provide condemnation power over public use facilities expressly or by necessary implication. Prior Oregon cases have addressed authority of PUDs and municipalities to condemn existing hydroelectric facilities and to condemn existing distribution facilities located within boundaries of the municipality or PUD. No reported Oregon case has addressed statutory authority to condemn existing utility transmission or distribution facilities located outside the boundaries of the municipality or PUD. Similarly, no reported Oregon case has addressed the issue of statutory authority to condemn intangible utility assets (such as contracts or franchises) or tangible assets (such as buildings, vehicles or equipment) not directly utilized in generation or delivery of electricity. The only statutory reference to permitted PUD use of eminent domain to acquire investor owned facilities is ORS 261.327, which refers to acquisition by eminent domain of “facilities for the distribution of energy within an affected territory.” Any attempt to condemn more would likely be challenged.

Interstate Commerce Limitations

To the extent that a startup PUD attempted to condemn PGE facilities located outside its boundaries or facilities within such boundaries serving a larger geographic area, impacts on interstate commerce would also be implicated. PGE co-owns generation facilities outside Oregon and purchases and sells wholesale power interstate. Attempted condemnation of contracts or resources required for such purposes would interfere with interstate commerce, potentially violating the Commerce Clause of the United States Constitution. *See New England Power Company v. New Hampshire*, 455 US 331 (1982) (holding that a state cannot prohibit a private power company from exporting locally generated hydroelectric power from federally licensed facilities). *See also City of Oakland v. Oakland Raiders*, 220 Cal Rptr153 (Cal App 1985) (invalidating attempted condemnation of sports franchise on Commerce Clause grounds).

Thermal Plant Limitations

In addition to the general considerations applicable to PUD condemnations, the Oregon legislature has specifically prohibited PUDs from acquiring thermal power plants, wherever located. ORS 261.250(2) provides: “A district shall not exercise its power of eminent domain to acquire a then-existing thermal power plant or any part thereof.”

PUD proponents have claimed that the above statute is an unconstitutional infringement upon PUD authority. However, the issue of legislative authority to impose limitations on PUDs has been previously litigated and legislative power upheld. This precise issue was addressed in the prior *Emerald PUD v. PacifiCorp* case at 100 Or App 83-84, in which the Oregon Court of Appeals held:

“Plaintiff argues that the constitutional grant of the condemnation power is unconditional and that the legislature may not impose ‘substantive’ conditions on that authority through implementing legislation that the constitutional provision requires. We disagree. . . . [E]minent domain was comprehensively regulated by statute in Oregon long before Article XI, Section 12, was adopted in 1930. The grant of eminent domain authority in Section 12 is stated in general terms. The legislative implementation clause of the Section clearly envisioned that existing or subsequent legislation relating to the subject would define the details of and limitations on the districts’ condemnation authority.”

See also People’s Utility District, et al. v. Wasco County, et al., 210 Or 1, 305 P2d 766 (1957) (rejecting argument that state taxation of PUD property violated constitution).

Condemnation Procedure and Timing

In order to exercise powers of condemnation, a PUD must follow prescribed steps set out in ORS Chapter 35. These include identification and appraisal of property to be acquired, adoption of a condemnation resolution, and a statutory precondemnation offer which must remain in place at least 40 days before condemnation is filed. In a typical condemnation case, a condemning body is entitled to “immediate possession” of property to be acquired upon payment

of a deposit into court. In the case of distribution facilities acquired by a PUD, however, immediate possession is not available, since territorial allocation statutes prohibit service within an allocated service territory until the distribution facilities have been “condemned or otherwise acquired.” ORS 758.470(1). In a condemnation case, title does not transfer upon immediate possession, but only when a final judgment is paid. ORS 35.325. Accordingly, a PUD may not lawfully take possession of distribution facilities until it has paid a final judgment awarded in a jury trial, which will not generally occur until at least a year or two after filing of a condemnation action. This timetable may be further delayed by appeals, particularly if the PUD seeks to acquire facilities located outside its boundaries. For example, the ultimately unsuccessful PUD attempt to condemn dams from PacifiCorp on the North Umpqua River in Douglas County took nearly 10 years from start to finish.

Valuation and Damage

Any public body taking private property for public use is required to pay “just compensation.” Or. Const. Art. I, § 18. The Oregon Supreme Court has defined just compensation as “full remuneration for loss or damage sustained by an owner of condemned property.” *Dept. of Trans. v. Lundberg*, 312 Or 568, 574, 825 P2d 641 (1992). Just compensation is measured in terms of what the owner has lost, not what the condemnor has gained. *State Highway Comm v. Hooper*, 259 Or 555, 560, 488 P2d 421 (1971). Just compensation has two primary elements: (1) fair market value of the property taken, and (2) severance damages for diminution in value of remaining property. *Hwy. Comm v. Superbilt Mfg.*, 204 Or 393, 412, 281 P2d 707 (1955). Fair market value is defined as “the amount of money the property would bring if it were offered for sale by one who desired, but who was not obliged, to sell and was purchased by one who was willing but not obliged, to buy.” *Lundberg*, 312 Or at 574. Fair market value is different from “rate base” for regulatory purposes. Thus, even if low cost generation assets or favorable purchase contracts were subject to condemnation, their condemnation value would be based on current market, not historical cost.

Condemned property is valued based on its highest and best use, which is the most profitable use of the property. Physical assets of an operating utility system are valued as part of the going concern. *Rose City Transit v. City of Portland*, 18 Or App 369, 392, 525 P2d 1325 (1974). Appraisers use three recognized methods in valuing property in condemnation: (1) the sales comparison approach, sometimes referred to as the market approach; (2) the cost approach; and (3) the income approach. 7 *Nichols on Eminent Domain* § 4.04[3] (2001). In the sales comparison approach, market value is estimated by comparing the subject property to similar properties that have sold recently. The appraiser compares differences between the comparable properties and the subject property and makes adjustments for such differences. The cost approach is based upon the assumption that a purchaser would not pay more for an improved property than the cost of constructing a similarly located property of equal utility. The cost approach is typically based on reproduction cost or replacement cost, less depreciation. The income approach to valuation attempts to determine market value by analyzing the property’s capacity to produce income and converting this potential into an indication of fair market value.

No reported Oregon cases have addressed valuation approaches in an electric utility condemnation case. Recent Oregon condemnations involving distribution assets have settled in a

range of one and one-half to two times book value. I am not aware of any successful condemnation of generation assets or any recent condemnation of transmission assets.

If a condemnation takes less than an entire operating system, a condemnee is also entitled to severance damages. Severance damages are defined as loss in value to the condemnee's remaining property. Typical severance damages may include costs of reconfiguring a condemnee's remaining system, increased operating costs due to loss of facilities, or diminution in value due to excess capacity.

Finally, under Oregon condemnation statutes, a condemnee is entitled to its attorneys and experts fees if it defeats the condemnation or receives a jury verdict higher than the pretrial offer of the condemnor.

GRM/dlcr

Testimony of
Hon. Randall Edwards, Oregon State Treasurer,
Regarding Availability of Private Activity Bond Volume Cap for Bonds Issued to Finance
Acquisition of Electricity Distribution System by Willamette Electric PUD.
June 17, 2004

I have been asked to provide testimony regarding the availability of private activity bond volume cap for bonds issued by the proposed Willamette Electric People's Utility District to finance the acquisition from Portland General Electric (PGE) of the electric distribution system currently owned and operated by PGE in a portion of Multnomah County.

Under ORS 286.645, the office of the State Treasurer is charged with maintaining the official records of the state regarding the private activity bond volume cap and providing administrative support to the committee that deals with allocations of the volume cap. Thus, this testimony does not advocate or oppose the proposed creation of a PUD. Rather, my purpose is simply to provide you with information regarding the State's private activity bond volume cap as it relates to the proposed bond financing for the acquisition of the utility assets in question.

The following background should help place my comments in the proper context. As you know, federally tax-exempt bonds have proven to be a cost-effective method for states and local governments to raise the funds needed to undertake major capital projects. Because the interest on such bonds is exempt from federal income tax, investors who purchase those bonds are able to accept a lower interest while getting the same after-tax return they would receive from an investment in higher-yield bonds that are not federally tax-exempt. The lower interest rates resulting from the federal tax-exempt status constitute a federal subsidy of the capital borrowings of states and local governments in that the federal government foregoes the income

tax revenues it would otherwise receive in order to provide state and local governments with this means of obtaining lower-cost funds.

Recognizing the subsidy nature of the federal tax-exemption and desiring to limit its availability to situations which, in the judgement of Congress, warrant such a subsidy, Congress has placed a number of restrictions on the purposes for which state and local government bonds can be issued on a federally tax-exempt basis. One such restriction is that imposed on the amount of so-called "private activity bonds" that may be issued in a given state during a given calendar year. Under the provisions of Internal Revenue Code Section 141(d), any bonds issued by the proposed Willamette Electric PUD to acquire the distribution system of Portland General Electric would be "private activity bonds." As such, they can only be issued as federally tax-exempt obligations if the state allocates to the issuer of such bonds a portion of the state's annual private activity bond volume cap.

Under Section 146(d) of the Internal Revenue Code, each state is give private activity bond volume cap for each calendar year in an amount equal to \$80 multiplied by the state's population. In 2004, the State of Oregon's private activity bond volume cap is equal to \$284,767,680 (\$80 times the estimated population of 3,559,596). A state agency or local government that desired to issue private activity bonds in 2004 would need an allocation of this private activity bond volume cap equal to the principal amount (or "issue price") of the bonds in question in order for such bonds to be federally tax-exempt. Thus, an issuer who seeks to issue \$10 million in private activity bonds would have to secure an allocation of \$10 million of the state's private activity bond volume cap in order for such bonds to be federally tax-exempt.

The volume cap that becomes available in Oregon in each calendar year is dealt with in one of three ways: First, the lion's share of the annual volume is allocated by statute to various state agencies that issue private activity bonds for a variety of purposes such as the financing of

low-income housing, economic development projects and small scale energy projects. In 2004, \$194,500,000 of the available volume cap is allocated to various state agencies as follows:

Oregon Housing and Community Services.....\$124,500,000

Oregon Economic & Community Development Department.....\$47,000,000

Oregon Office of Energy.....\$10,000,000

Oregon Facilities Authority.....\$13,000,000

Second, \$90,267,680 of the 2004 volume cap was granted to the state's Private Activity Bond Committee to be allocated among other issuers of private activity bonds. In most instances, the volume cap granted to the Private Activity Bond Committee is allocated by the Committee to local government issuers of private activity bonds for purposes such as low-income housing, economic development projects and solid waste disposal facilities.

Third, any portion of the annual volume cap that is not to be used by the state agency or other issuer on or before December 15 of the year in which such volume cap arises goes back to the Private Activity Bond Committee to be allocated on a "carryforward" basis to various state agencies and local government issuers of private activity bonds. Any volume cap that is so allocated on a carryforward basis can be used by the issuer to whom it is allocated at any time during the three calendar years following the year in which such volume cap first arose. Thus, 2003 volume cap that was allocated to issuers on a carryforward basis can be used at any time prior to the end of the calendar year 2006.

The amount of volume cap that has been available for carryforward has varied over the years. In 2003, some \$141,714,125 in volume cap remained available for carryforward allocations, and in 2002, \$94,269,025 in volume cap remained available. However, in prior years,

the amount has been significantly less. In 2001, \$23,993,902 was available for carryforward; in 2000, \$10,011,794; in 1999, \$45,452,094; in 1998, \$30,712,614; and in 1997, \$24,351,032.

I turn now to the question of the likely availability of volume for use in connection with bonds issued by the proposed PUD to finance the acquisition of utility assets in question. In this regard, the starting point is the price that is to be paid for the assets, since that price will drive the amount of bonds that would need to be issued to finance the acquisition. The cost to finance this acquisition of PGE assets in the proposed portion of Multnomah County is about \$125 million. One can readily see that it would take a number of years to accumulate sufficient volume cap to allow the entire amount — or even a significant portion — of the proposed acquisition bonds to be federally tax-exempt. Even if one were to assume a willingness on the part of the State and other interested parties to forego all other uses of the volume cap and dedicate 100% of the annual cap to the Willamette Electric PUD acquisition bonds, it would still take years to accumulate sufficient volume cap. And given the fact that a number of key housing and economic development programs of the state and local governments are dependent on the volume cap being available in reasonable amounts to fund their essential activities, it would seem unrealistic to assume that 100% of the available volume would be dedicated to the PUD's bonds. Thus, given the extremely large size of the PUD's acquisition bonds coupled with the relatively small amount of volume cap that becomes available each year and the competing demands for alternate uses of that volume cap, one can see the difficulties in the PUD's efforts to secure enough volume to allow even a significant portion of its acquisition bonds to be federally tax-exempt.

Ron Eachus

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June 18, 2004

Oregon Department of Energy

Re Comments on Proposed PUD in Southeast Portland

The earlier efforts to break PGE up into a number of Public Utility Districts denominated by counties never made much sense. Proponents advanced the concept as a way to protect ratepayers from a break-up of PGE and a spin off of the generation facilities by the bankruptcy court and Enron creditors. Yet, the result of what the proponents wished to create was exactly what they said they were trying to avoid: breaking up the utility into several distribution companies separate from the generation plants used to serve them.

While this never made any economic sense, it at least had some semblance of common purpose by defining the PUD territories by counties. This new effort to carve out a PUD based on the previous vote in Multnomah County makes no pretense of either economic sense or communal identity. It is based solely on a political gerrymandering the lines of the proposed PUD territory to achieve a positive outcome. Because of this, the report and analysis of the Department of Energy on the proposed PUD takes on even greater significance.

The proponent's case that such a PUD brings benefits to ratepayers is based on a series of unlikely events managing to occur at the same time, including the hope that the courts would reverse previous precedents and rule in their favor instead.

From the broad perspective, perhaps the best measurement of potential benefits is identifying what PGE ratepayers have now that would be lost and not replaced by other benefits. What they have is a distribution system embedded in rates at book value and generation sufficient to meet approximately half of their load, with the rest supplied by market purchases. Public power may get tax benefits (although those come at the expense of state and local budgets) and they may have access to low cost financing, but the bulk of utility service costs are for the distribution and supply of electricity. When it comes to these elements, the ratepayers of PGE within the proposed PUD territory are more likely to lose benefits than to gain them.

The distribution system is included in the rates for PGE at book value. However, it is unlikely that the new PUD could acquire the distribution facilities at book value. As a condemnation of private property compensation at market value will be required and that

will be higher. The market value, plus the costs of separation and severance of distribution facilities from the PGE system could be two to three times as much as PGE ratepayers now cover in their rates. Thus, ratepayers of the new PUD will be paying more in their rates for the distribution system than they do now for the same system under PGE.

The PUD vote is about acquisition of the distribution system only. It does not create a foundation for the subsequent condemnation of generation facilities. Proponents have made claims before that the laws allow the PUD to takeover PGE generation assets. However, the legal precedents set so far by courts points in the other direction. Proponents would need either a reversal of court precedent or a change of law for the PUD to take PGE generation away from the remaining PGE ratepayers.

If the new PUD will not have access to any of the existing PGE generation, then they must rely on purchasing power or building their own generation, both of which are likely to be more expensive than the current PGE generation.

As a public utility, there is always the possibility of getting some or all of the power supply as a public preference customer from the Bonneville Power Administration. Traditionally that has been less costly than the power supply of the private utilities. However, through the "residential exchange" required by federal law and negotiated with BPA by the utilities, residential customers of PGE already receive substantial benefits from BPA.

Furthermore, the traditional difference between the costs of supply from BPA and that of the private utilities is steadily decreasing. BPA is already oversubscribed by existing public preference customers. Consequently it must already obtain power from the same market as the private utilities to meet its supply obligations. A substantial new load such as that of the proposed PUD would add to that burden.

If BPA acquires the market-based power to serve the new PUD and melds it with the lower cost power of its existing supply, it will reduce the costs impact of the market-power to the new PUD. However, that will raise the rates of existing public power utilities as well. BPA has not made a determination that it will meld any power it needs to acquire to serve a substantial new load. To the contrary, BPA is giving strong consideration to establishing a separate rate for substantial new load based more on the costs of market power than on the melding of those costs with existing low cost hydropower. Such a policy would significantly eliminate any potential benefits of substituting BPA supply from market purchases for the combined own generation and market purchases which PGE uses to serve its customers. Since both BPA and PGE purchase from the same market, it is possible that BPA supply under a rate reflecting market purchases may be higher than the PGE supply which would be based on its own lower cost generation as well as market purchases.

There are other considerations as well.

Under current law, PGE is required to offer a portfolio of options to smaller customers, including an option for blocks of renewable based electricity. The law also guarantees that 3% of PGE revenues goes will go to public purposes such as energy efficiency and new renewable energy development through the public purposes surcharge. In addition, law provides the large customers with the right to choose an alternative provider of their electricity supply.

Public power is exempt from the above provisions. They are not required to provide these rights, options or benefits to their customers. If new public power ownership wants to reduce rates by 3% it could do so by eliminating the investment for energy efficiency and renewable supply. If it wants to meet the public purposes objectives incorporated in the law as it applies to PGE, it can continue to spend 3% on those purposes. It could also exceed that amount if it wishes. However, meeting or exceeding the public purpose requirements of PGE will not mean any lowering of rates.

Because the new PUD would be exempt from the public purposes provisions under which PGE must operate, the danger here is that a rate reduction could be achieved at the expense of these public purposes. And for industrial customers, there is the danger that they will not have the option of choosing an alternative provider if there is one that could provide a better rate or product. Again, the danger is the loss of a potential benefit.

Another consideration is the length of time it will take to resolve issues of conflict if the PUD is created. On issues ranging from cost of the distribution system to access to generation and supply, resolution will involve lengthy and antagonistic negotiation and eventually litigation. This can only add to doubt about any real benefits and will continue the uncertainty ratepayers have already endured over the ownership and direction of PGE.

Given the clear and visible political calculation that went into the creation of the proposed PUD boundaries, your report can play a critical role in helping the public understand the potential consequences of their decision. These issues are complicated and the public can easily be taken in by unsupported claims. I realize there are many factors to be considered and that there is always an element of uncertainty in forecasting future impacts. But here the burden is on the proponents to show ratepayers they would be better off and this is a burden they cannot meet.

The public deserves to know what is most likely and what is not. Uncertainty should not be an excuse for being timid and vague when more definitive statements can be given with a high degree of confidence. The voters within the boundaries may decide that the prospect of governing their own utility may be sufficient reason for them to create a PUD regardless of the economic consequences. But they should have an objective economic analysis available before they make that decision. In this case, the DOE has an opportunity to be clear and concise. Unless demonstrated otherwise, DOE should not be afraid to tell the public that:

1) Any potential rate benefits are highly speculative and depend upon events that are unlikely to occur

2) That any final resolution of ultimate initial costs and rates is likely to occur only after a lengthy period of negotiation and litigation.

Inner SE/NE Portland PUD
Testimony of Dave Johnson
Senior Forester – Portland General Electric
Oregon Department of Energy Hearing
June 15, 2004

Good Evening. Thank you for the opportunity to testify tonight. My name is Dave Johnson and I am the Senior Forester at Portland General Electric. I supervise the Vegetation Management Program and have been doing so for the last 17 years. Prior to that I worked as a regional forester for PGE for 5 years. I was also General Foreman for Asplundh for 5 years. I am Chair of the City of Portland's Urban Forestry Commission, a founding member of Friends of Trees, and a Certified Arborist. A full list of my credentials is attached to my testimony. Briefly – it all means that for over twenty-five years I have helped the trees of Portland peacefully coexist with powerlines. I'd like to share tonight a glimpse of what that entails.

As part of our routine tree maintenance program, PGE's forestry staff inspects the tree conditions on all of our lines every other year. This totals a minimum of 6,000 line miles inspected each year. The last time routine maintenance was done in the proposed Inner SE Portland PUD boundary area was during the fourth quarter of 2003, at a cost of \$218,000. When we come through an area, we inspect for tree growth that may be encroaching into the clearance limits set by the Oregon Public Utility Commission. But unlike most utilities we don't stop there. We know that trees can cause most of our outages during stormy weather. We also know that most of those trees likely to break and cause outages are located off of the public right of way. So, besides simply looking for trees on the public right of way that maybe getting too close to powerlines, we also look for any trees tall enough to reach the lines that have visible signs indicating there maybe a potential problem. When it comes to assessing and mitigating tree failure risks in urban environments, PGE has helped write the book. Our tree failure analysis was the basis for the International Society of Arboriculture's publication entitled, "Evaluation of Hazard Trees in Urban Areas."

As the Senior Forester for PGE, tree and wire conflicts are a priority for me. But my involvement with urban trees doesn't stop there. I recognize the incredible value trees bring to our urban communities and am proud to work in Portland where trees help define so many of our neighborhoods. I also know that the incredible beauty we have with our treed city is accompanied by a great responsibility. I have been outspoken about Portland's need to plant trees for many years. As I mentioned earlier, I was a founding board member of *Friends of Trees* and even helped plant the incense cedars at Buckman School during one of *Friends of Trees*' very first school plantings. PGE was the presenting sponsor of *Friends of Trees*' *Seed the Future Campaign* that saw over 144,000 street trees successfully planted in Portland. Through it all, as PGE's forester, my message has been that simply planting trees is not enough. In our urban environments we have to place trees responsibly and give them every opportunity to develop and mature and enhance our neighborhoods naturally, without subjecting them to years of pruning to keep them from becoming a problem. To help get that message out PGE developed and makes available a TREES brochure that lists a number of tree varieties that can be planted around powerlines without interference in the lines. But the principal of *planning before we plant* or *right tree, right place* is applicable throughout the city, not just for electric utilities. Citywide, trees that are inappropriately planted can disrupt and damage other important urban infrastructure as well.

For many years PGE has been involved in enhancing Portland's urban forest. PGE was one of the very first utilities, back in 1958, to offer their customers a tree replacement program. PGE helped organize the first Street Tree Advisory Committee in 1974. That committee later became the Urban Forestry Commission and PGE has always been a member of this Commission. I currently serve as the Chair of the Urban Forestry Commission and was involved in getting the Neighborhood Tree Liaison Program off the ground. The Neighborhood Tree Liaison program is now run cooperatively with the Portland Parks and Recreation's Forestry Division, through the structure of the Neighborhood Associations to encourage and empower neighbors to work on projects that enhance their neighborhood trees. This is a great place to let folks know about

careful planning and care for trees. I continue to be involved every year as a Neighborhood Tree Liaison instructor.

Portland's trees are fortunate that years ago PGE saw the importance of hiring trained foresters. Of the more than 30 electric utilities in Oregon, most have personnel trained in electric line work managing their trees. PGE was the first in the Pacific Northwest and is still one of the few utilities that have professional tree people managing and caring for trees.

The voters on this PUD takeover need to know what they risk losing in PGE's professional care of the trees in their community. That is only one of the reasons that a PUD here is a bad idea. Respectfully, I urge the Oregon Department of Energy to move away from taking the usual neutral position on these PUD takeover attempts. I believe its time to help put a stop to this PUD and its boundaries drawn solely according to voting patterns. As the Oregon Department of Energy, you know that forming a PUD at this time is not going to lead to lower rates. In fact, the odds are that it will lead to higher rates and lower service reliability for these consumers.

PGE has done a good job of serving the residential and business customers in the area. I am proud of the history PGE has in enhancing Portland's urban forestry efforts. I am proud of the work that the PGE foresters have done with Portland's trees and I am proud of the work we have done in the proposed PUD boundary area. But I am also concerned. I am concerned that the proponents of the proposed PUD, or even the authors of the proposed study that would be paid for by the tax levy, aren't aware of the costs and complexities of properly caring for the urban forests of Portland. The coexistence of electrical lines and proper care of trees, especially in the proposed Inner SE Portland PUD is critical for service reliability and public safety. Once again, I urge you to let folks know this proposed PUD is a bad idea.

David A. Johnson
(503) 570-4403

9480 SW Boeckman Rd.
Wilsonville, Oregon 97070

PROFESSION: Senior Utility Forester

EDUCATION: 1975 through 1985
Oregon State University - Forest Science
Portland State University - Sociology
Portland Community College - Landscape Technology

EXPERIENCE: August 1987 - present
Senior Forester, Portland General Electric Company (PGE). Responsible for the supervision and direction of PGE's vegetation management program. Responsible for annual operating budget development. Responsible for contract administration of line clearance contractors. Ensure that PGE's vegetation management goals and objectives are met within budgetary limitations while assuring the safe, efficient operation of electricity distribution. Examine and resolve unique and difficult vegetation management problems system-wide. Conduct ongoing public relations with Oregon Public Utility Commission, cities and communities.

April 1982 - August 1987
Regional Forester, PGE. Responsible for all vegetation management within PGE's Western region. Responsible for the direct daily operation of an average of ten contract tree crews. Responded to 250 to 350 customer requests for assistance each month. Pre-worked all primary maps for tree crews making all customer notification, designating trees to be removed, and trees to be pruned.

1977 - 1982
General Foreman, Asplundh Tree Expert Co. Responsible for the safe, productive removal of vegetation form around energized conductors for as many as 30 crews working in Washington, Oregon and California. Fielded and resolved all damage claims and utility customer complaints. Responsible for safety training and discipline.

**RELATED
PROFESSIONAL
EXPERIENCE:**

Oregon Urban and Community Forest Council
- 1990 - 1997
- Appointed by the Oregon State Forester
- Elected to the five person Executive Committee

- Elected Chairman of the Assessment Committee
- Authored the State's Implementation Plan
- Grant review committee member
- Contributing columnist for statewide newsletter

City of Portland's Urban Forestry Commission

- 1989 - present
- Appointed by Mayor Bud Clark
- Chairman

International Society of Arboriculture (ISA #9116)

- 1985 - present
- Certified Arborist (#PNW-45, #PN-0153)
- Past Pacific Northwest Chapter Board of Directors
- Past Pacific Northwest Chapter Treasurer

Utility Arborist Association

- 1985 - present
- Pacific Northwest Chapter Founding Member
- Past Pacific Northwest Chapter Vice President

Pacific Northwest Vegetation Managers Council

- 1989 - 1994
- Past Board Member

Hillsboro Street Tree Advisory Committee

- 1982 - 1992
- Past Board Member

Friends of Trees

- 1988 - present
- Founding Board Member
- Current Technical Advisor

Licensed Pesticide Consultant (#01670) Or Department of Agriculture

HONORS AND AWARDS:

- Two PGE Notable Achievement Awards (1987)
- PGE Environmental Achievement Award (1991)
- Oregon Arbor Week Award (1991)
- Utility Arborist Award, PNW-ISA (1992)
- The Oregon and Community Forest Councils Individual of the Year Award (1995)
- Hillsboro Area Chamber of Commerce Beautification Award (1998)

Oregon Department of Energy Hearing
June 15, 2004

My name is Anne Snyder and I live in the proposed PUD area.

I moved to Portland in June of 2000, one day after graduating from the University of Oregon. I had a double major in Spanish and International Studies with concentrations in international gender issues and Latin America, and a minor in Women's Studies.

Without much knowledge of the demographics of the area, my roommates and I moved into a townhouse in the West Hills. A year and a half later I found "home" in a close-in southeast Portland neighborhood called Brooklyn. I've lived in Brooklyn for a little over two years at this point and have never once regretted my move. As a University of Oregon graduate I'm very familiar with political activism. Southeast Portland feels like an extension of my college days when I first knew what I stood for and I worked so hard to fight for what I believed in. I appreciate this about my neighborhood in SE Portland and plan on remaining in the area for years to come.

Because of my interest in social services for the Hispanic community, I volunteered with several nonprofit organizations throughout my senior year of college. After graduation, I found myself in Portland General Electric's Customer Service Department working as a translator. It was a great way for me to feel like I was helping as well as using my Spanish language skills. Although I had spent most of my college years with the feeling that corporations were evil and ethically challenged, I found things to be different at PGE.

Portland General Electric does not possess the qualities that I had always attributed to corporations. PGE is very good to its employees, participates in the communities it does business in and throughout the state, and works to protect the environment. As a PGE employee, I feel like I'm a part of a big family. From the officers to middle managers to front-line employees, everyone looks out and cares for one another. I don't know of a more caring and supportive company than PGE.

PGE also has a strong culture of volunteerism and giving back to the communities, in which we live and serve. Recently, my department held its annual food drive. This time we decided to raise money instead of food, and donated it to the Food Bank. With a goal of \$3500, the employees were very creative in their attempts to raise as much money as possible. After all the money was counted, we raised \$6,909.72 (which equates to 69,072 pounds of food). This kind of giving is not uncommon at PGE.

Employees within the company set their goals high and normally surpass their goals. I've spent many Saturdays in the homes of people that are low-income or elderly, doing free weatherization for the coming winter. Our "Take The Chill Out" program has helped thousands of our customers reduce energy consumption after PGE employee volunteers spend a day doing weatherization. I have wondered if PGE hires the kind of people that are already inclined with a commitment to their communities, but I have seen that PGE puts a huge effort into encouraging volunteerism as well. This speaks volumes to the kind of company PGE is. Every quarter PGE awards about \$40,000 in Employee Volunteer Grants ranging in size from \$250 to \$500, to the multitude of organizations where our employees donate their time. These funds come from our investors. And in our Employee Giving Campaign, our total employee contributions have increased every year, despite hard economic times in our state and our employees' personal losses in their 401k's. Total employee giving last year was \$866,000 and again – PGE investors matched these contributions with a donation of fifty cents to every organization an employee donated a dollar towards.

Because we all work hard to provide a service that is so necessary there is a great sense of perseverance among PGE employees no matter what is thrown at us. I am very proud to work for PGE. Everyday I know that I'm helping people in my community by the nature of my job and this means a lot to me. We've been through difficult times since I started with the company in 2000. I'm constantly amazed at how strong and giving the employees are despite all we've been through. Regardless of whether or not I worked for PGE, as a southeast Portlander, I would not want to be without this company in my neighborhood.

Submitted Respectfully by:
Anne Snyder

**Portland General Electric**

April 2004

**A leader in
renewable power****Protecting our
natural resources**

Portland General Electric recognizes that operating an electric utility has an impact on our natural environment and the livability of our neighborhoods. That's why PGE engages in environmental and community efforts that protect Oregon's natural resources, promote sustainability and improve the quality of life in the communities where we live and work. Whether it's helping customers conserve energy, cleaning up the Oregon coast, improving fish passage or volunteering for a local charity, PGE employees are out in force, demonstrating their commitment to environmental and community stewardship. Here is a sampling of PGE's recent environmental and community efforts.

- PGE has offered renewable power options since late 1999. Today, customers can choose from three "green power" products, all which use 100 percent renewable power. They come from a combination of wind, geothermal (natural steam) and low-impact hydropower sources.
- In 2003, PGE was ranked second in the nation by the National Renewable Energy Laboratory for total sales of green power (in kilowatt-hours) and third in the nation for number of customers receiving green power.
- The first wind farm in Oregon was made possible when PGE agreed to purchase 100 percent of the output from the Vansycle Ridge in 1998.
- PGE is proposing even more renewable power in its recently released Integrated Resource Plan.
- Biogas projects that create energy using methane gas derived from cow manure have been part of PGE's renewable power efforts.
- PGE is removing two dams and donating 1,500 acres to a wild and recreation area in the Sandy River and Bull Run River basins.
- Work is underway to upgrade fish passage at PGE's Willamette Falls (Sullivan) hydro project. PGE also is initiating efforts to restore salmon passage above the Pelton Round Butte hydro project on the Deschutes River.
- PGE has purchased and is helping restore fish and wildlife habitat in Central Oregon, including the Trout Creek Ranch property near Madras and Camp Polk land near Sisters, both considered some of the best potential habitat in Central Oregon. Purchases also include 8,000 acres to return native habitat suitable for mule deer.
- In cooperation with wildlife agencies and other groups, PGE has helped restore the Willamette Valley osprey population by providing safe nesting sites. The number of nesting pairs has increased from 13 in 1976 to more than 230 today.
- PGE supports community efforts that protect and enhance the environment. PGE has been a major sponsor of SOLV's cleanup events for more than 20 years. The company also sponsors Friends of Trees' "Seed the Future" campaign and various community fish habitat restoration projects.

**A commitment to
sustainability**

- PGE is a founding member of the Oregon Natural Step Network, which promotes a healthy environment and adequate resources for future generations. Programs such as Earth Advantage® certification and Green Building Services consulting demonstrate PGE's commitment to green building and sustainable practices.
- PGE was a primary investor in Oregon's first three full-scale fuel cells, which use hydrogen to provide efficient power generation with less environmental impact.
- PGE offers free information about energy conservation and helps connect customers with services available through the Energy Trust of Oregon, the Oregon Department of Energy and others. For more information about energy efficiency programs and renewable power projects provided by the Energy Trust of Oregon, please call 1-800-ENTRUST or visit www.energytrust.org.
- PGE has adhered to a corporate environmental policy since 1991 and has provided detailed public performance reports on compliance with PGE standards, which often exceed state and federal requirements.

**A history of
community leadership**

- Each year, PGE employees volunteer approximately 100,000 hours in the community.
- PGE invests about \$1 million a year in Oregon communities through grants and sponsorships to schools and nonprofit organizations. Separately, the PGE Foundation contributes close to another \$1 million per year.
- During the 2003 Employee Giving Campaign, PGE employees and retirees donated a record \$848,000, which was distributed to 618 nonprofit agencies and schools. This was the third record year in a row for employee giving.
- Educational programs initiated by PGE include Community 101SM (which won the Youth in Philanthropy award in 2002 from the Association of Fundraising Professionals) and the "You Ooze, You Lose" program, which has taught more than 50,000 grade school students about energy efficiency, resource conservation and electrical safety.
- For several years, PGE has been recognized as one of the top two corporate supporters of the arts by Northwest Business for Culture and the Arts. The company also won a national Business Committee for the Arts award in 2001 for creating a program that teaches business people about diversity through arts and cultural programs.

Note: PGE's corporate contributions and sponsorships are paid with shareholder dollars and are not included in customer rates.

Inner Southeast/Northeast PUD

**Written Testimony of
Stephen R. Hawke, Vice President
System Engineering, Customer Service & Utility Services
Portland General Electric
Before the Oregon Office of Energy**

June 15, 2004

As background, I am Steve Hawke. I am a Vice President of Portland General Electric and have the Engineering, Transmission Services and Customer Service groups as part of my areas of responsibility. I have been at PGE for over 30 years and have worked in all of its regions. I am a registered professional engineer in the State of Oregon. My detailed background has been presented in previous hearings and is attached to my written testimony as an addendum.

As the Oregon Department of Energy studies the proposed Inner Southeast/Northeast PUD, one has to wonder at what point does this proposed entity get so small and so complicated that it doesn't make economic and technical sense. And what we see here is that even if you are a huge fan of public power this proposal is a bad idea.

At some point the Department can probably conclude decisively that a PUD is not feasible – that the low cost power from BPA is all used up as they continue to state and that the costs to purchase and separate the systems are so large that when they are spread over a small base of customers, costs will go up and reliability will go down. And the point when the Oregon Department of Energy can come to this conclusion is now.

As you know key regional energy participants, including the OPUC, BPA and PGE, have continued substantive discussions on regional power supply issues over the past year. A series of detailed and complex agreements have been negotiated that provide a much clearer picture of power supply in the Northwest. And as each new agreement is made and each new piece of information is added, the possibility of a new PUD acquiring low cost power diminishes. The proponents cannot get the power supply at the costs they claim.

And when we look at the transmission and distribution systems, similar problems arise. The attached maps illustrate the situation.

Exhibit A shows the precise boundaries of Representative District 42, the precincts and the five substations within the area.

Exhibit B provides an overview of the transmission lines and their routes as they impact the area. Note the six crossings where power flows into and the out of the area.

Exhibit C is a representative area along the north and east boundaries that show just the main primary voltage crossings that will require reconfiguration at various levels of complexity.

Exhibit D is another representative sample along the southern border and in this case shows how the service to Southern Pacific's major facility gets severed in two.

Finally, Exhibit E shows the river cable crossings that feed half of the downtown Portland network load. These are in many cases armored covered lead cables that require very specialized skills and techniques to install, splice and maintain.

These technical impacts are significant. And as much as they show the magnitude of the physical design and construction tasks that are needed for system separation, they also show that we've done our homework again. We've looked at the engineering, and we know what's involved. We are the designers and we have built and maintained this system for over 115 years. It takes this kind of experience to manage this degree of system complexity.

These are samples only, but when you add-up the entire impacts of the proponents' proposals we arrive at purchase and severance costs for the Inner Southeast/Northeast PUD to be close to \$150 million. This includes over \$90 million as the estimated purchase price of the system, separation costs of over \$35 million and facilities replacement costs around \$25 million. Separation in this case includes the reconfiguration of six major transmission lines, six substations, 80 main feeder lines, and hundreds of individual services, secondary crossings and streetlight circuits. You will note this is actually more in separation costs than we had for all of the Clackamas County proposal. Embedded in this area is one of our key substations that feeds the technically

advanced network system in downtown Portland. This is a very expensive substation to replace. So in comparison to the recent Clackamas County proposal we have greater costs for this small area to spread over 1/8 the number of customers. Per person expenses for this portion alone then are eight times greater than for the most recent Clackamas County effort. And these are just PGE's costs. The PUD will also face tens of millions of dollars of additional system and facilities costs of its own that will be added to the bills.

And we've been through the brick wall analogy when it comes to reliability where we've talked about this being like building a brick wall at the boundary cutting off all the streets. We will not extend our zone one protection designs and we will separate at the boundaries and the reliability of this very small island will decrease. In this area alone we have two different transmission voltages of 57,000 volts and 115,000 volts, we have three different distribution voltages at 4,000 volts, 11,000 volts and 12,500 volts, and the complexity of the system is high. This is not a rural system with single-phase taps as the norm. This is a complicated urban system with multiple voltages and complex configurations that has been operated and maintained by people who collectively have thousands of years of experience. There is no public power area in Oregon that comes close to approaching this level of technical and system complexity. To repeat - reliability will decrease.

So over the past year some things have changed – the power supply picture in the northwest is getting clearer and with each clarification the low cost power dream

vaporizes. We see that the purchase and separation costs will be 7-8 times greater per person for this small area than for the other proposals to date. And reliability will decrease.

We believe that given these facts, the Oregon Department of Energy can conclude that the Inner Southeast/Northeast PUD proposal will result in higher rates and lower reliability for the customers in this area. While there are models of public ownership that work, this is clearly not one of them. This proposal should be rejected on its technical and economic merits alone.

Thank you.

**Inner SE/NE Portland PUD
Testimony of Thor Hinckley
Manager – Renewable Power Programs
Portland General Electric
Before the Oregon Department of Energy
June 15, 2004**

Good evening. I appreciate the opportunity to speak tonight. My name is Thor Hinckley. I am the Manager of Portland General Electric's Renewable Power Program and a seven year resident of southeast Portland. I am here tonight to talk about PGE's leadership and commitment to Green Power, and the renewable power programs that would be lost to this community and region under a PUD.

PGE's customers have a national reputation for making energy choices that are good for the environment. We offer three different programs: Clean Wind, Green Source, and Healthy Habitat.

The National Renewable Energy Laboratory, a division of the US Department of Energy, ranks PGE's green power program as #2 in the country in total sales of renewable power.

According to the Renewable NW Projects "Powerful Choices IV" report, PGE alone sells over 47% of all renewable power sold in Oregon, Washington, Idaho and Montana.

Businesses enrolled in PGE renewable power programs range from Oregon's largest employer - Intel - to hundreds of smaller businesses including Kettle Foods, Kinko's, Ben and Jerry's and others.

Portland General Electric was one of the first major utilities in the West to offer green power programs to its customers when it launched its Clean Wind and Salmon Friendly Power programs in December 1999.

PGE built Oregon's first utility-scale wind project - the VanSycle Ridge wind farm - in 1998. VanSycle Ridge has 25MW of renewable power and is part of PGE's base load. The company plans to add another 200MW of green power to the base as part of our Integrated Resource Plan over the next 5 years.

PGE partnered with the non-profit group *For the Sake of the Salmon* to develop PGE's Salmon Friendly Power, the first plan in the nation that combined renewable power with salmon habitat restoration. *For the Sake of the Salmon* recently closed its doors, so PGE is now in the process of contracting with the *Oregon Nature Conservancy* to provide these habitat restoration services.

Revenue from PGE's Green Power program was used to construct the Oregon Solar Pioneer which made Oregon's State Capitol the first in the nation to be illuminated by solar energy.

These are just some of the environmentally focused programs Portland General Electric provides. Because of the company's long history protecting and restoring the natural environment, I have been proud to be a part of PGE. Because I know what has been involved and the kind of financial and philosophical commitment it takes over time to create these kind of programs, I am concerned about the potential losses of these renewable power programs to the residents of this Inner SE Portland area.

Green power clearly is important to the customers within the proposed PUD boundaries, which contains PGE's highest concentrations of renewable power customers. Twelve percent of the customers in this area have chosen a "green" option, compared to 4.3% of PGE customers overall. Unlike investor-owned utilities, PUDs are not required to offer green power to their customers-- and, in fact, most PUDs offer few, if any, green power options.

Because of PGE's size, we are able to contract with green power providers at a lower rate than small utility customers could obtain. If this new small utility could be contracted for a significant amount of renewable energy, the electric costs to customers could increase dramatically. But if they don't offer a green option, they will lose this choice and the Northwest will lose too!

The politics of an elected board also concern me as it relates to green power. A person running on a platform of "keeping electric rates low" is very unlikely to be able to keep that promise and still support a substantial green portfolio. Conversely, a person promising a maximum amount of green power won't be able to keep rates low.

In closing, I want to remind our customers in this serviced area that they already have one of the leading green power providers in the country as their electric utility. They will lose that provider if a PUD is formed. This would be a big loss for the entire renewable power movement.

Thank you.

Inner SE/NE Portland PUD
Testimony of Pamela Lesh
Vice President of Regulatory Affairs
Portland General Electric
Before the Oregon Department of Energy
June 15, 2004

Thank you for the opportunity to speak this evening regarding the proposed formation of an Inner SE Portland People's Utility District. I am Pamela Lesh, Vice President of Regulatory Affairs and a 16 year-employee of Portland General Electric.

Tonight, my colleagues and I will explain why the proposal to create an inner southeast PUD is not in the best interests of our customers. We will explain the high cost of forming and operating a PUD serving this small geographic area. We will describe the risks that its customers would face throughout the formation and operation stages. We also will highlight some of the current benefits residents and businesses will lose, not the least of which is the protection of regulatory oversight. Because we know that the residents of this area care deeply about control and oversight, we wanted to make sure everyone was clear about what exists today so that a context exists in which to decide whether to replace the current system of oversight. I will turn to that as soon as I introduce the others from PGE that are here to speak with you tonight.

Steve Hawke, Vice President of Customer Service, System Engineering & Utility Services at PGE, will outline the technical challenges, risk and costs associated with severing the customers in this proposed PUD from PGE's system. Next to Steve is Jim Piro, PGE's Executive Vice President and Chief Financial Officer, who will explain the financial implications of this proposed PUD.

Later tonight, you'll also hear from Thor Hinckley, PGE's Renewable Program Manager. Because renewable power is so important to our customers in these neighborhoods, we believe it's important to outline PGE's strong track record in this area, and the highly successful green power programs that would be lost to customers under this proposal.

Before my colleagues address these concerns, let me explain the regulatory issue. Under this proposed PUD, our customers would lose the experienced oversight of the Oregon Public Utility Commission on decisions central to the cost and reliability of electric service, including: what resources to acquire, what level of service reliability to provide, and what rates to charge.

Among my duties as the Vice President of Regulatory Affairs is overseeing PGE's interactions with the Oregon Public Utility Commission (OPUC). This state agency regulates Portland General Electric, Pacific Power, Northwest Natural and other investor-owned utilities in the State of Oregon. The OPUC is an independent state agency with a commission appointed by the governor, subject to confirmation by the Legislature. It oversees our accounting, our resource acquisitions, our sales of property, our issuance of securities, and – most importantly – our rates, terms and conditions of service. It also monitors our performance and can assess fines and penalties if we fail to meet certain reliability, safety and customer service standards. It brings to this critical role an experienced staff, with knowledge not only of PGE but all other investor-owned utilities in the state; knowledge that spans decades, not months.

The OPUC handles all regulatory filings, in processes that are very transparent and very public. Participation is encouraged and all relevant information fully vetted. Currently, the OPUC is nearing the end of an exhaustive review of PGE's plans to secure future supplies of power for its customers – including a large renewable power component. This has been a highly public process that started more than two years ago.

Proponents of PUDs often claim that an elected board will ensure local control and bring decision-making to the local level. If the local board members, however, do not know this industry – and it is more complex than ever – then the possible negative results of this lack of knowledge may significantly outweigh any benefit of the local control. We know nothing about the experience and knowledge of the people who would be on this board. And the questions facing this start-up PUD will not be easy questions; they will be fundamental questions with huge long-term impacts. We know how such decisions, including new resources, get reviewed and approved for PGE today; we don't know how it will work for the customers subject to a newly-formed, small PUD.

The OPUC has been specifically charged with protecting the interests of customers of Oregon's investor-owned utilities. If a PUD were to be formed, the OPUC is no longer responsible for the residents and businesses covered by the PUD. It does remain responsible, however, for protecting PGE's *remaining* customers, making sure they are held harmless from the costs and risks associated with the formation and operation of the new PUD. In other words, the costs of creating a new PUD that Jim and Steve will outline tonight cannot be passed along to or shared with PGE's remaining customers. Again – these costs are the legal responsibility of the new PUD's customers. This also means that the OPUC would defend remaining customers from any attempt to condemn our power generation facilities.

Before I turn the testimony over to my colleagues, I would like to thank the Department of Energy once again for its time and thoughtful consideration regarding PGE's concerns. The lack of regulatory oversight is one important reason we are convinced the proposed PUD is NOT in the best interests of our customers. Next, we'll hear from Steve Hawke, who will explain additional risks associated with this proposal.

**Inner SE/NE Portland PUD
Testimony of Jim Piro
Executive Vice President and CFO
Portland General Electric
Oregon Department of Energy Hearing
June 15, 2004**

Good evening. My name is Jim Piro. I have worked for Portland General Electric for 23 years. I became Chief Financial Officer in November 2000 after spending a number of years in various areas of the company. I am very proud of PGE and the dedication of my fellow employees to providing safe and reliable electricity to our customers.

Tonight, I will highlight four concerns related to my area of expertise as PGE's CFO: economy of scale, financial risk, debt, and ratepayer protection.

The first issue is the economy of scale that PGE provides, a benefit that would be lost with a much smaller utility.

PGE currently serves about 757,000 customers. During the last 10 years, PGE has developed state-of-the-art systems to serve our customers, including a sophisticated customer information and billing system and outage management system. We have a significant capital investment in load control systems, general plant, and computer network and software systems.

Most, if not all, of these systems would have to be duplicated and replaced by a PUD, at a much higher per-customer cost. Costs that are currently spread over 757,000 PGE customers would be borne by just 29,000 customers - the number of customers we currently serve in these eight precincts of House District 42.

PGE's budget for ongoing operations, not including costs for power operations, is roughly \$200 million dollars a year. This covers things like distribution operations and maintenance, customer service, financial services, human resources and information technology. Similar operational costs also would be borne by a PUD customer base that is just 3.5 percent the size of PGE's customer base.

Beyond the cost of duplication, the customers of a PUD in Inner SE Portland would be required to compensate PGE's remaining customers for costs associated with severing the system.

The question is: why should Inner SE Portland customers pay a higher cost for systems and services they already have, that are working well? From my perspective, this is a duplication of costs and a waste of resources.

Second, this PUD would be dependent on market-based power, exposing customers to further cost and risk.

PGE owns nine generating plants, and shares ownership in three others. We have negotiated several long-term contracts to supplement the power we generate ourselves. Since a PUD is unlikely to have access to BPA preferential power at the lowest rates, and no power of its own to begin with, it would have to rely on market purchases to meet most of its load.

Not only would this cost customers more, it also would increase their exposure to market volatility. This would require a PUD to carry additional financial reserves necessary to post significant collateral with counter parties if there were changes in market prices.

Third, the PUD would acquire significant new debt with uncertain terms, conditions, and pricing.

This new PUD would start out with debt close to \$200 million dollars. The PUD would need to cover the cost of purchasing PGE's assets in the area, the costs of physically isolating the start up PUD's infrastructure, pay to replace the substations PGE's customers would lose, and obtain capital to create support services and new technology systems. Then, of course, there are the legal fees for condemnation and start up operating capital. All of this would expose the PUD customers to uncertain interest rates, financing terms, and conditions that could significantly impact electric rates.

PGE's debt stands at about \$1 billion. Credit ratings agencies continue to maintain PGE at investment grade because they recognize the company has good access to working capital, relatively low levels of debt, and adequate revenues to cover maintenance and operations expenses, plus our low borrowing costs.

The question should be asked, "What will it cost customers of this new PUD to replace all of what PGE already provides?" Customers of the PUD would be responsible for paying all of the operating and capital costs. They would be 100 percent debt financed, have no proven experience or history, no known sources of generation, high startup costs and uncertain interest rates.

The new PUD also would need to borrow to maintain the system. PGE spends about \$120 to \$150 million each year on the transmission and distribution system

alone. Failure to adequately cover these costs could impact service quality to customers.

Finally, customers of a PUD must absorb all the financial risk associated with operating a utility.

If a PUD runs into financial trouble due to changes in retail loads, high power prices, high interest rates or poor operating decisions, it would need to raise rates to cover all their costs.

Conversely, PGE is an investor-owned utility regulated by the Oregon Public Utility Commission. In our rates, we are only allowed to recover prudent expenses, the depreciated capital costs of our power plants, and a reasonable return for our investors.

The OPUC can exclude from customer rates any costs it determines not to be prudent. Our investors absorb those costs. As a result, we have an incentive to implement systems and practices that are efficient and effective in providing our customers the service and value they expect.

With a PUD, there are no investors, so customers must pay **ALL** costs - regardless of whether they are prudent, reasonable or appropriate. While privately owned utilities are allowed to recover only forward-looking costs, PUD customers also must pay for any shortfall from the prior period.

Let me offer an example: During the most recent western energy crisis, PGE shareholders absorbed half the power costs we had to incur to serve our customers – that's more than \$100 million that was not passed on to our customers. In contrast, Seattle City Light incurred more than \$500 million in additional power costs during the same period – and these costs were borne entirely by their customers. This happened to a number of public utilities throughout the Northwest.

From my perspective, as chief financial officer of an electrical utility, I see no advantage to forming a PUD. What I do see are significant costs and risks that will be borne by the customers of such a PUD. I've described the loss of economy of scale, the dependence on market-based power, the high cost of debt and the added risk. It all comes down to this: why would anyone would want to pay more for something they already have, that's working well?

I would like to close PGE's formal presentation tonight by highlighting one more important asset that PGE brings to Portland - our 2,700 employees, and the

commitment they have to building a better community. This commitment includes the area covered by the proposed Southeast Portland PUD.

Each year, PGE employees volunteer tens of thousands of hours at elementary schools, social service agencies and environmental groups serving southeast Portland and surrounding communities. They are your neighbors, planting trees in our neighborhoods, volunteering as SMART Readers, Meals on Wheels drivers and SOLV clean-up crews. These are real people making a real difference such as PGE employee and Southeast Portland resident Lauren Shapton, who volunteers at the Winterhaven School on SE 13th Avenue. They also include PGE employee and Southeast Portland resident Mark Cooksey, who is the treasurer of *Amigos des las Americas*, and the hundreds of employees who have obtained Employee Volunteer grants for the organizations where they give of their own time. There are countless other PGE employees making a real difference in their Inner East Portland neighborhoods.

At a time when government services are being slashed, the PGE Foundation and PGE contributed about \$2 million dollars last year to community organizations. As a major contributor to Oregon Heat, PGE helps low-income residents pay their energy bills. In addition, PGE employees and retirees contributed more than half a million dollars through their employee giving campaign last year to nonprofits and schools.

In addition, we are one of the largest property taxpayers in Multnomah County. In 2003, PGE paid almost \$6.4 million dollars in property taxes to Multnomah County. PGE also paid nearly \$20 million dollars in franchise fees and privilege taxes to cities in Multnomah County alone.

These are just some of the benefits PGE brings to the neighborhoods impacted by this proposed PUD. Tonight, my colleagues and I have also described the high costs and significant risks involved, and the loss of regulatory oversight. PGE opposes the proposal before you this evening because it is clearly not in our customers' best interests.

I trust the Oregon Department of Energy will seriously evaluate the impact of this proposal on the residents of these eight precincts, the rest of Multnomah County, and the other Oregon communities served by PGE. Thank you for your time and thoughtful consideration.

Oregon Department of Energy Hearing on Willamette Electric PUD

Testimony Supplement

Jim Piro

**Executive Vice President, Finance, CFO & Treasurer
Portland General Electric
Before the Oregon Department of Energy
June 18, 2004**

June 18, 2004

Mike Grainey
Oregon Department of Energy
625 Marion St. NE
Salem, OR 97301-3737

Dear Mr. Grainey:

I am requesting to include this supplemental testimony as part of the official testimony I delivered before the Oregon Department of Energy on June 15, 2004 regarding the proposal to form a People's Utility District (PUD), Willamette Electric PUD, within a small area of Multnomah County. PUD proponents at the hearing that evening incorrectly characterized a number of issues related to Portland General Electric (PGE), and I would like to address their erroneous statements here.

- 1) PGE is not guaranteed a rate of return on its investment, only the opportunity to earn it. Several times in the hearing, PUD proponents stated that PGE has a guaranteed rate of return on equity of 10.5 percent. That figure is actually an *allowable* rate of return, authorized by the Oregon Public Utility Commission (OPUC). Given the challenges of the energy industry and the economy in recent years, PGE's actual rate of return has been significantly lower than this figure. In other words, there are no guarantees what our utility earnings will be.
- 2) The OPUC policy on corporate income taxes as part of our cost structure is sound, since any tax benefits generated are a result of losses that are also not paid for by customers. The OPUC established its tax collection policy based on a stand-alone utility basis for all the utilities it regulates, no matter what their corporate structure may be. The procedure for calculating tax costs as part of the overall cost structure is the same for NW Natural, PacifiCorp and PGE, even though the ownership structures of these three utilities are different (NW Natural does not have a parent company, PacifiCorp has an international owner, PGE's common stock is owned by an out-of-state parent company). The other part of

the equation that these PUD proponents fail to mention is: If the corporate taxes are higher than those included in rates, the OPUC's policy protects customers from the higher tax burden. It is our responsibility to follow the tax policy that was established long ago through public process at the OPUC, and we will continue to follow the guidelines of that policy. If PUD proponents believe some other policy should be established for all of Oregon's regulated utilities, it is their responsibility to pursue the avenues available, such as requesting the OPUC to open a docket on the issue.

- 3) The recent Marion County Circuit Court ruling on PGE's rates and the calculation of tax requirements merely referred the issue back to the OPUC for review, it did not make a definitive ruling about the manner in which PGE has included taxes in its overall cost structure. Again, as the section above explains, like all regulated utilities in Oregon, PGE has followed the regulatory precedent in estimating our taxes for purposes of determining our rates on a stand-alone basis. We have always based our rate tariffs on this precedent, which are fully reviewed and approved by the OPUC through an open, transparent and public process. We are troubled by the careless and unfounded accusations of the Utility Reform Project, the same organization involved with this PUD effort and recently failed attempts to take over PGE territory in other counties. We are confident that any review of our rate cases will show that we based our proposed rates on the appropriate information under OPUC policy and the Commission adopted them after a full and open process. PGE is reviewing the Marion County Circuit Court decision to remand the issue back to the OPUC, and PGE will fully cooperate in any future proceedings on the matter.
- 4) Several statements about the regulatory powers of the OPUC by PUD proponents may have caused confusion about the state agency's role in utility regulation. The OPUC is an independent government agency with a responsibility to set rates that are just and reasonable. A Commission that is appointed by the Governor and confirmed by the Oregon Senate oversees this state agency. There are countless examples of how PGE and other regulated utilities have not been allowed by the OPUC to recover the costs for hundreds of millions of dollars in legitimate expenses incurred by the utilities over the years. One recent example is the disallowance of PGE to recover more than \$100 million in excess power costs that resulted from the high wholesale electricity and fuel prices from the energy crisis of 2000-2001. PGE shareholders, instead, had to cover that cost. Conversely, Seattle City Light incurred half a billion dollars in excess power costs from that period. An independent regulatory agency does not oversee public utilities such as Seattle City Light, and their organizational structure does not allow for any group other than customers to take accountability for utility costs and risks. Therefore, Seattle City Light customers had to pay for these excess power costs – and the same would be true for the Willamette Electric PUD, since they would have no shareholders.
- 5) The decision to shut down and decommission the Trojan power plant, and the associated recovery of PGE's investment in the plant from customers, was arrived at through a legally valid public process overseen by the OPUC. PGE went through an exhaustive and highly transparent least cost planning process conducted by the OPUC and it was determined that customers were better off to shut the plant down versus continuing to operate it with the assumption that the remaining investment would be recovered regardless. The method for

PGE's recovery on the investment in the plant was approved by the OPUC in accordance with the laws understood by that Commission at the time. In consideration of a recent Marion County Circuit Court decision, the OPUC will reopen the public process to review this issue once again.

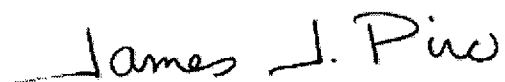
- 6) PGE's customer information system (CIS) is operating successfully, and has been heralded as a case study for utility CIS deployment. While some start-up complexities are to be expected and some minor technical glitches have occurred, it's important to note that PGE's CIS project – one of the more technically challenging projects in the company's history – is widely viewed by industry experts as a successful project. We encourage the ODOE to refer to previous testimony about PGE's CIS by Cap Gemini Ernst and Young from the earlier Multnomah County PUD campaign in 2003, as well as testimony given by PGE's Nancy Miller earlier this year in the recent Clackamas County PUD effort. More importantly, we encourage the ODOE to analyze the challenges this new PUD will face in developing and launching its own CIS system, especially given the high costs that will need to be spread across a very small number of customers. Again, the previous testimony highlights some of the associated challenges – including the high chances for cost overruns and unsuccessful deployment. We remain concerned about the impacts to potential customers of the proposed PUD, who would likely not receive the same level of service as provided by the proven systems and experienced employees currently serving them at PGE.
- 7) The chances for low-cost preference power from the Bonneville Power Administration (BPA) for a new PUD remains a wild card, but there are several indications that the cost of power will not be low. We encourage the ODOE to refer to the testimony provided at the June 15 hearing and previous PUD hearings regarding this matter, including testimony from third-party sources about the BPA's current challenges to inexpensively serve a long list of public utility customers. Additionally, we would ask that the ODOE, in its official report studying this PUD proposal, provide a clear distinction between the legal obligation for BPA to provide power to new public utilities, and how that differs from access to low-cost power. We have seen examples in past failed PUD campaigns in which PUD proponents claim that BPA must provide preference power to a new public utility. We agree that BPA is obligated to serve a new public utility, but the central question is: "At what price?" There are no guarantees for low-cost preference power. An outcome probably closer to reality for any newly proposed PUD is one in which BPA purchases power for the utility at higher wholesale prices.
- 8) PGE's non-residential customers have options for other electricity suppliers, yet an overwhelming majority have chosen to stay with PGE. PUD proponents continue to paint a picture that PGE's rates are the reason for the local economic downturn, and that non-residential customers have no other available options. In fact, non-residential customers of PGE do have the option of being served by power indexed at daily, monthly or quarterly prices directly from the wholesale power market, or from external suppliers other than PGE. In the most recent election window in which customers could choose an alternative rate option, all customers chose to remain on PGE service. While PGE continues to work toward further rate stability, the company's rates remain below the national average. PGE's rates are

not the lowest, nor are they highest, in the region. To continually characterize PGE's rates as the highest in Oregon is irresponsible at best.

- 9) Retired Columbia River PUD employee Fergus Pilon said the PUD vote alone would not result in any change to the status quo, yet it establishes an entity with taxing authority. This important point should not be overlooked. PUD proponents continue to characterize the PUD vote as just a formality, yet formation would create an entity with taxing authority and the power to begin condemnation proceedings. It also would create a scenario of uncertainty for our customers – for months, and perhaps years – both inside and outside the proposed boundary areas.
- 10) Columbia River PUD severance costs should not be used as a model for what the severance costs could be for the Willamette Electric PUD. The unique circumstances for this proposed PUD should be considered on their own merits. As Stephen Hawke, vice president of customer service, system engineering and utility services for PGE articulated at the June 15 hearing, there are immense technical challenges in the proposed Willamette Electric PUD area that would result in corresponding high severance costs. Please refer to the testimony and corresponding maps that explore the severance challenges and related costs in detail.
- 11) As the ODOE considers testimony provided by D. Hittle regarding a recent study promoting the viability of a PUD takeover, we encourage the ODOE to review the methodology and also consider the outcomes from D. Hittle's analysis of a Hermiston Energy Services takeover of PacifiCorp assets. The testimony submitted by Samuel Van Vactor at the June 15 hearing addresses some of the flaws in the recent Clackamas County PUD study prepared by D. Hittle, and it should be reviewed carefully. In short, that study makes some incorrect assumptions about PGE, including an unsubstantiated prediction of 3 percent rate increases for each of the next 10 years and extremely undervalued asset purchase costs. Also, it should be noted that prior to Hermiston Energy Service's asset purchase from PacifiCorp, D. Hittle estimated the asset costs at \$3 million, when the actual price for those assets came in at around \$8 million. Further, D. Hittle estimated that Hermiston rates would fall below PacifiCorp's. The opposite came true. Hermiston's rates are currently higher than PacifiCorp's rates, and the gap was further widened this month with a PacifiCorp rate decrease that was just enacted.
- 12) Oregon Electric Utility Company and/or TPG cannot sell PGE's assets without OPUC approval. The single biggest threat to a break-up of PGE's assets is through condemnation or a PUD takeover of PGE assets. OPUC rules do not allow the sale of PGE assets valued in excess of \$100,000 without OPUC approval. Further, the OPUC rules and "ringfencing" protections have stood the test of the Enron bankruptcy. PGE remains fully intact, financially independent and healthy, it has adequate access to capital, and its financial ratings remain at investment grade. In fact, we encourage the ODOE to refer to a news story excerpt about ringfencing from *Platts* that PGE made available as a handout at the June 15 hearing. In that story, utility regulatory protections across the country were evaluated in a survey, and Oregon's regulatory protections that cover PGE were highlighted as the "poster child" for effective utility ringfencing.

Thank you for allowing an opportunity to set the record straight through the submittal of this supplemental testimony. We appreciate the tough job ahead as you weigh the input from all sides and assemble a meaningful analysis.

Respectfully yours,

A handwritten signature in black ink that reads "James J. Piro". The signature is written in a cursive, slightly slanted style.

Jim Piro
Executive Vice President, Finance, CFO & Treasurer
Portland General Electric

Cost Comparison Non-Residential

Basic Service

1000 kWh

Bill Amount	\$88.42
No additional charges per month.	
Average cents/kWh	8.8

Time of Use

Bill Amount	\$90.99
Bill includes \$2.35 monthly meter charge (single-phase meter). Assumes average consumer energy use of 21% on-peak, 43% mid-peak, 36% off-peak*	
Average cents/kWh	9.1

Basic Service plus Fixed Renewable**

Bill Amount	\$92.03
Bill includes Basic Service plus one Fixed Renewable unit at \$3.50 per unit.	
Average cents/kWh	9.2

Basic Service plus Renewable Usage**

Bill Amount	\$96.66
Bill includes Basic Service plus Renewable Usage option at an additional 0.80¢ per kWh.	
Average cents/kWh	9.7

Basic Service plus Habitat**

Bill Amount	\$98.62
Bill includes Basic Service plus Habitat Option at an additional 0.99¢ per kWh.	
Average cents/kWh	9.9

* The Time of Use option could result in a lower electricity bill, but only if you are able to significantly shift the number of kilowatt hours you use during on-peak time periods to mid- or off-peak periods. Otherwise, you could end up paying more.

** Renewable options are also available with Time of Use option with an additional \$2.00 per month meter charge (single-phase meter). Assumes average customer energy use of 21% on-peak, 43% mid-peak, 36% off-peak. (May not add up to 100 percent due to rounding.)

For more information or to enroll in an option, visit **PortlandGeneral.com/PowerOptions** or call **1-800-542-8818**

Information on Environmental Impact

Carbon Dioxide – is a major contributor to global climate change. Among the likely impacts for Oregon are less mountain snowpack and less water available in summer, higher sea level, and threats to forest, crops, and fish and wildlife habitat. Coal and natural gas are the main sources of carbon dioxide from power generation.

Nitrogen Oxide and Sulfur Dioxide – are air pollutants that affect human health, plants, fish and wildlife. Nitrogen oxides contribute to smog. Coal is the main source of these pollutants from power generation. Natural gas plants produce nitrogen oxides.

Nuclear Fuel Wastes – contain the most radioactive and long-lived waste from during operation of nuclear power plants. These wastes are stored at nuclear power reactor sites. The United States has no permanent disposal site for these wastes.

Hydropower Impacts – some hydropower dams contribute to the decline of salmon and other fish and wildlife populations.

Source: Oregon Office of Energy



Portland General Electric

121 S.W. Salmon Street • Portland, Oregon 97204
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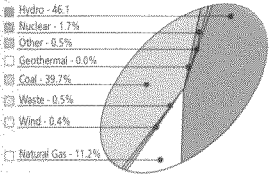
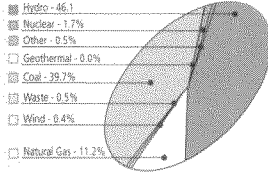
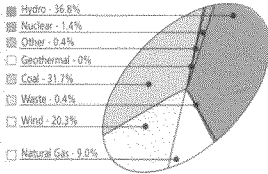
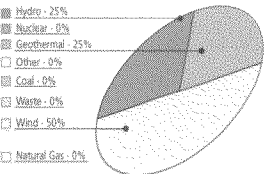
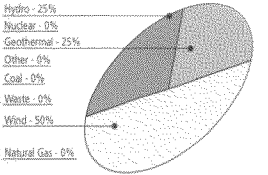
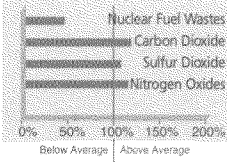
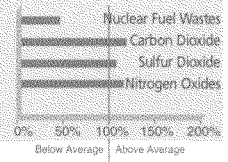
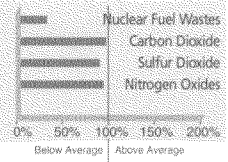
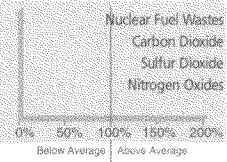
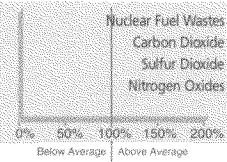
Oregon Public Utility Commission
1-800-522-2404 • puc.state.or.us

Information About Power Options For Your Business

This brochure contains information about the fuel sources used to generate your electricity. Each option available to you has different fuel sources, environmental impacts and prices. We hope this information is helpful.

01830 1103

Portland General Electric

	RATE OPTIONS		ADDITIONAL POWER SOURCE OPTIONS		
	BASIC SERVICE	TIME OF USE	FIXED RENEWABLE* Clean Wind™	RENEWABLE USAGE Green Source™	HABITAT Healthy Habitat™
Price Formula Prices are listed on the cost comparison chart. Prices cannot be changed without PUC approval.	Actual usage billed at the Basic Service rate = electricity price	Actual usage billed according to rates based on high-, low- and medium-price periods + an additional meter charge = electricity price <i>This option is based on a 12-month term. Credit requirements and monthly meter charges apply.</i>	Actual usage billed at the Basic Service rate + an additional fixed amount per unit = electricity price	Actual usage billed at a slightly higher rate than Basic Service for higher-cost earth-friendly power = electricity price	Actual usage billed at a slightly higher rate than Basic Service for higher-cost earth-friendly power = electricity price
Supply Mix PGE has bought or plans to buy power or unique claims on the electricity produced from these types of power plants. The portion supplied by PGE is based on recent utility production and purchases. (May not add up to 100 percent due to rounding.)			 <i>Fixed renewable assumes 1 unit (200 kWhs) of wind is purchased by a consumer using an average of 1,000 kWh/mo. The result is that wind increases by 20% (plus 80% of all the basic service wind). All other supply mix sources are reduced by 20%.</i>		
Environmental Impact Amounts of pollutants per kilowatt-hour of supply mix, compared to the Northwest U.S. average.					

*Impact is less than 1 percent

Cost Comparison Chart

250 kWh 500 kWh 1000 kWh 2000 kWh

Basic Service

Bill Amount	\$25.92	\$44.12	\$80.52	\$153.32
No additional charges per month				
Average cents/kWh	10.4	8.8	8.1	7.7

Time of Use

Bill Amount	\$31.50	\$46.18	\$82.57	\$155.37
Bill includes \$2.00 monthly meter charge (single-phase meter). Assumes average consumer energy use of 22% on-peak, 41% mid-peak, 38% off-peak.*				
Average cents/kWh	12.6	9.2	8.3	7.8

Basic Service plus Clean Wind**

Bill Amount	\$29.52	\$47.72	\$84.12	\$156.92
Bill includes Basic Service plus one Fixed Renewable Unit at \$3.50 per unit.				
Average cents/kWh	11.8	9.5	8.4	7.8

Basic Service plus Green Source**

Bill Amount	\$27.98	\$48.24	\$88.76	\$169.80
Bill includes Basic Service plus Renewable Usage Option at an additional 0.80¢ per kWh.				
Average cents/kWh	11.2	9.6	8.9	8.5

Basic Service plus Healthy Habitat**

Bill Amount	\$28.47	\$49.22	\$90.72	\$173.71
Bill includes Basic Service plus Habitat Option at an additional 0.99¢ per kWh.				
Average cents/kWh	11.4	9.8	9.1	8.7

* The Time of Use option could result in a lower electricity bill, but only if you are able to significantly shift the number of kilowatt hours you use during on-peak time periods to mid- or off-peak periods. Otherwise, you could end up paying more.

** Renewable options are also available with Time of Use option with an additional \$2.00 per month meter charge (single-phase meter). Assumes average customer energy use of 22% on-peak, 41% mid-peak, 38% off-peak. (May not add up to 100 percent due to rounding.)

For more information or to enroll in an option, visit **PortlandGeneral.com/PowerOptions** or call **1-800-542-8818**

Information on Environmental Impact

Carbon Dioxide – is a major contributor to global climate change. Among the likely impacts for Oregon are less mountain snowpack and less water available in summer, higher sea level, and threats to forest, crops, and fish and wildlife habitat. Coal and natural gas are the main sources of carbon dioxide from power generation.

Nitrogen Oxide and Sulfur Dioxide – are air pollutants that affect human health, plants, fish and wildlife. Nitrogen oxides contribute to smog. Coal is the main source of these pollutants from power generation. Natural gas plants produce nitrogen oxides.

Nuclear Fuel Wastes – contain the most radioactive and long-lived waste from during operation of nuclear power plants. These wastes are stored at nuclear power reactor sites. The United States has no permanent disposal site for these wastes.

Hydropower Impacts – some hydropower dams contribute to the decline of salmon and other fish and wildlife populations.

Source: Oregon Office of Energy



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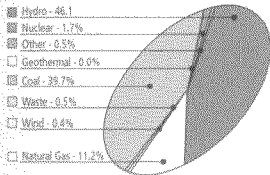
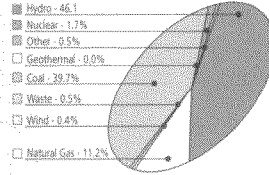
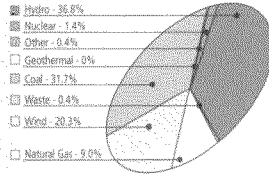
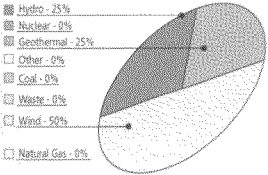
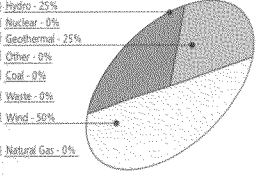
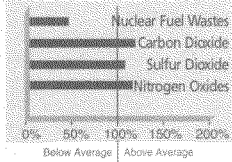
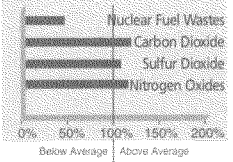
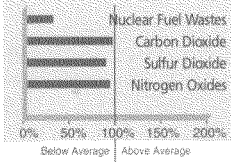
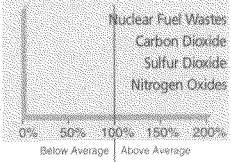
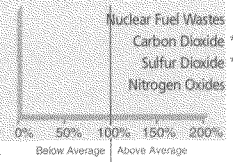
Oregon Public Utility Commission
1-800-522-2404 • puc.state.or.us

Information About Power Options For Your Home

This brochure contains information about the fuel sources used to generate your electricity. Each option available to you has different fuel sources, environmental impacts and prices. We hope this information is helpful.

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Portland General Electric

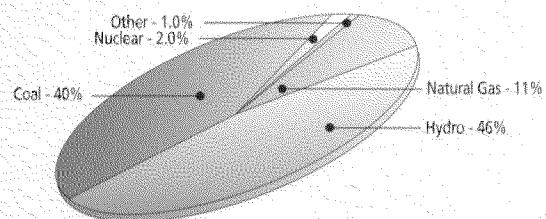
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Environmental Impact Amounts of pollutants per kilowatt-hour of supply mix, compared to the Northwest U.S. average.					

*Impact is less than 1 percent

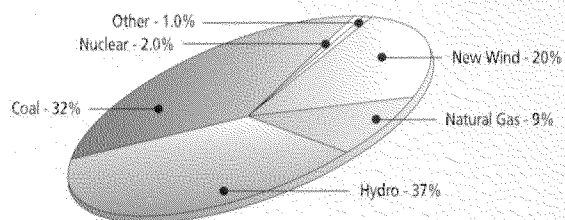
Where does the power for the renewable options come from?

Clean Wind is generated from new wind farms in Oregon and Washington. The Green Source and Healthy Habitat options are generated from new wind farms in Oregon and Washington, existing* geothermal plants in northern California, and existing* certified low impact hydro plants in the Pacific Northwest.

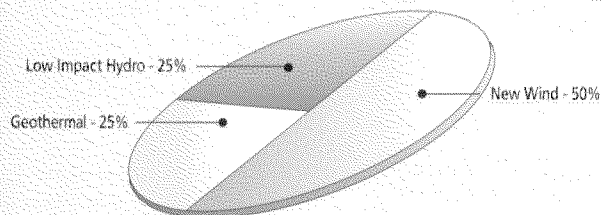
Basic Service



Clean Wind**



Green Source and Healthy Habitat



Pricing information

Options	Additional Renewable Charge	% of Total Electricity Mix From Renewables	Extra Monthly Cost
Clean Wind 200 kWh unit of 100% new wind sold at a fixed cost.	\$3.50 per unit	20%*	\$3.50 per unit
Green Source 100% renewable from new wind, existing geothermal and low impact hydro.	Less than a penny per kWh (\$0.008/kWh)	100%	\$8.00*
Healthy Habitat The same product as Green Source plus a fixed monthly fee for salmon habitat restoration.	Less than a penny per kWh (\$0.008/kWh) plus \$2.50 per month	100%	\$10.50*

Note: Your chosen option will show up as a line item on your PGE bill once your enrollment form has been processed and your next meter read date has occurred.

* Extra monthly costs and percent from renewables shown based on a PGE customer's monthly electricity usage of 1,000 kWh and assumes one unit of Clean Wind purchased. Your percentage or monthly cost may vary.

Please visit our Web site for examples of monthly bills at other usage levels. Costs shown are for the extra renewable energy portion of a bill; it does not include the energy charge (Basic Service or Time of Use) and other charges or fees charged to every PGE customer.

Frequently asked questions about renewable power.

Q: Why are there special programs for renewable energy? Why isn't it just provided to everyone?

A: While the price gap between renewables and conventional generation is narrowing, renewables are still more expensive. Customer participation is needed to bring additional renewables on-line. Senate Bill 1149, passed in 1999, requires us to offer three renewable options.

Q: Is there a governing body that oversees PGE's renewable power transactions?

A: Yes. All of our renewable power options were approved by the Oregon Public Utility Commission (OPUC). Prior to approval PGE was required to submit a full description of these programs, including fund allocations. PGE submits annual reports on program administration and marketing for these programs, which are on file with the OPUC.

Q: Who is Green Mountain Energy Company?

A: Green Mountain Energy Company was selected in a competitive process to offer renewable products through PGE from 2002-2006. www.greenmountain.com

For more answers and in-depth information on renewable power, please visit PortlandGeneral.com/Renewable.



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Now you have the **power** to build a renewable future for Oregon.

Portland General Electric

PGE# 2058 12/03 30K

Source: Oregon Office of Energy, 2002 data.

**Existing* refers to facilities that became operational prior to July 1999.

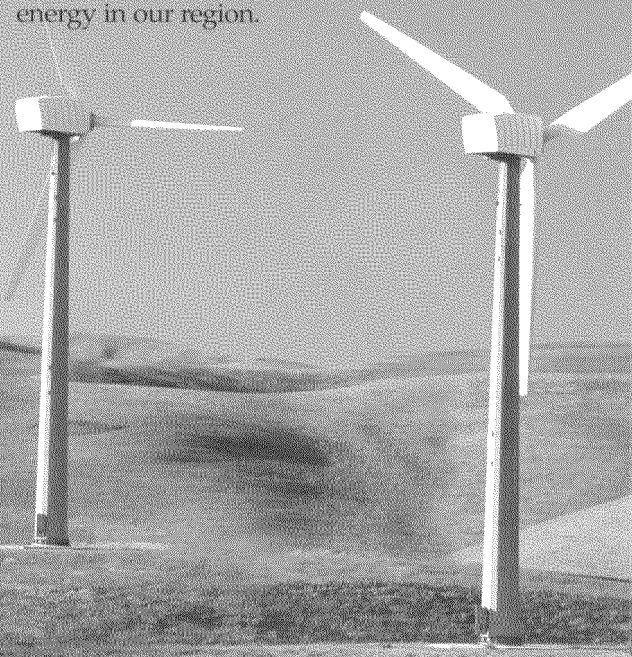
**Based on a customer's monthly usage of 1,000 kWh and the purchase of one unit.

Note: Low impact hydropower is power certified by the Low Impact Hydropower Institute to have been generated at dams that have met stringent standards to minimize their impact on rivers, fish and wildlife.

The power to make a difference.

One person's actions can truly change things. In fact, one of the most important steps you can take to help build a sustainable energy future in Oregon is to buy cleaner energy generated from new renewable resources. Our customers have helped our renewable power program rank fourth in the nation with more than 26,000 renewable power customers. We invite you to join this growing community and show your support for the development of clean energy in Oregon.

Purchasing renewable power supports wind farms in the Northwest and helps to encourage the development of new renewable sources of energy in our region.



Three easy renewable choices Each one of these options is available to residential and small business (Schedule 32) customers and is as reliable as your current service.

Clean WindSM

With Clean Wind, you help build new renewable resources right here in Oregon. It's easy, and the most economical way to help support Northwest wind farms.

With Clean Wind:

- You buy 200 kilowatt hour (kWh) "units" of 100 percent new wind power.
- Each unit costs an extra fixed monthly fee of \$3.50. You can purchase as many units of Clean Wind as you wish.
- \$2.50 of your payment goes to develop new sources of renewable electricity in Oregon.

Green SourceSM

With this option, the electricity you buy each month is generated from renewable resources.



Green Source customers are also helping to build new renewable generation in Oregon, including a new wind farm in Arlington.



Clean Wind customers helped build Oregon's Solar Pioneer project, making our state the first in the U.S. to have its Capitol building illuminated by solar power.

Healthy HabitatSM

This option consists of the same renewable resources as Green Source PLUS helps fund salmon habitat restoration projects here in Oregon.

With Healthy Habitat:

- You buy 50 percent new wind, 25 percent geothermal and 25 percent low impact hydroelectric power from existing** resources.
- A typical*** PGE customer only pays about \$10.50 per month (the same price per kWh as Green Source plus a fixed \$2.50 monthly fee for salmon habitat restoration).
- The electricity you pay for is 100 percent renewable power AND a donation goes directly to For the Sake of the Salmon.



Healthy Habitat customers are also helping to build new renewables and have helped open up 45 miles of stream habitat for salmon in our service territory.

With Green Source:

- You buy 50 percent new wind, and 25 percent geothermal and 25 percent low impact hydroelectric power from existing** resources.
- A typical*** PGE customer only pays about \$8 more per month.
- The electricity you pay for is 100 percent renewable power.

*You will not have electricity from a specific generation facility delivered directly to your house, but the amount of electricity you consume will be replaced in the Western power grid by wind, geothermal and low-impact hydro.

**Existing* refers to facilities that became operational prior to July 1999.

***Based on a PGE customer using 1,000 kWh per month. Your cost may vary.

Portland General Electric Renewable power enrollment form

Yes!

I want to help build a sustainable energy future for Oregon.

Select your option* and fill out the form below.

- ☐ **Clean Wind** (Fixed Renewable option) at an additional \$3.50 monthly fee per unit
How many units? _____
- ☐ **Green Source** (Renewable Usage option) at an additional \$0.0080 per kWh
- ☐ **Healthy Habitat** (Habitat option) at the same price as Green Source plus an additional monthly fee of \$2.50

*Most customers choose just one renewable option, but if you wish to boost your commitment you may combine Clean Wind with Green Source or Healthy Habitat.

Please Print

Name: _____
(as it appears on your PGE bill)

Company Name: _____
(if applicable)

Address: _____
(no P.O. Boxes please)

City: _____ Zip: _____

Telephone: _____

E-mail: _____

Signature: _____

Return this form to:

PGE Renewable Power
Portland General Electric
c/o Green Mountain Energy Company
506 SW Sixth Avenue, Suite 501
Portland, OR 97204

You can also sign up online at
PortlandGeneral.com/PowerOptions,
or by calling **503-228-6322** or
1-800-542-8818 outside the Portland area.

CHOOSE WHERE YOUR MONEY GOES.

IF YOU HAVE THE ABILITY TO "SELF DIRECT" A PORTION OF YOUR PUBLIC PURPOSE CHARGE, YOU CAN PURCHASE CLEAN WIND VIA THIS PROCESS. IF YOU DECIDE TO "SELF DIRECT," MAKE CLEAN WIND YOUR CHOICE FOR YOUR RENEWABLE POWER CREDITS. YOU RECEIVE ALL OF THE PUBLIC RECOGNITION THAT COMES WITH BUYING CLEAN WIND. IF YOU ARE UNSURE IF YOUR BUSINESS CAN "SELF DIRECT," PLEASE ASK YOUR PGE ACCOUNT MANAGER.



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How your
business
can support
renewable
power

CLEAN WIND FOR
MEDIUM TO LARGE
NONRESIDENTIAL
ACCOUNTS

Portland General Electric

PGE# 02177 404 2K

Sign up for PGE's new Clean Wind™ plan

FOR MEDIUM TO LARGE NONRESIDENTIAL ACCOUNTS

(Schedule 83)

You have the power to make a difference

Now PGE is offering Schedule 83 customers (medium to very large companies and organizations) an easy, affordable way to support renewable energy and publicize your commitment to the environment. We have teamed up with the Bonneville Environmental Foundation – a nonprofit corporation and the Northwest's leading wholesaler of renewable energy – to offer you Clean Wind.

Log on to **www.b-e-f.org** to learn more about the Bonneville Environmental Foundation.



Clean Wind encourages new renewable resources

PGE's Clean Wind is 100 percent new wind power. Clean Wind comes from wind farms designated as new and endorsed by such groups as the Renewable Northwest Project, Northwest Energy Coalition, and Natural Resources Defense Council. Purchasing renewable energy from new wind farms helps build more wind farms right here in the Northwest.

Here's how it works: There's a minimum purchase of just 1,000 kWh a month. Beyond that, you decide which support level you want to pay for to receive specific publicity and recognition benefits. The publicity benefits are determined by how much renewable power you purchase as a percentage of your total electricity usage. Depending on your level of support, you receive promotional benefits, such as:

- Inclusion in page-dominant quarterly Oregonian and Business Journal advertisements
- Quarterly listing in PGE's renewable newsletter reaching nearly 30,000 customers
- Eligibility for participation in Green Community coupon book reaching nearly 30,000 customers
- Assistance with applying for national renewable awards and rankings

You will not have electricity from a specific generation facility delivered directly to your organization, but your designated portion of your electricity consumption will be replaced in the Northwest power grid on an annual basis by 100 percent new wind power.

Flexible, easy to budget, inexpensive

Supporting Clean Wind is easy and affordable. We can invoice you separately from your PGE electricity bill so that you can buy renewable power out of a different budget, such as Marketing or Public Relations. We can invoice you monthly, quarterly or on an annual basis, as you prefer.

Clean Wind matters to your customers

Clean Wind provides your organization with a simple way to demonstrate your concern for the environment and commitment to renewable energy.

When you sign up for Clean Wind, PGE will provide you with window decals, posters and a framed certificate or engraved plaque (depending on your level of commitment). With citizens in Oregon signing up for green power in near record numbers, choosing PGE's Clean Wind helps demonstrate your company's support for a sustainable future.



Help build a brighter tomorrow, sign up for Clean Wind today.

Your organization has the power to make a difference. Sign up for Clean Wind by contacting your PGE account manager or sending a message via e-mail to **renewables@pgn.com**



Energy Pricing Options **2004**

New changes make
choosing easier

SCHEDULE 83 CUSTOMERS

Portland General Electric

Select the pricing option that's **right** for you.

As a Schedule 83 customer of Portland General Electric, you have choices. You can choose PGE's Annual Cost of Service rate, or you can choose one of PGE's other pricing plans or an Energy Service Supplier (ESS). Now is the time for you to decide which plan best fits your needs for next year.

Deadlines approaching

Look over this brochure for important changes and deadlines. And remember, if you want to stick with the plan you're currently on, there's nothing to do – you do NOT need to re-enroll.*

*Exception: Customers who last year provided the Schedule 125 Part B Opt-Out notice for 2004 but who now want the Annual Cost of Service for 2004 must re-enroll in the Annual Cost of Service. See Enrollment section, for more details.

Here's what you need to do:

- Read over this brochure, giving special attention to the "five big changes."
- Check the key action dates.
- Begin evaluating your options immediately.
- Register at **PortlandGeneral.biz**, our new business Web site for more information.
- If you decide to choose a new option, or wish to select an ESS in 2004, **enroll online between 2 p.m. on Nov. 17 and 5 p.m. on Nov. 24.**
- If you decide to remain with your current plan, no action is needed – you don't have to re-enroll.*
- Customers who choose a 2004 pricing option other than the Annual Cost of Service option must select the Quarterly, Monthly or Daily option between **4 p.m., Dec. 15 and 5 p.m., Dec. 16** for service beginning January 1, 2004. Default for no choice will be the daily option.

Five big changes to simplify things

You asked for more time and more information to help you choose the correct energy pricing options. We heard you and, in collaboration with your representatives, ESSs and the Oregon Public Utility Commission, we developed a longer decision window and other innovations.

Take a look at what's new:

1

Five business days to enroll.

Formerly, this was one day. You actually have from now until Nov. 24 to research and reach a decision, but the five-business-day enrollment window of **Nov. 17 through Nov. 24** allows an unhurried period in which you can designate your final choice.

2

New Web site to make enrollment easier.

Beginning this year, energy option enrollment will be handled completely online. PortlandGeneral.biz, our new Web site designed specifically for large business customers, provides you with detailed information on energy pricing options and guides you step-by-step through the enrollment process.

3

Indicative prices posted in September and November.

PGE will provide indicative, nonbinding estimates

of our Annual Cost of Service rate on Sept. 15 and Nov. 10 so you can get an idea of prices before the enrollment period opens Nov. 17 and final prices are posted.

4 Shopping credit notification within 24 hours, with a conditional option.

The shopping credit – one-half cent per kilowatt-hour (kWh) – is an important factor for certain customers in deciding whether or not to go with an ESS, however, the availability of the shopping credit is limited. If you qualify for this incentive you can now conditionally decide on ESS service with the understanding that you will stay with PGE's Annual Cost of Service rate if you don't receive the shopping credit. We will let you know if you'll receive the credit by the end of the next business day after your enrollment. (The shopping credit is available to customers who elect to receive service from an ESS and who have less than 1-megawatt average (MWa) load per site. The shopping credit is limited to 10 percent of qualifying load, and no single customer can receive more than 25 percent of the available credit. Go online to **PortlandGeneral.biz** for a detailed explanation of the shopping credit as well as a link to the PGE Schedule 130 shopping credit tariff.)

5 New Bill Estimator tool.

Want to get a better idea of how much you would pay with PGE's Annual Cost of Service and compare it with rates from an ESS? Download our Bill Estimator tool from our Web site and use it to calculate an "apples to apples" comparison based on your particular usage.* You must have Microsoft Excel in order to use the Bill Estimator.

*Bill Estimator uses current PGE rates.

Options to fit every business

Either choose the Annual Cost of Service ...

The Annual Cost of Service rate is PGE's annual fixed-price energy option and requires a full-year commitment. If you stay with this rate you will not be eligible for PGE's Quarterly, Monthly or Daily pricing or be able to leave for an ESS during 2004.

... or choose an alternative plan

As a Schedule 83 customer, you can choose one of PGE's market-based Energy Pricing plans if you think this works best for you, or

Steps to switch to an ESS

You are eligible to commit to an ESS as long as you leave PGE's Annual Cost of Service and choose "an alternative pricing plan" during the November enrollment period. PGE must then receive a Direct Access Service Request (DASR) from the ESS you select. You can switch over once your DASR is processed by PGE, the necessary meter installed, and you complete your existing Quarterly, Monthly or Daily pricing plan contract obligation with PGE.

if you wish to have the option to select an ESS during 2004.

The pricing plan you choose – Quarterly, Monthly or Daily – also determines when you can move to ESS service. You should pick the plan that best helps you manage your costs. Each one has a different level of risk.

If you do choose to have your energy provided by an ESS, the price you pay for energy will be based on the terms you negotiate with your new supplier. To be eligible for ESS service in 2004, you must select an alternative plan in November; you cannot select the Annual Cost of Service option.

Quarterly Pricing: Prices are adjusted quarterly and are published on PGE's Web site in March, June, September and December – the month prior to the beginning of each quarter. If you choose this option you will have on- and off-peak kWh prices for each month of the quarter. At the end of each quarter you can choose to do nothing and stay on Quarterly pricing, move to Monthly or Daily pricing, or leave to receive service from an ESS.

Monthly Pricing: On- and off-peak prices are set monthly and are published on PGE's Web site each month prior to the month they are effective. Each month you will have the opportunity to do nothing and remain on Monthly pricing, switch to Daily pricing, or leave to receive service from an ESS. You'll have a chance to switch to Quarterly pricing in March, June, September and December – the month prior to the start of each quarter.

Daily Pricing: Daily on- and off-peak prices based on the Dow Jones Mid-Columbia Daily Price index. PGE will add an adjustment for line losses and the cost of transmitting power to PGE's system. Just like the other Pricing Plans, you'll have the opportunity to switch to Monthly and Quarterly pricing during 2004. This option also provides the greatest level of flexibility for switching to ESS service.

Charges that apply to all customers:

The pricing options described here apply only to your kWh usage. In addition, there are other PGE charges that apply regardless of your energy pricing option. These OPUC-regulated charges include a customer charge, distribution and transmission charges as well as supplemental adjustments.

Action dates

Sept. 15:

Take a sneak peak: For informational use only, non-binding indicative prices for Schedule 83 Annual Cost of Service and Schedule 125, Part A and B (long- and short-term resource-cost adjustments) posted at PortlandGeneral.biz.

Nov. 10:

Check back: Indicative prices updated.

Nov. 17, 2 p.m.:

Make your decision about Annual Cost of Service: Enrollment window opens – Annual Cost of Service price for 2004 posted at PortlandGeneral.biz.

Nov. 24, 5 p.m.:

Window closes: Enrollment period is complete.

Dec. 15, 4 p.m. to Dec. 16, 5 p.m.:

Select Daily, Monthly or Quarterly pricing: Customers who did not choose PGE's Annual Cost of Service for 2004 must select between Quarterly, Monthly or Daily pricing, during this window. Default for no selection is the daily option. Select Daily if you plan to submit a DASR soon.

Dec. 31, 5 p.m.:

File Optional Short-Term Resource Notice:

If you want your account exempted for the year 2005 from PGE's Schedule 125, Part B rate adjustment, you must fill out the online Schedule 125 Part B enrollment form at PortlandGeneral.biz by this deadline. You may want to exercise this option if it is appropriate for your circumstances. Find more information on Schedule 125, Part B on PortlandGeneral.biz and watch for a reminder coming in December.

Evaluate your options

If you begin researching your alternatives now, you'll be well prepared to make your final selection during the five-day enrollment period in November. Here are some ways to get started:

- **Indicative prices:** View non-binding indicative prices for PGE's Annual Cost of Service and Schedule 125, Part A and B (long- and short-term resource-cost adjustments) online at PortlandGeneral.biz on Sept. 15 and Nov. 10. These prices only serve as an indication of what the actual prices may be. The final prices will be posted at 2 p.m. on Nov. 17 as the enrollment window opens.
- **New Web site:** Visit our new Web site, PortlandGeneral.biz, for more information, including comparison charts for average Quarterly, Monthly or Daily and pricing. This is historical data and does not represent future prices.

Monthly and Quarterly prices will be posted online at PortlandGeneral.biz at 4 p.m. on the 15th of each month (or the next work day if the 15th falls on a weekend or holiday).

Daily prices are available through a link on our Web site to Dow Jones.

- **Bill Estimator:** You can use our new online Bill Estimator tool to see what the indicative prices would mean for you, and to compare PGE's Annual Cost of Service with rates provided to you by an ESS. Download the tool at PortlandGeneral.biz. A list of ESSs registered with PGE can be found on this Web site.

Talk to us: If you have any questions, ask your Account Manager, or call us at 1-800-822-1077. You can also use the "Contact Us" form on PortlandGeneral.biz at your convenience, 24 hours a day, seven days a week.

How to enroll

To switch plans

**Visit our Web site at
PortlandGeneral.biz during the
Nov. 17-24 window.**

All enrollments will be handled online. Fill out the enrollment form, indicating your choice. During the November window, you will be choosing either PGE's Annual Cost of Service or an "alternative option." If you select a pricing option other than Annual Cost of Service, or if you are already on a market-based pricing plan and wish to select a different one, you'll need to go back online during the Dec. 15-16 window to select either Quarterly, Monthly or Daily pricing.

To stay with your current plan

**You do not need to enroll if you
want to stay on your current plan.**

If you are on Annual Cost of Service and do nothing, you will automatically remain on Annual Cost of Service through Dec. 31, 2004. If you are already on another Pricing Plan or with an ESS and wish to remain with that option, you do not need to re-enroll either. You only need to enroll if you are switching plans.

Exception

Customers who last year provided the Schedule 125 Part B Opt-Out Notice but who now want Annual Cost of Service for 2004 MUST re-enroll. If you signed the Schedule 125 Part B Opt-Out notice last year, you were telling us not to plan for your energy needs for 2004. If you now decide you want Annual Cost of Service for 2004, you must re-enroll during the Nov. 17-24 window **REGARDLESS OF WHAT PLAN YOU'RE ON NOW.** If you are currently on Annual Cost of Service and don't re-enroll by Nov. 24, you will default to Daily Pricing beginning January 1, 2004. If you are currently on Quarterly, Monthly or Daily pricing, you will remain on that option unless you select a new plan in December. Schedule 125 Part B will not apply to you in 2004.

**For more information visit us
online at PortlandGeneral.biz,
contact your account manager,
or call us at 1-800-822-1077.**



Portland General Electric



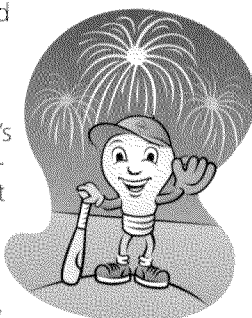
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PGE celebrates 115 years at PGE Park July 4

Join the old-fashioned fun at PGE Park on the 4th of July as we celebrate PGE's 115th anniversary, our nation's birthday and the invention of the electric light bulb 125 years ago!



It's an event the whole family will enjoy, complete with a rousing baseball game (watch the Portland Beavers take on the Edmonton Trappers), old-time music, a salute to the invention of the light bulb and a fantastic fireworks display after the game. PGE will give away scores of new electric irons, toasters and other small appliances, as a tribute to how these devices revolutionized everyday life more than a century ago. And the first 2,500 people through the gates will receive a coupon good for a free compact fluorescent light bulb.

After June 30, tickets are \$11 for infield reserved seats; outfield reserved seats are \$8, and general admission seats are \$6. You may purchase tickets through Ticketmaster or at the PGE Park box office. For a seating chart, visit the park's Web site at PGEPark.com.

Game time is 6:05 p.m. and PGE Park's gates open at 5:05 p.m.

Watch for a story on highlights of PGE's history in the July issue of *NewsLine*. ♦



PGE CEO and President Peggy Fowler (left) and the other four ambassadors of the American Heart Association's "Go Red for Women" campaign wave to the crowd from PGE's float in the Grand Floral Parade. For more on PGE's Rose Festival activities and the company's ongoing commitment to the the American Heart Association, see page 2.

PGE signs purchase agreement to meet future energy needs

On May 25, PGE announced a 10-year power purchase agreement for 100 MW of energy from TransAlta Energy Marketing U.S. to serve PGE customers beginning in October 2006. This agreement marks the first publicly announced result from the 2003 request for proposals (RFP) the company issued to the energy marketplace as part of its Integrated Resource Plan (IRP).

"PGE has been negotiating with the short-listed bidders from the RFP for the past seven months, and this agreement with TransAlta is a great result of all that hard work by the many parties involved, including several employees," says Jim Lobdell, PGE's vice president of Power Operations.

"The TransAlta proposal offers a highly competitive and reliable source of electric supply," says Brett Sims, from Structuring & Origination, who is leading PGE's RFP negotiations. "Because of that, we felt it was prudent to secure this long-term contract on behalf of our customers, even before

the Oregon Public Utility Commission has formally acknowledged our IRP recommendations."

TransAlta, one of Canada's largest non-regulated power generation and wholesale marketing companies, was selected from PGE's short list of bidders, a group that was carefully selected from more than 100 proposals submitted by more than 40 bidders in the RFP process.

PGE will continue to work closely with short-listed bidding parties to help fulfill our customers' future energy needs. Lobdell notes that to achieve the best pricing for customers, and because of confidentiality agreements with other bidders, the names of these bidders cannot be released at this time.

Within the next few weeks, PGE expects the OPUC's acknowledgement of its Integrated Resource Plan, which outlines how the company plans to best meet customers' future power supply needs beginning in the fall of 2006. Watch for a report in a future issue of *NewsLine*. ♦



PGE 'goes red' to support the American Heart Association

The American Heart Association is one of PGE's key community partnerships this year. The company is a major sponsor of the AHA's "Go Red for Women" campaign, an ongoing effort to raise awareness about the prevalence heart disease among women. PGE CEO and President Peggy Fowler is one of the campaign's ambassadors, along with four other notable Oregon women, Barbara Roberts (former Oregon governor), Sharon Kitzhaber (Oregon's former first lady), Gert Boyle (CEO of Columbia Sportswear) and Brenda Braxton (KGW news anchor). Additionally, Vice President Carol Dillin has joined the AHA's board. Here are photo highlights from recent "Go Red" events.

May 22 — American Heart Walk

With the American Heart Walk, PGE employees set new records for generosity. Not only was PGE the event's top fund-raising organization, but we also broke our own record for dollars raised and number of employees participating in a charity walk or run. The PGE Power Walkers were 400 strong and our teams raised \$23,113. Combined with the company match, that amounts to almost \$50,000 raised to support research, education and outreach to curb this pervasive disease.

"PGE employees get involved in a lot of projects, but this one really seemed to strike a chord," says Peggy Fowler. "I think that's because all of us have been touched by heart disease in some way."



Members of the PGE Power Pumpers team from Legal show their spirit at the Heart Walk. Pictured from left are Travis Benn, Klarice Kolbe and Bari Gilbert, one of 20 team captains for the 5K event.



June 5 — PGE/SOLV Starlight Parade

PGE's entry in the Starlight Parade spotlighted the "Go Red" campaign. The top employee fund-raisers in May's Heart Walk were invited to ride the float — Alan Brown with his wife, Shelly, Barb Croas, Ryan Shultz and Arya Behbehani-Divers. Some 120 employees were also on hand to distribute SOLV garbage bags to parade spectators and then collect the filled bags after the event, helping to ensure that the Starlight Parade maintains its reputation as one of the cleanest parades in America.

Alan Brown and Barb Croas wave from PGE's float in the Starlight Parade, wearing "Go Red" T-shirts and plastic rain ponchos, which proved useful during a late-evening shower.

June 12 — Grand Floral Parade

PGE's "Go Red" float made one more splash in the Rose Festival's Grand Floral Parade, graced by the campaign's five ambassadors. Thirty employee volunteers cut and prepared dried and fresh flowers to create a stunning red-and-white floral fantasy float during two evening work parties. Rose Festival officials honored PGE's parade entry with the Judge's Award for "exceptional merit."

"Go Red" Ambassadors Gert Boyle, Brenda Braxton, Barbara Roberts, Sharon Kitzhaber and Peggy Fowler atop PGE's Grand Floral Parade float.



New bill payment option: It's 24/7 at 7-Eleven

Beginning this month, any PGE customer can drop by a neighborhood 7-Eleven store for a Big Gulp and a bag of chips, and while they're at it, pay their PGE bill.

This new convenience at select 7-Eleven locations comes via a "Vcom" (virtual commerce) financial service center. Pioneered by the 7-Eleven corp., these kiosks offer traditional ATM services along with check cashing, money transfers and money orders.

"The Vcom centers are a great option for customers who prefer paying their bills in cash or in person," says Barbara Shaffer, who manages PGE's customer payment options. "And since 7-Eleven stores are open 24/7, this represents yet another way we're making it convenient and easy for customers to do business with us."

To pay their PGE bills at a Vcom center, all customers need is their monthly statement or PGE account number. Then they simply follow

step-by-step instructions, which are provided in both English and Spanish. They can use cash as well as checks or debit cards, and Vcom charges a \$1.50 service fee for each payment transaction. Similar to an ATM, customers receive a confirmation receipt, and payments made by 6 p.m. will be posted the next business day.

Some 45 Vcom kiosks in the greater Portland/Salem area are set up to accept PGE payments and more centers will be added to the system.

This new service is designed to complement PGE's other convenient payment options. In addition to mailing in their checks or signing up for automatic monthly payments through their checking accounts, customers can pay their bills online, or for an additional fee, can pay by credit card or debit card through BillMatrix. Those who prefer to pay in person can walk into any of PGE's Customer Service offices or Express Pay stations located at grocery stores, pharmacies and other convenient places around PGE's service area. ♦



With 45 new convenient bill-pay stations at 7-Eleven stores, doing business with PGE is now easier than ever.

For a list of 7-Eleven stores with Vcom service, check PortlandGeneral.com/Vcom or call PGE's main Customer Service number.

Update on PGE's future ownership

Enron wrapped up a two-week hearing in Manhattan this month to confirm its plan to emerge from bankruptcy. U.S. Bankruptcy Judge Arthur Gonzalez said he intends to rule on Enron's plan by July 15.

Part of that plan includes the sale of PGE. Here's an update on the latest development in Oregon Electric Utility Company's proposal to purchase PGE. That transaction must be approved by a number of regulatory bodies, including the Oregon Public Utility Commission.

On May 27, Oregon Electric Utility Co. filed supplemental testimony with the Oregon Public Utility Commission, aimed at providing additional information regarding its proposed purchase of PGE.

This filing is part of a lengthy process established by the OPUC for approval of a utility purchase. The Commission expects to rule on the application by Oregon Electric and Texas Pacific Group in late October.

Oregon Electric's supplemental testimony offers additional details about the commitments it offers as part of the sale, benefits to customers from the transaction and plans for continued operation of PGE as a vertically integrated utility.

In his testimony, Kelvin Davis of Oregon Electric said the company's intent is to keep PGE whole and to support investment in PGE's business, especially PGE's proposed Integrated Resource Plan.

Davis said that the PGE management team has "led the company to a number of accomplishments, particularly in the areas of customer service and reliability. These achievements are the result of good management, highly skilled and dedicated employees, and sound regulatory oversight."

Oregon Electric plans to build on this solid base by seeking cost-effective improvements and adjusting strategic plans as appropriate to changing circumstances.

Along with separation from Enron and including local representation on the PGE Board of Directors, Davis said PGE customers would benefit in a number of ways through this transaction.

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PGE and the Energy Trust work together to boost energy efficiency

The restructuring of Oregon's electric industry (SB1149) in 2002 changed the way PGE does business in many ways. One major change was that responsibility for delivering energy-efficiency programs shifted from PGE to the Energy Trust of Oregon (ETO). Today, NewsLine brings you up to date on how PGE and the Energy Trust are working toward the common goal of increasing customers' energy efficiency and use of renewable resources in our state.

How can you stop energy from flying out your window? Call PGE and we'll explain how you can save energy by making your home more efficient.

That's the message of PGE's latest television ad, featuring PGE Customer

Service Representative Michelle Guinn. It's a prime-time example of how the company is still a key player in helping Oregonians save energy.

Though the Energy Trust of Oregon became the provider of efficiency programs and incentives for PGE's and Pacific Power's customers two years ago, PGE still serves as the primary source of energy-related information for our customers.

"We know energy-efficiency information is one of the most important things people want from PGE, and it's absolutely critical that we maintain that relationship," says Steve Hawke, vice president, Customer Service, System Engineering and Utility Services.

"Customers still call us first, and we continue to give them efficiency information. To ensure our customers' needs are addressed, we also do everything we can connect to them with services and incentives that are available from the ETO and other sources."

The Energy Trust is a nonprofit organization funded by the 3 percent Public Purpose Charge on customer bills, which was created by a legislative mandate. All PGE and Pacific Power customers pay the 3 percent charge. The ETO uses these funds — which total between \$40 and \$50 million annually — to encourage energy efficiency, conservation and development of renewable energy resources in Oregon.

CONTINUED ON PAGE 5

Incentive programs of the Energy Trust

Here's a summary of incentives currently offered by the Energy Trust to encourage energy efficiency. These programs are available to customers of PGE as well as those in Oregon served by Pacific Power and NW Natural.

PROGRAMS FOR RESIDENTIAL CUSTOMERS

Residential customers can access a number of energy-saving incentives for both single family and multifamily dwellings, including modular and manufactured homes. Eligibility requirements vary for each measure. Many incentives may also qualify for State of Oregon energy tax credits. Here are program highlights:

- **Existing Homes:** Floor insulation, wall insulation, ceiling insulation, windows (must be installed in conjunction with an additional measure), heat pumps, gas furnaces, duct insulation, duct sealing, air sealing and efficient electric water heaters all are eligible for incentives through the Home Energy Savings program, ranging from \$25 to \$200 depending on individual circumstances.
- **Efficient New Homes:** Builders of new homes can tap a number of incentives. If a home is built to ENERGY STAR™ specifications, incentives ranging from \$75 to \$700 are available for heating systems, lighting and clothes washers. For new homes that aren't built to Energy Star specifications there are stand-alone incentives for heating systems and efficient ducting.
- **Efficient Home Products:** During the year, the Energy Trust provides consumers with limited-time cash incentives on Energy Star-qualified appliances, lighting fixtures and other products designed to save energy and money.

For details on incentive levels, requirements and how to apply, visit the Energy Trust Web site at www.energytrust.org or call toll-free (866) 368-7878.

PROGRAMS FOR BUSINESSES AND INSTITUTIONS

- **Energy-efficient improvements:** Energy Trust offers significant cash incentives for the installation of efficient lighting, HVAC (heating, ventilation, chillers), motors, variable speed drives and restaurant controls for gas and electric business and institutional customers.
- **New Building Efficiency:** This program helps owners identify, understand and build energy efficiency into new buildings and major remodels, achieving lower operating costs and creating more comfortable workspaces. Incentives top out at \$25,000 for standard projects and \$200,000 for high performance projects.
- **Production Efficiency:** Industrial customers can tap incentives designed to improve the energy efficiency of manufacturing processes. The standard incentive reduces a project's typical payback period to 18 months or reimburses a business for up to 50 percent of the total project, whichever is less. The maximum incentive is \$500,000.

RENEWABLE RESOURCE PROGRAMS

- **Solar electric:** For homeowners, business owners and public agencies interested in generating their own electricity with new solar electric (photovoltaic) systems, Energy Trust offers financial incentives as well as service and support. Incentives up to \$10,000 for homes and \$15,000 for business, when combined with federal and state tax credits, can lower the total cost of a system by 50 percent or more.
- **Solar water heating:** Cash incentives are available for residential and commercial customers for heating their water with new solar thermal systems. These incentives, when combined with federal and state tax credits, can lower the total cost of a domestic water heating system by 50 percent or more.

PGE and the Energy Trust, from page 4

But the Energy Trust is not yet a household name, and people still turn to the main source of energy-efficiency information they've counted on for many years — PGE.

In recent months, PGE has made an even greater effort — through bill inserts, advertising, seminars and Web site promotions — to inform customers about the ETO's services and incentives. As a result, the number of customers PGE refers to the Energy Trust continues to increase.

During the last heating season, PGE referred more than 2,000 customers to the ETO. Margie Harris, executive director of the Energy Trust, notes that PGE is the largest provider of customer referrals to the agency.

"While the Energy Trust has assumed responsibility for energy-efficiency program delivery, I see us as always having a very interdependent role with PGE," Harris says. "When a customer is ready to make a choice about energy efficiency and renewable energy investments, PGE is great about referring them to us for program services and incentives. We pick up where PGE leaves off, with the goal to uphold PGE's excellent customer service standards."

Customers call the Energy Experts

When customers call PGE with energy-efficiency questions, they are routed to one of PGE's 17 Energy Experts at the Customer Contact Center. Just as they've done for years, the Energy Experts answer customers' questions on everything from heat pumps and thermal windows to attic insulation and solar water heating. They also send customers information by mail.

"Energy Experts still assess customers' needs and offer suggestions on how to make their home or business more energy efficient," says Anne Snyder, team lead. "Part of our job these days is to also educate customers about the resources that are available. If they're interested in rebates or services, we'll refer them to the Energy Trust or to the Oregon Department of Energy if they might qualify for tax credits."



PGE's Energy Experts continue to help customers save energy by providing advice over the phone. Pictured from left are, Front row: Jeanette McCullum, Bob Gruener, Jan Bliss and Paul Flora; Middle row: Alena Sychova, Theresa Cantrell, Sandi Masters, Candice Liptow, Debra Webb and Denise Salmon; Back row: Wilda Smith, Kristine Fagler, Kevin Fairham-Wheeler, Ken Griffin, Dave Merriman, Larry Strous. Other team members include Arlene Bitz, Jerry Schryvers, Pam Guerrero and Virgil Hari.

Snyder notes that while it's a change for customers to go through another step to get incentives now, she's heard feedback that the ETO is "gung ho" about getting money back to customers through their various programs. (See sidebar, page 4.)

"Even when people don't qualify for rebates, the Energy Trust will send them energy-saving tips through the mail," Snyder says. "Just like our Energy Experts, they do their best to help customers save energy."

Keeping C&I customers informed

Most people who call the Energy Experts are residential and small business customers. When one of PGE's larger business customers wants to find out how to trim their energy usage, they contact their individual account manager at PGE.

Like the Energy Experts, the Account Management team has also been educating their customers about the financial incentives available through the ETO and the Oregon Department of Energy.

"When account managers call on their customers, they often talk about energy efficiency," says Mike Porter, team lead. "Now along with discussing how certain improvements could trim their energy bill, we also tell them about the various programs the Energy Trust and ODOE provide."

To raise awareness about the Energy Trust's offerings, PGE invited commercial and industrial customers to two seminars held in Portland and in Salem this spring.

"We had an excellent turnout and the ETO received a lot of referrals from the seminars," says Porter. "I think our customers appreciated that PGE is still trying to help them reduce their energy costs. In this case, customers have contributed funds to the ETO through the Public Purpose Charge, but they aren't always aware that they can tap into the Energy Trust's programs and get some incentive dollars back."

As Porter describes it, account managers' jobs haven't changed drastically since the advent of the ETO. "Customers still talk to us about

CONTINUED ON PAGE 6

PGE's Efficiency Services Group expands its territory

Oregon's electric industry restructuring in 2002 brought a radical change for employees in PGE's Efficiency Services Group.

As the Energy Trust of Oregon (ETO) assumed responsibility for providing energy-efficiency programs for PGE and Pacific Power customers, the Efficiency Services Group became one of many businesses competing for contracts awarded by the ETO, and their operation became a non-utility (below-the-line) division of PGE.

"PGE decided to support the Efficiency Services Group because they're so good at what they do," says Steve Hawke, vice president, Customer Service, System Engineering and Utility Services. "This team has a great track record of providing services that are very cost effective, and over the last 10 years, they've put together some of the best programs in the country."

As the ETO was launched in 2002, the Oregon Public Utility Commission

(which oversees the nonprofit organization) allowed the Efficiency Services Group to complete projects already in their pipeline and to run efficiency programs for PGE customers until the ETO's own programs were available.

But the team also had a new assignment — finding its way in the competitive marketplace.

"The Efficiency Services Group left the guarantee of delivering programs for a regulated utility for a new environment, where the survival of their business depends on the sales they bring in," Hawke says. "They have a lot of challenges, both in terms of regulations (because they are affiliated with PGE) and because their operation has higher overhead than a business of similar size."

"To their credit, they continue to evolve with the market," Hawke adds. "They're out there competing with the national powerhouses and are succeeding in their niches."

While the group works as a subcontractor for the ETO on some local projects, much of their business comes from outside Oregon. They're currently doing business in Western states and have also been asked to provide services in Canada and China.

The Efficiency Services Group, which consists of 44 employees housed at PGE's Earth Advantage® National Center in Durham, has two different business lines — Efficiency Services and Consulting Services.

"Our employees often shift between the two business lines, depending on what's needed at the time," says Carol Brown, director of the Efficiency Services Group. "The business lines compliment each other. For example, when we're pitching Efficiency Services, we can also include a sustainability component through Consulting Services. Being able to offer that whole package boosts our credibility in the marketplace."

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PGE and the Energy Trust, *from page 5*

efficiency improvements and we give them suggestions on what to do. But now we'll also tell them about ways to get money back on those improvements. We usually do everything we can, short of filling out the paperwork — though on occasion, I've done that, too. Our aim is to make the whole process as seamless as possible for our customers."

In the first quarter of 2004, PGE helped 41 large commercial and industrial customers make their operations more efficient and cash in on available incentives on projects ranging from installing more efficient lighting and HVAC to improving industrial processes.

Porter adds that while PGE staff no longer provide engineering consulting, design and installation services for energy-efficiency projects for our customers, account managers some-

times get involved in the process.

"If a customer asks why their project is taking so long, we'll follow up with the contractor the ETO hired to do the job. By serving as the customer's advocate, we can sometimes help get the job completed more quickly," Porter says.

Learning curve evens out

In the last two years, the ETO has evolved from a start-up operation to an organization that has implemented about 90 percent of its planned programs. But the process of shifting responsibility for providing efficiency programs from PGE to the Energy Trust has not been without growing pains.

"Both the Energy Trust and PGE have had a learning curve in this transition," says Wayne Lei, who is director of PGE's Environmental Policy and serves as the company's

liaison to the ETO. "But today, I think our new roles have been clarified, which helps us work together more effectively."

While PGE's role in program fulfillment has changed since 2002, one thing remains the same. People still think of PGE as their primary source for energy advice. And when they call Customer Service or their account manager, they'll still find a wealth of detailed information and helpful guidance.

As Anne Snyder, lead for the Energy Expert team, says, "I'm always impressed by the depth of knowledge our Energy Experts have and how they can talk about technical things in terms customers can understand. They take pride in what they do and in providing a valuable service to our customers." ♦

Here's a brief roundup of what the business lines do and some of the larger projects they're working on.

- **Efficiency Services:** This group offers consulting, program design and implementation services, as well as Earth Advantage licensing to utilities and related agencies (such as the ETO) seeking improved energy and water efficiency in their customers' homes and businesses.

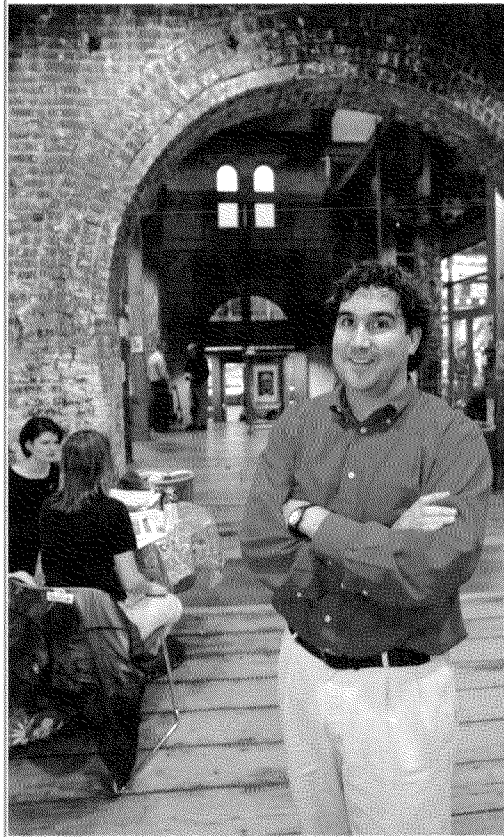
The team's outstanding reputation helped secure work as a subcontractor for Aspen Systems (one of the program management contractors selected by the ETO) as well as contracts with other utilities in Oregon, including the Eugene Water & Electric Board, Canby Utility Board and Skamania County PUD. They are currently providing services to several northern California utilities and have major proposals out to PacifiCorp/Utah Power and Puget Sound Energy.

- **Consulting Services:** This group works with developers, design teams and contractors to introduce more energy-efficient and sustainable building practices, which can lead to environments that are healthier to be in and less expensive to operate.

On the residential front, this team is driving forward under the **Earth Advantage** name. Oregon's premier residential green building program, Earth Advantage has experienced significant growth throughout the Portland area and in Bend. The newest initiative is the launch of out-of-state consulting services, whereby the team is taking their green building and marketing expertise to developers and builders all across the Western U.S.

On the commercial side, consulting is delivered through the **Green Building Services** team, one of the leading resources in the country for developers and designers interested in creating buildings that meet the U.S. Green Building Council's Leadership in Energy and Environmental Design

Green Building Services' Alan Scott wins BetterBricks Award



Alan Scott, director of consulting services at Green Building Services, was honored with a 2003 BetterBricks Award in recognition of his commitment to sustainable design. He was named winner in the professional services category in this awards program of the Northwest Energy Efficiency Alliance.

Scott is pictured here at one of the many LEED™ certified projects he has worked on, the Jean Vollum Natural Capital Center in Portland, the first LEED Gold certified historic renovation in the U.S.

Thanks in part to Scott's efforts, Green Building Services is now one of the leading green building consulting firms in the country. He is a registered architect and faculty member with the U.S. Green Building Council's LEED green building rating system and frequently gives seminars around the U.S. on resource-efficient construction and high-performance workplaces.

(LEED™) certification standards. With eight LEED-accredited professionals on staff, this team provides services directly to the U.S. Green Building Council, consults with building owners on facility management practices and delivers a wide array of training all across the country.

Green Building Services is currently working on projects in San Francisco, Boston and Chicago, and recently they were awarded a contract for the Fort Lewis military base in Washington.

In one of its most far-reaching initiatives, Green Building Services is spearheading a project in Shanghai, China, where the team is helping with the design and creation of a regional energy efficiency center, not unlike PGE's Earth Advantage National Center. This project is a great example of how the Efficiency Services Group's suite of services can be integrated to address

the various needs of a single marketplace.

Though there continues to be tough competition in the marketplace, Brown is optimistic. "Our team's expertise and talent are widely recognized," she says. "I think we've only barely begun to tap into the opportunities that are out there."

What makes things challenging these days is that many months can go by between submitting a proposal and having a contract in hand.

"Often it's a waiting game, which gets a little nerve wracking at times," Brown says. "But our employees are working as hard as they can to make things happen. We just keep moving ahead, making more sales calls and asserting ourselves as the experienced team that can get the job done — efficiently and cost effectively." ♦

PGE mobilizes to fight hunger in Oregon

From employees' contributions of time and money to the company's inviting customers to support the cause, PGE is rallying to fight hunger — one of Oregon's most pressing problems.

Each year, employees and retirees support hunger-related organizations through PGE's annual Employee Giving Campaign. In 2003, the campaign resulted in a donation of nearly \$27,000 to Oregon Food Bank. Other smaller food-distribution agencies in Mount Angel, St. Helens, Salem and Northeast Portland received almost \$3,000 from PGE.

Employees make fighting hunger a priority with their volunteer efforts as well. Evening work parties at Oregon Food Bank have become popular volunteer activities. During the past 18 months, almost 260 employees have put in more than 700 hours at the Portland-based food bank sorting canned food and repacking bulk food donations. Employees volunteer at other hunger-related nonprofits as well, and PGE continues to award Employee Volunteer Grants to many of those smaller operations each year.

Additionally, Human Resources employees selected Oregon Food Bank as the recipient of their annual "Change from the Heart" fundraiser. These contributions have totaled more than \$7,800 over the last three years.

Hunger has also taken a hit from the grassroots efforts of Tualatin-based employees. In drives conducted during the past three years, employees have donated more than 8,000 pounds of food and nearly \$7,000 to help their neighbors served by the Wilsonville and Tualatin food banks.

Here's a look at some of the company's most recent efforts to battle hunger in Oregon.



Jackie Dornfeld from Hydro Operations and Vice President Ron Johnson pack potatoes at a PGE work party at Oregon Food Bank last December. These regular work parties at OFB have become one of PGE's most popular volunteer events.

PGE invites customers to support Oregon Food Bank

In July, PGE is taking the extraordinary step of including a request in 750,000 customers' billing statements for donations to Oregon Food Bank. This request reflects PGE's commitment to helping with the critical community issue of hunger. A major catalyst behind the company's dedication to the food bank is Vice President Ron Johnson.

"The number of Oregonians who need help providing a basic need like food is startling. Hunger is a serious problem right here, right now," says Johnson, who recently received a "Hunger Buster" award for his outstanding volunteer support from the Oregon Food Bank Network of regional food banks. "The holiday

season isn't the only time our neighbors can use some help with food. It's really important that we all get involved."

In addition to serving as vice chair of Oregon Food Bank's board of directors, Johnson takes part in hands-on efforts to help beat hunger. He regularly volunteers — along with dozens of other PGE employees — at the OFB warehouse, sorting and packing food donations. His leadership has inspired many other employees to support the food bank as well.

Johnson says he's proud that PGE's involvement with the agency has grown dramatically during the last few years. Along with many employees' making financial contributions, PGE's IT team helped the food bank work through some technical issues and employees in Distribution delivered tree-trimmings to use as mulch in OFB's vegetable garden.

Because of employees' involvement and contributions, Oregon Food Bank will be a featured agency during this year's Employee Giving Campaign.

Volunteer at the Oregon Food Bank

PGE has set up three more work parties at Oregon Food Bank this year on Aug. 18, Nov. 10 and Dec. 15. Check future issues of *Volunteer Energy* for details.

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Creativity inspires success for Tualatin food drive

With exuberance and creativity, Tualatin employees outdid themselves with their third annual food drive to benefit their neighbors in need served by the Wilsonville Food Bank.

They danced the hula, went "Loony Tunes" with their decorations, donned wild costumes, and warbled karaoke-style on stage. And some employees even offered to shave their heads or dye their hair blonde if the team met its fund-raising goal.

And they nearly doubled their fundraising goal. Following the week-long drive in late May, employees presented Wilsonville Food Bank Coordinator Leigh Crosby with a check for \$6,909.72. The check included a \$1,500 donation from PGE in recognition of employees' commitment to the drive. Since each dollar donated to the food bank allows for the purchase of 10 pounds of food, the net result of the drive means the food bank can purchase a whopping 69,097 pounds of food.

"This is so amazing," says Crosby, who burst into tears when she first heard how much had been raised. "This is by far the largest donation we've ever received." And the need, Crosby says, is bigger than ever in Wilsonville. When the agency bank opened six years ago, it served an average of 13 people each month. Now, it serves nearly 400.



Wendy Ventura, John Bronleewe and Sandy Heath from ERC pose in front of their prize-winning display for the May food bank drive organized by Tualatin employees.

"Everyone's enthusiasm and commitment was so tremendous," says Kathy Saunders of Customer Contact Operations, one of the employees who coordinated the effort. "We had never done a drive like this before — collecting money instead of food — so we didn't know what to expect. Our success has just blown everyone away."

Like past food drives in Tualatin, this one inspired a friendly competition among employees. ERC won the honor of "best decorated" workspace with a pirate theme, complete with a

ship in the reception area and pirate jokes galore. Plus, the team posted photos of all employees in the building, and each person could only get out of the "brig" by donating a dollar to the drive. Then, for another dollar, their co-workers could send them back to the brig, and so on.

"This was so much fun," Saunders says. "Everybody is already looking forward to next year's food drive!" ♦

New ownership update, from page 3

Benefits include new commitments by Oregon Electric to:

- **Share with customers company profits** in excess of a 10.5 percent return on equity for a period of five years.
- **Establish a Customer Advisory Group** that would advocate to PGE on behalf of customers and make recommendations to the new PGE Board.
- **Extend service quality measures** agreed to at the time of the Enron sale for an additional 10 years.
- **Continue PGE's support of Oregon HEAT** for 10 years and double the company's financial contribution to that agency for assisting low-income customers.
- **Increase PGE's commitment to renewable resources** to 10 percent of peak loads by 2012

if those resources are competitively priced.

In addition to Oregon Electric's testimony, Enron submitted testimony describing the alternative path outlined under Enron's Plan of Reorganization if the Oregon Electric sale is not completed. That alternate path calls for distribution of stock over time. ♦

Milestones

35 Years

Buddy R. Allen, technician, Property Services, PSC

Ronald D. Heiple, Plant Serviceman AA, Maintenance, Boardman

30 Years

Michael D. Coles, specialist, Customer & Field Operations Training, Tualatin

Lee H. Greene, journeyman wireman, EM&C Substation Construction, PSC

Dal B. Hammer, specialist, Southside Service & Design, Salem

Paul D. Hermanson, leadman lineman, Western Line Crews, Wilsonville

Patrick C. Moore, nuclear plant Serviceman AA, Maintenance, Trojan

John G. Nelson Jr., specialist, Property Services, WTC

Hans Rathjen Jr., foreman hydro maintenance, West Side Hydro Projects, Bull Run

Wesley W. Waldron, specialist, Property Services, WTC

25 Years

Denise D. Alford-Akins, hydro control operator, West Side Hydro Projects, Faraday

Pattijo Campbell, garage mechanic, Eastside Local Garages, Beaverton

James D. Eden, engineer, Power Supply Residential Strategy/Development, WTC

Robert L. Elliott, specialist, Systems & Networking Support, WTC

Jerrone R. Hunter, Line Truck Driver B, Western Line Crews, Sunset

Scott C. Ross, specialist, Operations, Boardman

Rex S. Stout, journeyman wireman, EM&C Substation Construction, PSC

NewsLine's mission is to inform PGE employees of the company's direction, goals and activities and communicate the value of employees.

EDITOR: Nancy Harris

NEWSLINE EDITORIAL BOARD: Patrick Stupek, Gail Baker, Rick Beeks, Cheryl Bryant, Margo Bryant, Stan Burnham, Jan De Meire, Judy Francis, Dale Garcia and Beth Smith.

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Bonnary Warren, analyst, Application Support-Info. & Document Services, WTC

Jerry W. Zielinski, operator/fuel equipment, Operations, Boardman

20 Years

Lonnie D. Dicus, manager, Campus Infrastructure, WTC

Arthur H. Greisser III, specialist, Distribution Admin. & Support, PSC

Norman L. Hale, analyst, Application Systems-Distribution, WTC

15 Years

Wendy V. Buck, customer service representative field-lead, Meter Reading, PSC

Brian D. Clark, manager, Beaver Maintenance, Beaver

Robert W. Frost, specialist, Reliability Services, WTC

Sandra M. Graf, specialist, Safety & Health Resources, WTC

Lisa E. Guarnero, customer service representative field, Meter Reading, Oregon City

Brandy S. Horn, technician, Environmental Services, WTC

Peter A. Kaski, customer service rep., Customer Contact Operations, Tualatin

Karen J. Lewis, specialist, Legal Dept, WTC

John D. Miller, customer service representative field-lead, Meter Reading, Oregon City

Donald J. Solso, journeyman lineman, Eastern Line Crews, Gresham

Mark E. Tursa, engineer, Transmission Engineering, PSC

Juanita R. Williams, coordinator, Service Coordination, PSC

Michael A. Wolford, journeyman lineman, Western Line Crews, Wilsonville

10 Years

Joseph Barra, director, Distributed Resources, WTC

Stephen W. Cooper, journeyman carpenter, EM&C Substation Construction, PSC

Roderick K. Derting, journeyman lineman, Southern Line Crews, Salem

Valencia R. Fisker, project manager, Federal & Regional Affairs, WTC

Kevin D. Jones, customer service representative-field, Meter Reading, Salem

Steve R. Ledford, journeyman lineman, Central Line Crews, PSC

Michael L. Lovely, leadman repairman, Westside Response/Restoration, FMMC

Kenneth D. Malone, specialist, Westside Service & Design, Sunset

Nancy A. Miller, project mgr., Residential/Business Customer Solutions, WTC

Timothy R. Nakonsky, storeroom, Westside Warehouses, Salem

Philip W. Pomeroy, journeyman lineman, Southern Line Crews, Salem

Roger W. Rodecap, garage mechanic, Eastside Local Garages, Wilsonville

Michael R. Taylor, working foreman lineman, Western Line Crews, Sunset

Todd H. Thom, journeyman carpenter, EM&C Substation Construction, PSC

5 Years

James R. Bassett, project manager, Application Support-Info. & Document Services, WTC

Elliot M. Betteridge, Line Truck Driver B, Central Line Crews, PSC

Steve A. Cox, assistant, Community Affairs, WTC

Sheila M. Cox, assistant, Rates & Regulatory Affairs, WTC

Rex E. Dunlap, garage mechanic, Fleet Major Maintenance Center, FMMC

Heidi A. Eichman, supervisor, WTC-Conference Center, WTC

Scott Gardner, manager, Risk Management Reporting/Control, WTC

Kimberly R. Gilman, analyst, Corporate Finance, WTC

Anne M. Greer, assistant, Application Support-Info & Document Services, Trojan

Philip L. Hankins, specialist, Specialized Billing, Tualatin

Jamie M. McFadden, technician, Printing & Auto Mail Services, WTC

Beth A. Munds, hydro maintenance, West Side Hydro Projects, Bull Run

James D. Ray, analyst, Application Support-Infrastructure, WTC

Tim M. Shibahara, specialist, Environmental Services, Faraday

Kara A. Stone, assistant, Meter Reading, PSC

Anthony T. Vega, Line Truck Driver B, Western Line Crews, Sunset

Patrick Vu, analyst, Application Support-Infrastructure, WTC

In memoriam

Leslie A. Wilson, a retired branch manager in Line Construction residing in Bend, died June 12. Wilson, who was 79, is survived by his wife, Florence; daughters, Sharon Kent and Bernice Drushella; sons, Maurice and Frank; 12 grandchildren and 11 great-grandchildren.

Retirees enjoy reconnecting at annual luncheon

Lewis Schroeder's black leather jacket — with its Harley Davidson logo and multiple pins and patches scattered across the front and back — tells at least part of the tale of the former lineman's adventures in retirement.

"We've been to a lot of places," says Schroeder, who rode his motorcycle from Silverton to Beaverton on May 20, with his wife, Marlene, on the back, to attend the annual PGE Retirees Luncheon at the Greenwood Inn. "We have a lot of fun."

Still, wherever his adventures take him, Schroeder — like some 375 other PGE retirees — makes a point of attending the retirees' annual luncheon to reconnect with the many friends he made during his 32 years at PGE.

This year's luncheon featured an update on the company and a question-and-answer session with President and CEO Peggy Fowler. And while several people posed questions about such issues as the proposed sale of PGE and the future of the Trojan site, at the top of the agenda for most retirees was simply reconnecting with old friends.

"What I liked most about PGE was the people," says Bob Wonsley, who spent



Old friends greet each other at the check-in table as Doris Davids looks on.

28 years with PGE, retiring in 2001 as a meterman and wireman. "I go to all the retirees' functions, and I get together with people who are still working at the company so I can keep up on the stories."

Bob Kallen recalled his start with the company in 1959. "My dad had worked with PGE in the '30s," says Kallen, president of the PGE retirees and former district manager in Sandy. "When I got out of the Navy he told me, 'Go to PGE because they respect their people.' And it was true."

underground wireman after 42 years with PGE; he passed away in 1998.

Retiree Doris Davids recalled making 92.5 cents an hour when she began working as a PGE cashier in Oregon City in the early 1950s. Davids worked for the company for more than 42 years, and retired as program management coordinator for the Heat Pump Program. Now, she stays active as a volunteer for Albertina Kerr Centers and as corresponding secretary for the retirees' group.

"PGE is a great company," Davids says. "When you retire, you miss the people. That's why it's nice to be involved with our group. And we'd love to see more retirees join us!" ♦

Next retirees' event: July 15

The PGE retirees' annual picnic is scheduled for July 15 at PGE's Roslyn Lake. If you'd like to attend or need more information about the event, contact Ralph Wickham at (503) 663-4629.

PGE Retirees' Board for 2004

President — Bob Kallen
Vice President — Chick Colby
Treasurer — Dave Bryantr
Secretary — John Wiitala



John Savoy (facing front) hugs Dale Levy. Both men worked at PGE for 33 years.

Also attending the luncheon were several spouses of former PGE employees who have passed away in recent years. Ruby Leopold, wife of longtime employee Otto Leopold, recalled her husband's humble beginnings with the company.

"When he started, he was digging postholes by hand near Oregon City and making 85 cents an hour," she says. Otto Leopold retired in 1983 as an

Pilant paddles to world-class victory

In the rough waters of Cape Town, South Africa, Angela Pilant found gold.

In mid-April, the PGE energy specialist and her dragon boat team, Wasabi Team Huge, took first place in a photo-finish 430-meter race at the World Club Crew Championships.

"It was very, very exciting," says Pilant, who works at the Earth Advantage® National Center, "especially because we were considered underdogs and had traveled all that way to compete."

Part of the Portland-based Wasabi Paddling Club, Wasabi Team Huge is a premiere women's team made up of 20 paddlers ages 26 to 51. The team emphasizes endurance as it trains year-round in the Willamette River, and it traveled to South Africa focused on winning the 2,000-meter race.

But rough weather in the Cape Town harbor forced the cancellation of the team's favorite event. So facing fierce competition from 14 other women's teams from around the world, Wasabi Team Huge concentrated instead on the



Angela Pilant proudly wears her gold medal from the World Club Crew Championships.

shorter races. The Portland team rallied to win the gold medal for the 430-meter race with a time of 1:45:57, edging out the second-place Australian team by a mere four-tenths of a second.

"If you see the picture, you can tell that we won," says the 27-year-old Pilant, a longtime recreational athlete who joined the team a year and a half ago. "We didn't know at first,

though. We were pretty excited when we heard."

Their families and friends were excited as well. Upon the team's return from South Africa, a crowd greeted them at the Portland airport with paddles held high in salute. And when Pilant returned to work, she found a party waiting for her complete with balloons and red-white-and-blue streamers.

"The Efficiency Services team was cheering Angela on from our office, so we were there in spirit," says Carol Brown, Efficiency Services director. "When we

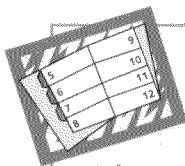
found out her team had not only placed but taken the gold, we were thrilled and proud of Angela and all her hard work."

Victory is sweet, Pilant says, but now she's back to focusing on training, with a schedule that calls for three-times-a-week practices on the Willamette. Since the World Cup races, Pilant's team has garnered several more medals, including a gold at Portland's Rose Festival Dragon Boat Races. In July, the team will try to qualify for the next world cup competition, slated for spring 2005 in Germany.

"This gives me opportunities to travel to different areas," Pilant says. "I hope to continue this for years to come." ♦



This shot taken at the World Cup race's finish line shows Pilant's team (#4) pulling ahead to victory. They won by a mere four-tenths of a second.



Calendar of events

Here's a list of the major employee and company-sponsored community events coming up soon.

July 4 Birthday party at PGE Park. Celebrate our nation's birthday and PGE's 115-year anniversary of service with a Portland Beavers baseball game, giveaways, old-time music and fireworks. Game time is 6:05 p.m.

July 16, Cathedral Park Jazz 17 & 18 Festival. Admission is free to this annual festival that features local and nationally known jazz and R&B musicians. Begins at 6 p.m. on July 16 and at noon on July 17 & 18.

July 16, Salem Art Festival. Hosted by the Salem Art Association, this popular annual event is held at Bush's Pasture Park. Admission is free.

July 24 11th annual Pacific Northwest Lineman's Rodeo. Teams from around the region compete in events that test their specialized skills. Held at PGE's Linneman Substation in Gresham from 8 a.m. to 4 p.m.

July 27 Taste of Asia. Join the Asian American/Pacific Islander network for their annual fundraising lunch, which features Asian cuisine as well as exciting entertainment. Held from 11:30 a.m. to 1 p.m. at the 2WTC Plaza.

Aug. 28 PGE's company picnic. Bring your family to this fun-filled annual event, held this year at the Oregon Zoo in Portland.

For more details on volunteer events, check *Volunteer Energy* in your company mailbox or on *PGEWeb*.

Exhibit "A"
Description of System

- I. PGE transfers ownership to Columbia River People's Utility District all the electric distribution facilities, to include but not limited to poles, pole top units, crossarms and braces, guy wires and anchors, conductors, transformers, yard lights, meters, switches, and right-of-way easements, if any, within the Columbia River People's Utility District boundaries, and

A. Specifically including:

1. The Rose Hill Substation described on Exhibit A-1 attached hereto; and
2. The Goble Substation described on Exhibit A-2 attached hereto; and
3. The Reichhold-St. Helens 115 kV transmission line extending northerly from the source side of pole #2068 at St. Helens Substation to Reichhold Substation. Includes all transmission facilities located outside the 1940 city limits of St. Helens and Columbia City, except switch #11503 and pole #1536 located in Section 9, Township 4 North, Range 1 West, Willamette Meridian; and
4. The Owens-Corning 115 kV transmission tap line from the load side of pole #4080 (Harborton-St. Helens 115 kV line) to the Owens Corning Substation in Section 9, Township 4 North, Range 1 West, Willamette Meridian; and
5. A 115 kV tap from the BPA St. Helens-Longview #1 115 kV line to the Goble Substation and the 115 kV switches and structures in said BPA line located in Sections 11 and 14, Township 6 North, Range 2 West, Willamette Meridian; and
6. All other underbuilt distribution facilities on PGE 115 kV or larger transmission lines to include but not limited to crossarms, braces, and conductors.

B. Specifically excluding:

1. All other transmission substations including but not limited to:
 - a. Trojan Nuclear Power Plant Substation and switch yard; and
 - b. Rainier 115 kV switching station located in Section 21, Township 7 North, Range 2 West, Willamette Meridian; and

2. All other transmission lines including but not limited to:
 - a. The Harborton-St. Helens 115 kV line extending northerly from the Columbia-Multnomah County line in Section 24, Township 3 North, Range 2 West, Willamette Meridian, to the St. Helens Substation; and
 - b. The St. Marys-Trojan and Rivergate-Trojan 230 kV lines extending northerly from the Columbia-Multnomah County line in Section 22, Township 3 North, Range 2 West, Willamette Meridian, to the Trojan Nuclear Power Plant Substation; and
 - c. The Boise Cascade-St. Helens 115 kV line extending from St. Helens Substation to Boise Cascade Substation in Sections 9 and 10, Township 4 North, Range 1 West, Willamette Meridian; and
 - d. The PGE-owned section of the St. Helens-St. Johns BPA 115 kV line and the PGE-owned section of the St. Helens-Longview #1 115 kV line both extending from the BPA line switch B649 in Section 6, Township 4 North, Range 1 West, Willamette Meridian, to St. Helens Substation; and
 - e. The idle 115 kV line extending northeasterly from the BPA St. Helens-Longview #1 115 kV line in Section 3, Township 6 North, Range 2 West, Willamette Meridian, to Trojan Nuclear Power Plant site; and
 - f. The Rainier Switching Station-Rainier Substation 115 kV line extending northerly from the Rainier Switching Station to the Rainier Substation located in Section 16, Township 7 North, Range 2 West, Willamette Meridian.
3. All other distribution substations and related properties within the Columbia River People's Utility District boundaries including but not limited to:
 - a. The St. Helens Substation located in Section 9, Township 4 North, Range 1 West, Willamette Meridian; and
 - b. The Boise Cascade Substation located in Section 10, Township 4 North, Range 1 West, Willamette Meridian; and
 - c. The Trojan distribution substation.
4. The two distribution lines from the St. Helens Substation (the St. Helens-St. Helens 13 kV and the St. Helens-Houlton 13 kV feeders) located in Sections 3, 4, 9 and 10 of Township 4 North, Range 1 West, Willamette Meridian, now used by PGE to serve the St. Helens service area (as described and shown on Exhibit A-3); and

5. All electric distribution facilities and easements located within or which are necessary for PGE to serve the following areas within the Columbia River People's Utility District boundaries:
- a. Tax Lot 4700 on Columbia County assessor map 72 17 24 on Larch St, Rainier (Exhibit A-4); and
 - b. Tax Lots 501 and 808 on Columbia County assessor map 72 16 33 on Sandy Ln (Exhibit A-5); and
 - c. Tax Lots 400, 500, 501, 600, 700, 800, 801, 802, 900, 1000, 1001, 1200 and 1300 of assessor map 7 2 17 and Tax Lots 2300 and 2400 of assessor map 72 17 42 on Old Columbia River Hwy (Exhibits A-6 and A-7); and
 - d. The area bounded by the 1940 city limits of Columbia City on the east and north, and on the south by the line which starts from the 1940 city limits of Columbia City at the southeast corner of Tax Lot 400 at 6th St (assessor map 5 1 28 2 4), thence westerly on the southern boundary of Tax Lots 400 and 300, and thence northerly on the western boundary of Tax Lot 300 to the northwest corner of Tax Lot 300, thence westerly on the southern boundary of Tax Lot 100 to its southwest corner, thence northerly on the western boundary of Tax Lot 100 to its northwest corner, thence westerly on the southern boundary of Tax Lot 200 (assessor map 51 28), thence northerly on the western boundary of Tax Lot 200 to the 1940 limits of Columbia City (assessor map 51 21) near 6th St and Lincoln St (Exhibits A-8, A-9 and A-10); and
 - e. The area bounded by the 1940 city limits of St. Helens and the Multnomah Channel on the north and east (assessor maps 41 4 3, 41 4 43, 41 4 44 and 41 10), and on the west by Milton Creek from the 1940 city limits of St. Helens (assessor map 41 4 3) southerly to 9th St, then southwesterly on 9th St to Port Ave, then northwesterly on Port Ave to the north corner of Tax Lot 1600, then southwesterly on the boundary of Lot 1600 to the Burlington Northern Railroad spur, then southeasterly along this railroad spur to 7th St, and bounded on the south by 7th St (assessor maps 9 41, 9BD 41 and 9AB 41) from this railroad spur to Milton Creek, then southeasterly along Milton Creek to a property corner at 2nd St and Hamlin St (assessor map 9AC 41), then easterly along southern property line of Lot 200 (assessor map 41 10) to the Multnomah Channel (Exhibits A-11, A-12, A-13, A-14, A-15, A-16, A-17 and A-18); and
 - f. Tax Lots 700, 1000, 1001, 1101 and 1102 of assessor map 4 1 4 3 on Milton Way and Port Ave (Exhibit A-11); and

- g. Tax Lots 2800, 2900 and 3000 of assessor map 4 1 5 4 4 on Sykes Rd and Columbia River Hwy (Exhibit A-19); and
- h. The area bounded by the Burlington Northern Railroad right-of-way on the west, the Columbia River on the east, the 1940 city limits of St. Helens on the south, and the 1940 limits of Columbia City on the north, assessor maps 51 28, 51 33 and 51 34 (Exhibits A-8, A-20 and A-21); and
- i. Tax Lots 5300, 5401, 5500, 5600, 5700, 5800, 5900, 6000, 6100, 6200, 6300, 6400, 100 through 2100 of assessor map 3 2 12 14, Tax Lots 100, 200, 300, 301, 400, 500, 600, 1101, 1102, 1200, 1201, 1202 and 3700 of assessor map 32 12 41, and Tax Lots 400, 500, 600, 800, 900, 1000, 1001, 1100, 1400, 1500, 1501, 1600, 1800, 1900, 1901 and 2000 of assessor map 31 73 on Columbia Ave, North Rd, Mobile Ln and Roundhouse Ln (Exhibits A-22, A-23 and A-24); and
- j. Tax Lots 1200, 1300, 1301, 1400, 1600, 1700, 1701, 1702, 1703, 1704, 1900, 2000, the southern half of 2100 and 2200 of assessor map 32 23, Tax Lot 2900 of assessor map 32 24, and Tax Lots 4200, 4300, 4400 and 4600 of assessor map 32 24 3 on Watson Rd (Exhibits A-25, A-26 and A-27).

II. PGE also transfers ownership to the Columbia River People's Utility District the following electric distribution facilities which are located outside the Columbia River People's Utility District boundaries:

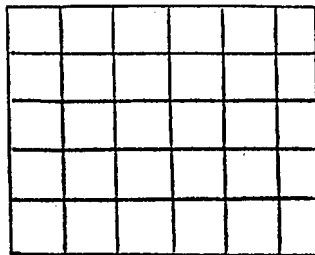
- A. The Reichhold-St. Helens 115 kV transmission line located within the 1940 city limits of St. Helens and Columbia City. The attached distribution facilities, excluding distribution transformers and capacitors, located on transmission poles within the 1940 city limits of Columbia City; and
- B. All electric distribution facilities located within the 1940 city limits of Goble and wholly contained in Sections 12 and 13, Township 6 North, Range 2 West, Willamette Meridian (Exhibit A-28); and
- C. All electric distribution facilities contained within the following areas (Exhibit A-28):
 - 1. Section 4, the northeast quarter and southern half of Section 5, the southern half of Section 6, and all of Sections 7, 8, 9, 15, 16, 17, 18, 26, and 35 of Township 6 North, Range 3 West, Willamette Meridian; and
 - 2. The southern half of Section 1 and all of Sections 12 and 13 of Township 6 North, Range 4 West, Willamette Meridian; and
 - 3. The northern half of Section 12 of Township 5 North, Range 3 West, Willamette Meridian; and

4. Sections 13, 14, 15, 16, 17, 18, and 32 of Township 5 North, Range 2 West, Willamette Meridian; and
 5. Section 18 of Township 5 North, Range 1 West, Willamette Meridian; and
 6. The eastern half of Section 5, the northern half of Section 9, and all of Sections 31, 32, and 33 of Township 4 North, Range 2 West, Willamette Meridian; and
 7. Sections 3, 4, 5, 6, 7, 8, 9 and 10, the northern half of Section 18, and the northern half of Section 21, Township 3 North, Range 2 West, Willamette Meridian; and
- D. All electric distribution facilities and easements located within or which are necessary to serve the following areas outside the Columbia River People's Utility District boundaries:
1. Tax Lots 806 and 1300 of Columbia County assessor map 7 2 16 3 3 on Bourne Rd north of the CRPUD boundary (Exhibit A-5); and
 2. Tax Lots 3800, 4101, 4102, 4109, 4110, 4111, 4112, 4118, 4119 and 4127 of assessor map 3 2 12 4 1 on Maple St and Cypress Ct east of 4th St, and Tax Lots 4125, 4126, 4200, 4300 and 4401 of assessor map 3 2 12 4 1 on Oak St east of 4th St (Exhibit A-23); and
 3. Tax Lots 3300, 3400, 3500, 3701, 3702 and 3703 of assessor map 5 1 28 4 2, and Tax Lots 2200, 2201, 2202, 3500, 3501, 3502 and 3600 of assessor map 5 1 28 1 3 on 6th St and J and K Sts (Exhibits A-29 and A-30); and
 4. Tax Lots 4500, 4600, 4700, 4800, 4900 and 5000 of assessor map 4 1 5 4 2 and Tax Lots 1100, 1200 and 1300 of assessor map 4 1 5 4 3 on Bachelor Flat Rd (Columbia Blvd) (Exhibits A-31 and A-32); and
 5. Tax Lots 2000, 2701, 2702, 2703, 2704, 2705, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719 and 2720 of assessor map 4 1 5 1 3 on Mayfair Dr and Sherwood Dr north of Vernonia Rd (Exhibit A-33); and
 6. Tax Lots 100, 900, 1000, 1100, 1200, 1300, 1400, 1500, 1600 and 1700 of assessor map 4 1 31 4 and Tax Lots 100 and 200 of assessor map 3 1 6 in the vicinity of Freeman Rd south of Frank L. Smith Rd (Dike Rd) (Exhibits A-34 and A-35); and
 7. Tax Lot 200 of assessor map 41 8 12 on Sykes Rd west of Highway 30, St. Helens (Exhibit A-36).

The map code on the following page corresponds to that used on Exhibits A-4 through A-36.

Map Code

Distribution Facilities Not Transferred to CRPUD



Distribution Facilities Transferred to CRPUD

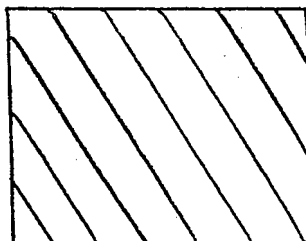


EXHIBIT "A-1"

The Rose Hill substation including, but not limited to, the power transformer, high and low-side substation structure and attachments thereto, metering, station improvements, footings, foundations, and roadways, fences, yardlights, and the land described as follows:

The tract of land in the Francis A. Lemont Donation Land Claim No. 43, in Section 33, Township 5 North, Range 1 West, Willamette Meridian, County of Columbia, and State of Oregon, described as follows:

Commencing on the West right of way line of the Columbia River Highway as established by deed from Leslie Watters et ux to the State of Oregon, recorded June 23, 1954, in Book 122, Page 642, Deed Records, at a point of intersection with the Northeasterly line of a tract of land described in a deed from Gus Hegele et ux to Union Oil Company of California recorded April 22, 1924, in Book 37, Page 4 of the Deed Records; thence north $73^{\circ} 32'$ West a distance of 225 feet, thence northeasterly and parallel with said west right of way line of the Columbia River Highway a distance of 190 feet, thence South $73^{\circ} 32'$ East a distance of 225 feet to said westerly right of way line of the Columbia River Highway; thence southwesterly on said westerly right of way of the Columbia River Highway a distance of 190 feet to the point of beginning, free from any encumbrances except for an easement and right of way for road purposes which extends along the southerly line of the above described parcel of land;

Being the same parcel which was conveyed from Fred Watters and Wanda Watters, husband and wife, to Portland General Electric Company, an Oregon corporation, by warranty deed dated May 23, 1961, recorded at Book 145, Page 450 of the Columbia County Deed Records.

EXHIBIT "A-2"

The Goble substation including, but not limited to, the power transformer, high and low-side substation structure and attachments thereto, metering, station improvements, footings, foundations and roadways, fence, yardlights, and the land described as follows:

PARCEL A:

A tract of land situated in the Southeast one-quarter of Section 11, Township 6 North, Range 2 West of the Willamette Meridian in the County of Columbia and State of Oregon, more particularly described as follows:

Commencing at the southeast corner of said Section 11, thence N. $1^{\circ} 25' 59''$ E. along the east line thereof, a distance of 656.61 feet to a point in the north line of the South one-half of the South one-half of said Southeast one-quarter of Section 11, thence N. $59^{\circ} 09''$ W. along said north line, a distance of 922.36 feet to the point of beginning of the tract herein to be described; thence at right angles to said north line N. $3^{\circ} 00' 51''$ E. a distance of 400.00 feet to a point, thence N. $86^{\circ} 59' 09''$ W. parallel with said north line of the south one-half of the south one-half of the southeast one-quarter of Section 11, a distance of 628.04 feet to a point; thence S. $3^{\circ} 00' 51''$ W., a distance of 400.00 feet to a point in said north line of the south one-half of the south one-half of the southeast one-quarter of Section 11; thence S. $86^{\circ} 59' 09''$ E. along said north line, a distance of 628.04 feet to the point of beginning,

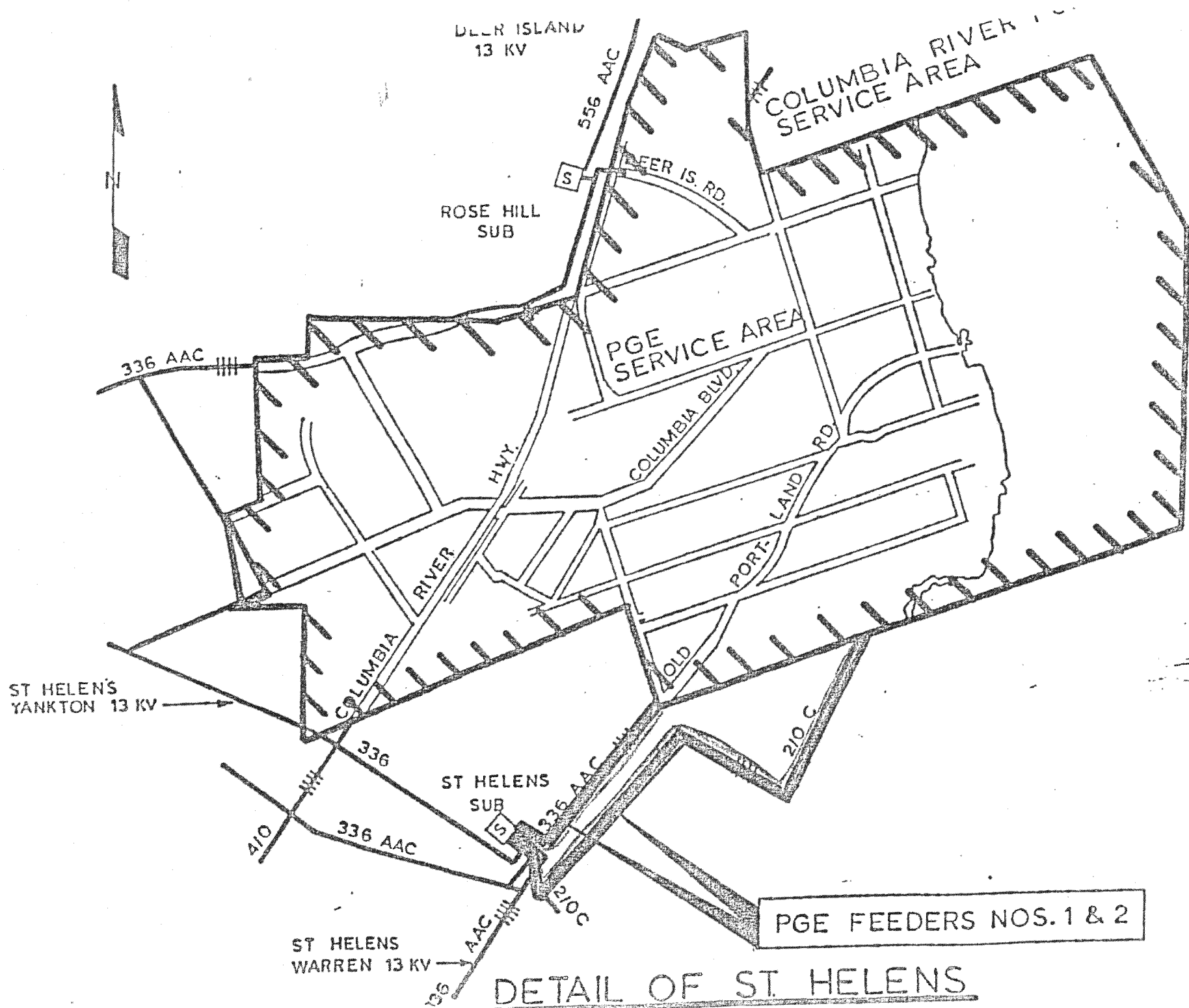
Being the same parcel which was conveyed from Charles R. Holden and Mary F. Holden; husband and wife, to Portland General Electric Company, an Oregon corporation, by warranty deed dated August 6, 1975, and recorded at Book 202, Page 126 of the Columbia County Deed Records.

PARCEL B

A tract of land in Columbia County, State of Oregon, beginning at the Southeast corner of that tract of land conveyed to Portland General Electric Company by deed dated August 6, 1975, and recorded in Book 202, Page 126, Deed Records of Columbia County, Oregon: Thence South 3° 00' 51" West, along a Southerly projection of the East line of said PGE Company tract to a point on the Northerly right-of-way of County Road No. P-243 (Goble-Shiloh Basin Road); Thence Northwesterly along the North right-of-way of said County Road to an iron rod, said iron rod being at the most Southerly corner of that tract of land quitclaimed and released from the County of Columbia to PGE Company by Quitclaim Deed dated December 24, 1975 and recorded January 13, 1976 in Book 204, Page 163, Deed Records of Columbia County, Oregon; Thence, tracing the southerly boundary of the last aforesaid tract, North 49° 51' 30" West 164.10 feet to the most westerly corner thereof; Thence, continuing on the northerly boundary of THOMAS ROAD No. P-6, North 49° 51' 30" West 6.28 feet to a 5/8 inch iron rod at an angle point of said road; Thence tracing the northerly boundary of said road, North 64° 29' 10" West 136.47 feet to a 5/8-inch iron rod; Thence, tracing a southerly extension of the westerly line of Tract as described in aforesaid Book 202, Page 126, North 3° 00' 51" East 51.38 feet to the southwest corner thereof; Thence, tracing the southerly line of aforesaid Tract South 86° 59' 09" East 628.04 feet to the place of beginning;

Being the same parcel reserved to the grantor in the conveyance from Portland General Electric Company, an Oregon corporation, to Pete Matiacco Company, dated January 17, 1979, and recorded at Book 221, Page 887 of the Columbia County Deed Records.

1526/C/cb/mn



① ESTIMATE COST WITH RATES OF TRAILS
NOV

② INFLATE @ 12 % TO NOV
AFTER 20 YEARS.

RECEIVED

NOV 03 2003

Exhibit "B"
System Interconnections

③ COMMENT TO #15
IN MEMORANDUM
-P. 11111111-

STEVE HAWKE

PGE and CRPUD will share the substation facilities described below. They will be owned and maintained by PGE, but operated by both PGE and CRPUD as required.

Within the Scappoose Substation, the 8.4 MVA, 115 kV/13 kV transformer (WR-1) and associated 13 kV breaker (R-116) which exclusively supplies the Scappoose 13 kV feeder.

To effect the separation of the PGE system from that being transferred to the CRPUD, the following work will be performed by PGE. (All conductors are primary unless mentioned otherwise.)

Rainier Area

1. On Highway 30 at the south city limits of Rainier, remove three spans and poles between and deadend 3Ø on poles #411 and #1803 (B72-15D3).
2. From the Rainier Substation to Timoney Rd, underbuild the transmission line with 3Ø 950 feet. Remove one span and deadend 3Ø on poles #1221 and #534. Install three 1Ø reclosers on pole #1868. Install primary metering in or near substation (B72-16d4).
3. Extend 3Ø 1,100 feet underground from Rainier Substation to Norwood Rd at Park St, pole #1229. On E. Second St, south of Wescott St, remove one span and deadend 1Ø on poles #598 and #601 and transfer secondary (B72-16d3 and B72-21a).
4. On New Bedford St, Rainier, remove one span between poles #604 and #1262, and install 1Ø 250 feet between poles #604 and #596 (B72-16d3, 21a).
5. On Norwood St, Rainier, add second phase 1,500 feet 1Ø from pole #1229 at Park St west to end of line, then extend 2Ø 1,000 feet west to pole #1258 on Lewis Rd (B72-21a,b).
6. On Debast Rd south of Sandy Ln, Rainier, remove one span and dead-end 2Ø on poles #1821 and #1822 (B72-16c3).
7. On Fernhill Rd north of Townsend Rd, Rainier, install primary metering on pole #890 (B72-17d2). On Townsend Rd, install a transformer on pole #897 and transfer one span of secondary (B72-17d3). Reclosers exist on poles #894 and #1071.
8. On Mill St, Rainier, build 350 feet 1Ø from Fir St to Washington Wy; remove two spans from new poles to pole #811 and pole #808; install one transformer and transfer one service. Tie through on Fir St at poles #794 and #805 (B72-17a3).
9. On Dike Rd east of Mill St, Rainier, install primary metering on pole #848 and three 1Ø reclosers on pole #849 (B72-17a2).

Columbia City Area

10. On Oregon St, St. Helens, extend 3Ø 4,500 feet north from Deer Island Rd, pole #42 (B51-33c), to Columbia City limits at 4th St. Add third phase 300 feet on 4th St from pole #445 to pole #483 (B51-28d). Tie through at 2nd St and I St at pole #367 (B51-28a).
11. On Highway 30 in Columbia City, remove capacitors on poles #768 and #773 (B51-21,28b).
12. On M St east of Highway 30, Columbia City, remove two spans between poles #449 and #382, and deadend 3Ø on pole #382. Install one span of secondary on L St from pole #965 to pole #260 (B51-28d).
13. Underbuild existing 13 kV lines on Highway 30, Columbia City, from pole #456 on F St to pole #453 on I St 1,200 feet 1Ø and transfer taps and transformers to new conductor (B51-28a).
14. On 5th St, Columbia City, extend 400 feet 1Ø from pole #3 south to new pole at J St. Install transformer and transfer two services to new pole (B51-28a).
15. On I St at 6th St, Columbia City, extend underground secondary from vault #1086 to pole #639 on I St. Install pole and transfer secondary from pole #3 (B51-28a).
16. At F St and Highway 30 in Columbia City, open corners at pole #456 and tie through on F St (B51-28a).
17. At E St and Highway 30 in Columbia City, open corners and tie through on E St and extend 1Ø 350 feet on 5th St from pole #857 to pole #242 at 5th St and B St. Build 400 feet 3Ø on 2nd St from pole #376 to pole #141 on E St. On Smith Rd at Highway 30, remove one span between poles #771 and #61 and deadend 2Ø on pole #61. Relocate transformer from pole #771 to pole #61 and install one span of secondary (B51-28a).

St. Helens Area

18. On Highway 30 north of Sykes Rd, St. Helens, remove one span and deadend 3Ø on poles #1357 (B41-8) and #1134 (B41-5d). Install 3Ø UG tap from pole #1134 on Highway 30 to new transformer location. Remove 3Ø UG tap and OH service from pole #1358 on Sykes Rd (B41-5d). Relocate existing pad-mount transformer. Extend underground secondary from pad #4628 to pole #2114 (B41-5d).
19. On West Rd north of McBride St in St. Helens, expose, cut and terminate 1Ø UG and tie through at pad #4493 (B41-5d).
20. On Bachelor Flat Rd west of West Rd, St. Helens, remove one span and deadend 3Ø on poles #211 and #441 (B41-5d). Tie through at pole #223 on Bachelor Flat Rd east of Sykes Rd (B41-5c). Build 1,000 feet 3Ø from new pole east of pole #211 on Bachelor Flat Rd to pole #448 on Vernonia Rd on easement named Frantz St (B41-5c,d).

21. On Frantz St at Vernonia Rd in St. Helens, install 1Ø underground 600 feet south from pole #448, and install one transformer and transfer two services. Remove span between poles #448 and #446 and deadend 3Ø on pole #446 (B41-5d).
22. On Vernonia Rd, St. Helens, build 650 feet 1Ø line from pole #448 at Frantz St east to Mayfair Dr and install UG tap to intercept UG primary (B41-5d). Transfer tap for Mill St (B41-5d) and Mayfair Dr to new 1Ø line. Install two transformers and transfer services on Vernonia Rd (B41-5a).
23. On Pittsburg Rd in St. Helens west of Allendale Rd, remove one span and deadend 3Ø on poles #4023 and #450. Build 950 feet 1Ø line on Pittsburg Rd east from pole #4023 to Hankey Rd and transfer tap for Hankey Rd. Install service pole on Hankey Rd and one span of secondary; transfer service (B41-5a).
24. On Sunset Blvd, St. Helens, add second and third phases 2,000 feet from Columbia Blvd, pole #1378 (B41-4c), to Pittsburg Rd, pole #1625 (B41-5a).
25. On Pittsburg Rd, remove one span and deadend 3Ø on poles #1731 and #1732. On Pittsburg Rd at 18th St, install two poles and one span three phase line. Remove two spans between new poles and poles #1899 and #1644. Extend one phase east two spans, install transformer, and transfer secondary (B41-4b).
26. At Pittsburg Rd and Highway 30, remove two spans crossing Highway 30 and deadend 3Ø on poles #58 and #461. Tie through at pole #12 on West St east of 11th St (B51-33d).
27. On Deer Island Rd at Highway 30, St. Helens, remove one span and deadend 3Ø on poles #42 and #711 (B51-33c), and on Highway 30 north of Deer Island Rd remove one span and deadend 3Ø on poles #492 (B51-33c) and #112 (B51-33d).
28. Open and lock 115 kV breaker W-176 at St. Helens Substation serving the St. Helens-Reichhold 115 kV line (B41-9d).
29. At St. Helens Substation, disconnect Yankton 13 kV and Warren 13 kV feeders from source. Close switch #2080 on Highway 30, pole #2010 (B41-8).
30. At Old Portland Rd and Railroad Ave, St. Helens, install two spans from pole #867 to pole #1907 (B41-9b).

Scappoose Area

31. On Highway 30 south of Chapman Rd, Scappoose, remove one span and deadend 3Ø on poles #408 and #406. Extend 400 feet secondary from pole #406 north to customer on railroad easement. Remove switch #3333 from pole #406 (B32-12b).
32. Smith Rd east of 6th St, Scappoose, remove one span and deadend 3Ø on poles #1703 and #13. Add second phase from Smith Rd to Wheeler St on back-lot line between 5th St and 6th St. Extend 2Ø line on Wheeler St from pole #1287 to pole #1390 on Chapman Rd (B32-12b).

33. On J. P. West Rd west of 4th St, Scappoose, remove one span and deadend 2Ø on poles #640 and #434 (B32-12c). Tie through at pole #785 (B32-11) on Keys Rd.
34. On Watts Rd west of 4th St, Scappoose, remove one span and deadend 3Ø on poles #450 and #393 (B32-12c). Extend 1,500 feet 3Ø on Dutch Canyon Rd from Watts Rd, pole #435 (B32-14) to pole #103 (B32-13), and add 1,650 feet 1Ø from pole #103 to pole #179 near Old Highway 30 (B32-13).
35. On 4th St south of Watts, Scappoose, expose cut and terminate 1Ø underground fed from pole #1000 (B32-12c). Tie through at pad #1964 on Rogers Wy (B32-13).
36. On Chinook Wy south of Watts Rd, remove one span between poles #749 and #825 and deadend 2Ø on pole #825 on Fir Ln. Extend 200 feet 2Ø on Fir Ln from pole #1370 (B32-12c) to pole #349 on Highway 30 (B32-13).
37. On Highway 30 at south city limits of Scappoose, remove one span and deadend 3Ø on poles #349 (B32-13) and #350 (B32-12d). Extend 3Ø from pole #593 at 3rd St and Santosh St south to Elm St, then on Elm St to Highway 30, then south on Highway 30 to pole #349 at the city limits (B32-12d,13).
38. At Elm St and 3rd St, Scappoose, remove one span and deadend 3Ø on poles #235 and #236. On Elm St east of 5th St, remove one span and deadend 2Ø on poles #317 and #1114. Install secondary from pole #317 to pole #1115 on Endicott Ln. Install 600 feet 1Ø from pole #800 at east end of Watts Rd (Elm St) to pole #216 south of Honeyman Rd (B32-12d).
39. On 5th St south of Vine St, Scappoose, install pad mounted transformer adjacent to pad #1487 and install 275 feet underground secondary to serve customers on Vine St (B32-13).
40. On Santosh St east of 3rd St, Scappoose, remove one span and deadend 2Ø on poles #1022 and #673 and set a new service pole near boundary. Extend 200 feet 1Ø on Santosh St west from 4th St (B32-12d).
41. On Maple St east of 3rd St, Scappoose, remove one span and deadend 2Ø on poles #636 and #637, and set a new service pole near boundary with new UG service and street crossing. Extend 200 feet 1Ø on 4th St from pole #675 to pole #756 on Maple St (B32-12d).
42. On Oak St at 3rd St, Scappoose, raise the deadend to tap PUD 3Ø circuit on pole #488. Install 1Ø 200 feet on 4th St from pole #633 at Oak St to a new pole at Maple St. Install secondary from pole #488 to pole #536 on Oak St (B32-12d).
43. On Myrtle St east of 3rd St, Scappoose, remove one span and deadend 1Ø on poles #486 and #1477. Extend 200 feet 1Ø on Myrtle St west from pole #1499 at 4th St to pole #1718. Install street crossing and reroute service to new transformer on Olive St east of 3rd St (B32-12d).

44. At Scappoose Substation, tie existing 13 kV circuit to existing overbuilt line (insulated 57 kV) on pole #1277. Remove two spans between poles #79 and #1653. Tie through at pole #394 (B32-12a).
45. On Columbia Blvd, Scappoose, extend 800 feet 3Ø from pole #397 on 3rd St to West Ln. Tie through to pole #85 on West Ln and open corner on pole #85. Install 300 feet secondary to pole #1037 from new pole on Prairie St to feed PUD customers on Honeyman Rd (B32-12a).
46. South of Honeyman, underbuild transmission line with 3Ø 900 feet from pole #583 to pole #587 (B31-18). Remove span and deadend on poles #438 and #440 (B32-13).
47. On Honeyman Rd west of Meir Rd, remove one span between poles #1054 and #1000. On Honeyman Rd, extend 600 feet 3Ø from pole #1054 to pole #4306 and install transformer on pole #4308 and transfer service (B41-32).
48. From 13 kV line on Johnson Landing Rd, underbuild transmission line from pole #1165 with 3Ø 2,000 feet south to pole #1178 near Multnomah County line. Extend 3Ø 400 feet west and tie through on pole #1681 on Watson Rd. Remove one span on Highway 30 north of Watson Rd and deadend on poles #294 and #293 (B32-24).
49. On Johnson Landing Rd east of Highway 30, remove one span and deadend 3Ø on poles #300 and #299 (B32-24).

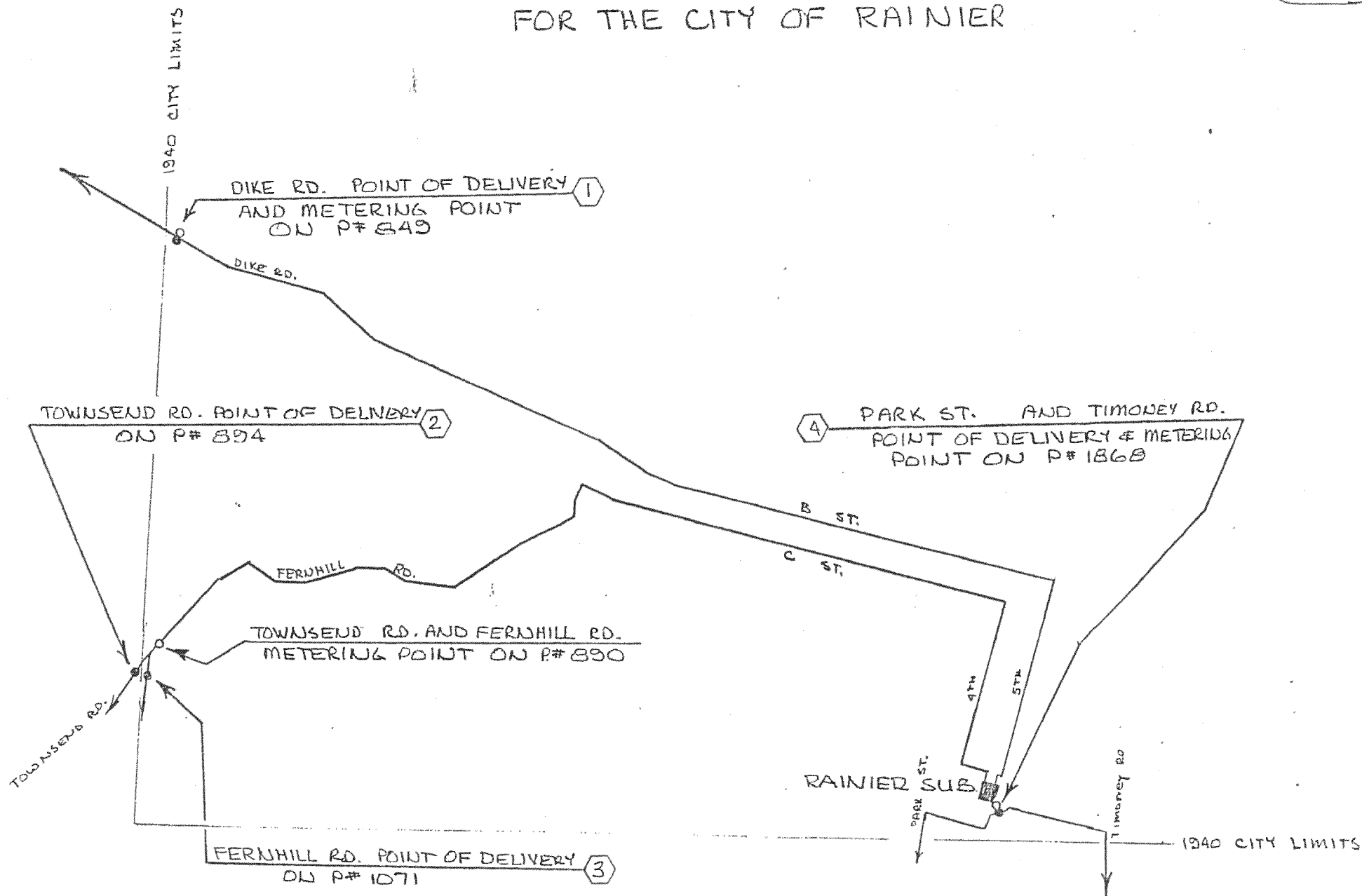
Detailed engineering and construction drawings shall be finalized subsequent to this agreement. New facilities shall be installed using prudent utility practices. A copy of all jobs shall be sent to the CRPUD engineer. Actual construction may require field changes, transformer relocations and service rearrangements not fully described in this exhibit.

PGE shall own and maintain all system protective devices at the points of interconnection. Both CRPUD and PGE may operate said devices as necessary.

At the completion of all work, there will be six specific points of delivery and five metering points. They are shown on Exhibits B-1, B-2 and B-3 attached hereto.

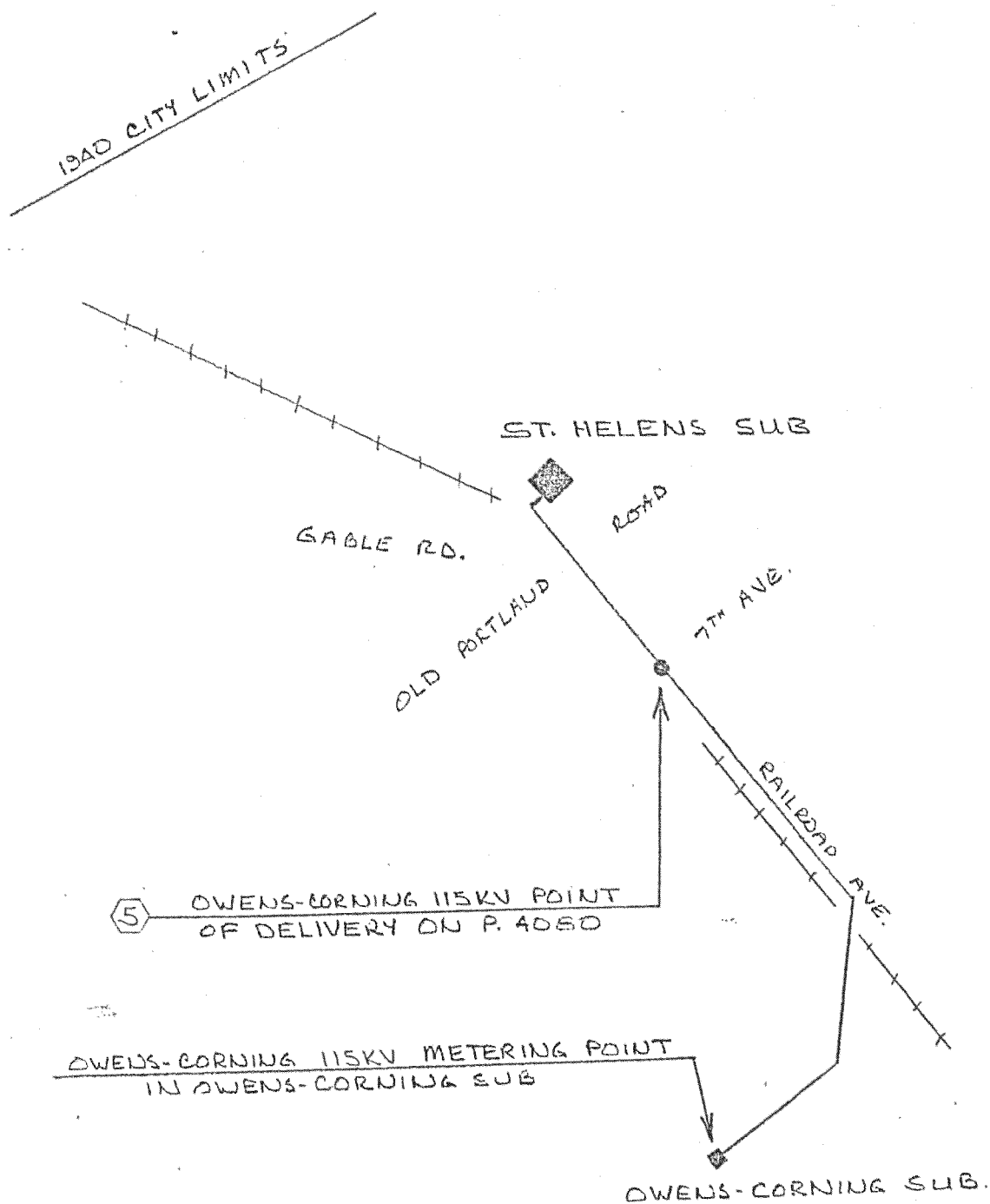
POINTS OF DELIVERY & METERING POINTS FOR THE CITY OF RAINIER

B-1



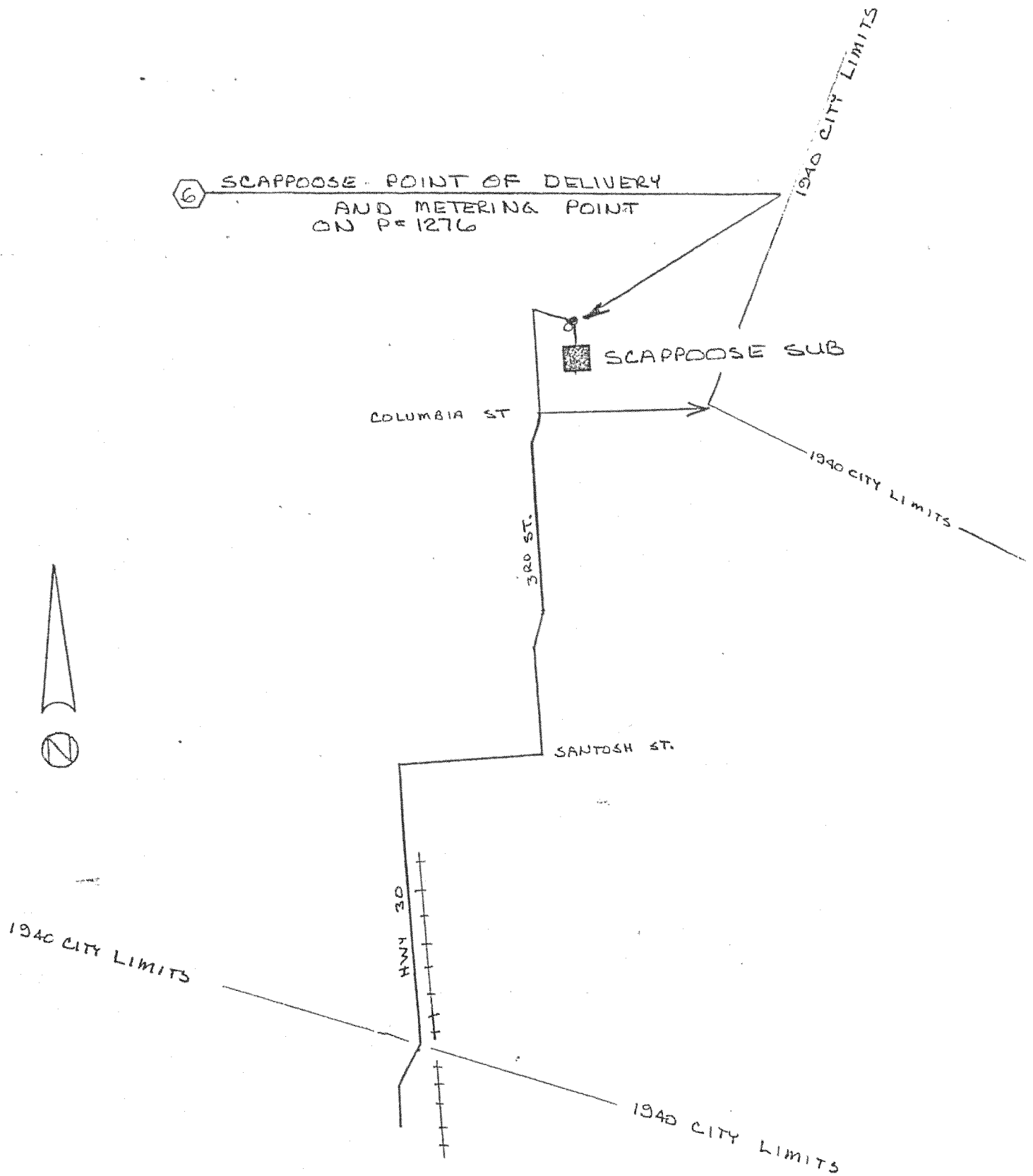
POINT OF DELIVERY & METERING POINT
FOR THE CITY OF ST. HELENS

B-2



POINTS OF DELIVERY & METERING POINTS FOR THE CITY OF SCAPPOOSE

B-3



Information
**Power
Options**
For Your Business

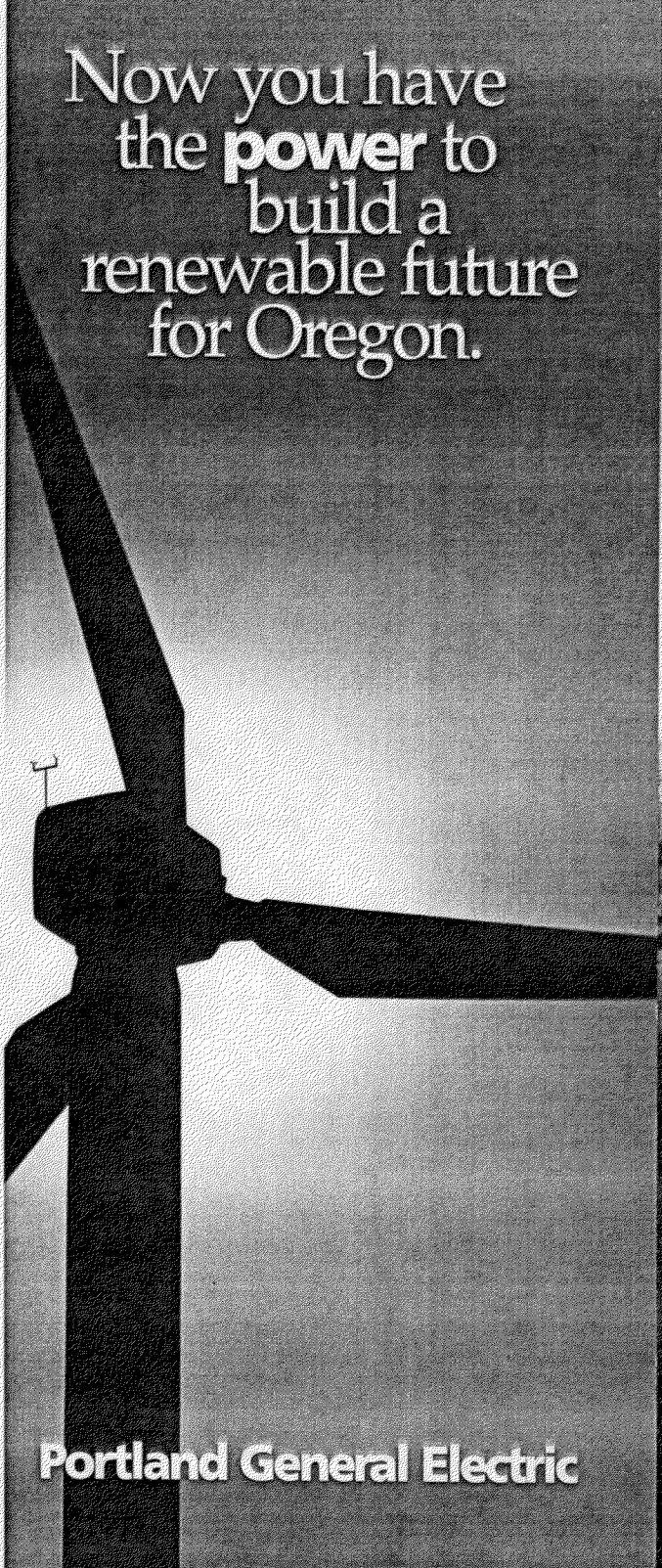
This brochure contains
information about the fuel sources
used to generate your electricity.
Each option available to you has
different fuel sources, environmental
impacts and prices. We hope this
information is helpful.

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PGE celebrates 115 years at PGE Park July 4

Join the old-fashioned fun at PGE Park on the 4th of July as we celebrate PGE's 115th anniversary, our nation's birthday and the invention of the electric light bulb 125 years ago!



It's an event the whole family will enjoy, complete with a rousing baseball game (watch the Portland Beavers take on the Edmonton Trappers), old-time music, a salute to the invention of the light bulb and a fantastic fireworks display after the game. PGE will give away scores of new electric irons, toasters and other small appliances, as a tribute to how these devices revolutionized everyday life more than a century ago. And the first 2,500 people through the gates will receive a coupon good for a free compact fluorescent light bulb.

After June 30, tickets are \$11 for infield reserved seats; outfield reserved seats are \$8, and general admission seats are \$6. You may purchase tickets through Ticketmaster or at the PGE Park box office. For a seating chart, visit the park's Web site at PGEPark.com.

Game time is 6:05 p.m. and PGE Park's gates open at 5:05 p.m.

Watch for a story on highlights of PGE's history in the July issue of *NewsLine*. ♦

June 2004



PGE CEO and President Peggy Fowler (left) and the other four ambassadors of the American Heart Association's "Go Red for Women" campaign wave to the crowd from PGE's float in the Grand Floral Parade. For more on PGE's Rose Festival activities and the company's ongoing commitment to the the American Heart Association, see page 2.

PGE signs purchase agreement to meet future energy needs

On May 25, PGE announced a 10-year power purchase agreement for 100 MW of energy from TransAlta Energy Marketing U.S. to serve PGE customers beginning in October 2006. This agreement marks the first publicly announced result from the 2003 request for proposals (RFP) the company issued to the energy marketplace as part of its Integrated Resource Plan (IRP).

"PGE has been negotiating with the short-listed bidders from the RFP for the past seven months, and this agreement with TransAlta is a great result of all that hard work by the many parties involved, including several employees," says Jim Lobdell, PGE's vice president of Power Operations.

"The TransAlta proposal offers a highly competitive and reliable source of electric supply," says Brett Sims, from Structuring & Origination, who is leading PGE's RFP negotiations. "Because of that, we felt it was prudent to secure this long-term contract on behalf of our customers, even before

the Oregon Public Utility Commission has formally acknowledged our IRP recommendations."

TransAlta, one of Canada's largest non-regulated power generation and wholesale marketing companies, was selected from PGE's short list of bidders, a group that was carefully selected from more than 100 proposals submitted by more than 40 bidders in the RFP process.

PGE will continue to work closely with short-listed bidding parties to help fulfill our customers' future energy needs. Lobdell notes that to achieve the best pricing for customers, and because of confidentiality agreements with other bidders, the names of these bidders cannot be released at this time.

Within the next few weeks, PGE expects the OPUC's acknowledgement of its Integrated Resource Plan, which outlines how the company plans to best meet customers' future power supply needs beginning in the fall of 2006. Watch for a report in a future issue of *NewsLine*. ♦



Exhibit "A"
Description of System

- I. PGE transfers ownership to Columbia River People's Utility District all the electric distribution facilities, to include but not limited to poles, pole top units, crossarms and braces, guy wires and anchors, conductors, transformers, yard lights, meters, switches, and right-of-way easements, if any, within the Columbia River People's Utility District boundaries, and

A. Specifically including:

1. The Rose Hill Substation described on Exhibit A-1 attached hereto; and
2. The Goble Substation described on Exhibit A-2 attached hereto; and
3. The Reichhold-St. Helens 115 kV transmission line extending northerly from the source side of pole #2068 at St. Helens Substation to Reichhold Substation. Includes all transmission facilities located outside the 1940 city limits of St. Helens and Columbia City, except switch #11503 and pole #1536 located in Section 9, Township 4 North, Range 1 West, Willamette Meridian; and
4. The Owens-Corning 115 kV transmission tap line from the load side of pole #4080 (Harborton-St. Helens 115 kV line) to the Owens Corning Substation in Section 9, Township 4 North, Range 1 West, Willamette Meridian; and
5. A 115 kV tap from the BPA St. Helens-Longview #1 115 kV line to the Goble Substation and the 115 kV switches and structures in said BPA line located in Sections 11 and 14, Township 6 North, Range 2 West, Willamette Meridian; and
6. All other underbuilt distribution facilities on PGE 115 kV or larger transmission lines to include but not limited to crossarms, braces, and conductors.

B. Specifically excluding:

1. All other transmission substations including but not limited to:
 - a. Trojan Nuclear Power Plant Substation and switch yard; and
 - b. Rainier 115 kV switching station located in Section 21, Township 7 North, Range 2 West, Willamette Meridian; and

2. All other transmission lines including but not limited to:
 - a. The Harborton-St. Helens 115 kV line extending northerly from the Columbia-Multnomah County line in Section 24, Township 3 North, Range 2 West, Willamette Meridian, to the St. Helens Substation; and
 - b. The St. Marys-Trojan and Rivergate-Trojan 230 kV lines extending northerly from the Columbia-Multnomah County line in Section 22, Township 3 North, Range 2 West, Willamette Meridian, to the Trojan Nuclear Power Plant Substation; and
 - c. The Boise Cascade-St. Helens 115 kV line extending from St. Helens Substation to Boise Cascade Substation in Sections 9 and 10, Township 4 North, Range 1 West, Willamette Meridian; and
 - d. The PGE-owned section of the St. Helens-St. Johns BPA 115 kV line and the PGE-owned section of the St. Helens-Longview #1 115 kV line both extending from the BPA line switch B649 in Section 6, Township 4 North, Range 1 West, Willamette Meridian, to St. Helens Substation; and
 - e. The idle 115 kV line extending northeasterly from the BPA St. Helens-Longview #1 115 kV line in Section 3, Township 6 North, Range 2 West, Willamette Meridian, to Trojan Nuclear Power Plant site; and
 - f. The Rainier Switching Station-Rainier Substation 115 kV line extending northerly from the Rainier Switching Station to the Rainier Substation located in Section 16, Township 7 North, Range 2 West, Willamette Meridian.
3. All other distribution substations and related properties within the Columbia River People's Utility District boundaries including but not limited to:
 - a. The St. Helens Substation located in Section 9, Township 4 North, Range 1 West, Willamette Meridian; and
 - b. The Boise Cascade Substation located in Section 10, Township 4 North, Range 1 West, Willamette Meridian; and
 - c. The Trojan distribution substation.
4. The two distribution lines from the St. Helens Substation (the St. Helens-St. Helens 13 kV and the St. Helens-Houlton 13 kV feeders) located in Sections 3, 4, 9 and 10 of Township 4 North, Range 1 West, Willamette Meridian, now used by PGE to serve the St. Helens service area (as described and shown on Exhibit A-3); and

5. All electric distribution facilities and easements located within or which are necessary for PGE to serve the following areas within the Columbia River People's Utility District boundaries:
- a. Tax Lot 4700 on Columbia County assessor map 72 17 24 on Larch St, Rainier (Exhibit A-4); and
 - b. Tax Lots 501 and 808 on Columbia County assessor map 72 16 33 on Sandy Ln (Exhibit A-5); and
 - c. Tax Lots 400, 500, 501, 600, 700, 800, 801, 802, 900, 1000, 1001, 1200 and 1300 of assessor map 7 2 17 and Tax Lots 2300 and 2400 of assessor map 72 17 42 on Old Columbia River Hwy (Exhibits A-6 and A-7); and
 - d. The area bounded by the 1940 city limits of Columbia City on the east and north, and on the south by the line which starts from the 1940 city limits of Columbia City at the southeast corner of Tax Lot 400 at 6th St (assessor map 5 1 28 2 4), thence westerly on the southern boundary of Tax Lots 400 and 300, and thence northerly on the western boundary of Tax Lot 300 to the northwest corner of Tax Lot 300, thence westerly on the southern boundary of Tax Lot 100 to its southwest corner, thence northerly on the western boundary of Tax Lot 100 to its northwest corner, thence westerly on the southern boundary of Tax Lot 200 (assessor map 51 28), thence northerly on the western boundary of Tax Lot 200 to the 1940 limits of Columbia City (assessor map 51 21) near 6th St and Lincoln St (Exhibits A-8, A-9 and A-10); and
 - e. The area bounded by the 1940 city limits of St. Helens and the Multnomah Channel on the north and east (assessor maps 41 4 3, 41 4 43, 41 4 44 and 41 10), and on the west by Milton Creek from the 1940 city limits of St. Helens (assessor map 41 4 3) southerly to 9th St, then southwesterly on 9th St to Port Ave, then northwesterly on Port Ave to the north corner of Tax Lot 1600, then southwesterly on the boundary of Lot 1600 to the Burlington Northern Railroad spur, then southeasterly along this railroad spur to 7th St, and bounded on the south by 7th St (assessor maps 9 41, 9BD 41 and 9AB 41) from this railroad spur to Milton Creek, then southeasterly along Milton Creek to a property corner at 2nd St and Hamlin St (assessor map 9AC 41), then easterly along southern property line of Lot 200 (assessor map 41 10) to the Multnomah Channel (Exhibits A-11, A-12, A-13, A-14, A-15, A-16, A-17 and A-18); and
 - f. Tax Lots 700, 1000, 1001, 1101 and 1102 of assessor map 4 1 4 3 on Milton Way and Port Ave (Exhibit A-11); and

- g. Tax Lots 2800, 2900 and 3000 of assessor map 4 1 5 4 4 on Sykes Rd and Columbia River Hwy (Exhibit A-19); and
- h. The area bounded by the Burlington Northern Railroad right-of-way on the west, the Columbia River on the east, the 1940 city limits of St. Helens on the south, and the 1940 limits of Columbia City on the north, assessor maps 51 28, 51 33 and 51 34 (Exhibits A-8, A-20 and A-21); and
- i. Tax Lots 5300, 5401, 5500, 5600, 5700, 5800, 5900, 6000, 6100, 6200, 6300, 6400, 100 through 2100 of assessor map 3 2 12 14, Tax Lots 100, 200, 300, 301, 400, 500, 600, 1101, 1102, 1200, 1201, 1202 and 3700 of assessor map 32 12 41, and Tax Lots 400, 500, 600, 800, 900, 1000, 1001, 1100, 1400, 1500, 1501, 1600, 1800, 1900, 1901 and 2000 of assessor map 31 73 on Columbia Ave, North Rd, Mobile Ln and Roundhouse Ln (Exhibits A-22, A-23 and A-24); and
- j. Tax Lots 1200, 1300, 1301, 1400, 1600, 1700, 1701, 1702, 1703, 1704, 1900, 2000, the southern half of 2100 and 2200 of assessor map 32 23, Tax Lot 2900 of assessor map 32 24, and Tax Lots 4200, 4300, 4400 and 4600 of assessor map 32 24 3 on Watson Rd (Exhibits A-25, A-26 and A-27).

II. PGE also transfers ownership to the Columbia River People's Utility District the following electric distribution facilities which are located outside the Columbia River People's Utility District boundaries:

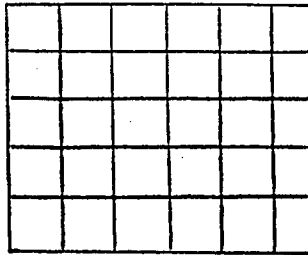
- A. The Reichhold-St. Helens 115 kV transmission line located within the 1940 city limits of St. Helens and Columbia City. The attached distribution facilities, excluding distribution transformers and capacitors, located on transmission poles within the 1940 city limits of Columbia City; and
- B. All electric distribution facilities located within the 1940 city limits of Goble and wholly contained in Sections 12 and 13, Township 6 North, Range 2 West, Willamette Meridian (Exhibit A-28); and
- C. All electric distribution facilities contained within the following areas (Exhibit A-28):
 - 1. Section 4, the northeast quarter and southern half of Section 5, the southern half of Section 6, and all of Sections 7, 8, 9, 15, 16, 17, 18, 26, and 35 of Township 6 North, Range 3 West, Willamette Meridian; and
 - 2. The southern half of Section 1 and all of Sections 12 and 13 of Township 6 North, Range 4 West, Willamette Meridian; and
 - 3. The northern half of Section 12 of Township 5 North, Range 3 West, Willamette Meridian; and

4. Sections 13, 14, 15, 16, 17, 18, and 32 of Township 5 North, Range 2 West, Willamette Meridian; and
 5. Section 18 of Township 5 North, Range 1 West, Willamette Meridian; and
 6. The eastern half of Section 5, the northern half of Section 9, and all of Sections 31, 32, and 33 of Township 4 North, Range 2 West, Willamette Meridian; and
 7. Sections 3, 4, 5, 6, 7, 8, 9 and 10, the northern half of Section 18, and the northern half of Section 21, Township 3 North, Range 2 West, Willamette Meridian; and
- D. All electric distribution facilities and easements located within or which are necessary to serve the following areas outside the Columbia River People's Utility District boundaries:
1. Tax Lots 806 and 1300 of Columbia County assessor map 7 2 16 3 3 on Bourne Rd north of the CRPUD boundary (Exhibit A-5); and
 2. Tax Lots 3800, 4101, 4102, 4109, 4110, 4111, 4112, 4118, 4119 and 4127 of assessor map 3 2 12 4 1 on Maple St and Cypress Ct east of 4th St, and Tax Lots 4125, 4126, 4200, 4300 and 4401 of assessor map 3 2 12 4 1 on Oak St east of 4th St (Exhibit A-23); and
 3. Tax Lots 3300, 3400, 3500, 3701, 3702 and 3703 of assessor map 5 1 28 4 2, and Tax Lots 2200, 2201, 2202, 3500, 3501, 3502 and 3600 of assessor map 5 1 28 1 3 on 6th St and J and K Sts (Exhibits A-29 and A-30); and
 4. Tax Lots 4500, 4600, 4700, 4800, 4900 and 5000 of assessor map 4 1 5 4 2 and Tax Lots 1100, 1200 and 1300 of assessor map 4 1 5 4 3 on Bachelor Flat Rd (Columbia Blvd) (Exhibits A-31 and A-32); and
 5. Tax Lots 2000, 2701, 2702, 2703, 2704, 2705, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719 and 2720 of assessor map 4 1 5 1 3 on Mayfair Dr and Sherwood Dr north of Vernonia Rd (Exhibit A-33); and
 6. Tax Lots 100, 900, 1000, 1100, 1200, 1300, 1400, 1500, 1600 and 1700 of assessor map 4 1 31 4 and Tax Lots 100 and 200 of assessor map 3 1 6 in the vicinity of Freeman Rd south of Frank L. Smith Rd (Dike Rd) (Exhibits A-34 and A-35); and
 7. Tax Lot 200 of assessor map 41 8 12 on Sykes Rd west of Highway 30, St. Helens (Exhibit A-36).

The map code on the following page corresponds to that used on Exhibits A-4 through A-36.

Map Code

Distribution Facilities Not Transferred to CRPUD



Distribution Facilities Transferred to CRPUD

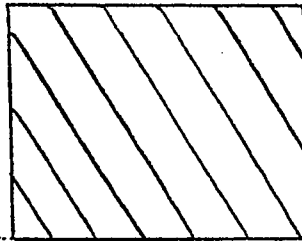


EXHIBIT "A-1"

The Rose Hill substation including, but not limited to, the power transformer, high and low-side substation structure and attachments thereto, metering, station improvements, footings, foundations, and roadways, fences, yardlights, and the land described as follows:

The tract of land in the Francis A. Lemont Donation Land Claim No. 43, in Section 33, Township 5 North, Range 1 West, Willamette Meridian, County of Columbia, and State of Oregon, described as follows:

Commencing on the West right of way line of the Columbia River Highway as established by deed from Leslie Watters et ux to the State of Oregon, recorded June 23, 1954, in Book 122, Page 642, Deed Records, at a point of intersection with the Northeasterly line of a tract of land described in a deed from Gus Hegele et ux to Union Oil Company of California recorded April 22, 1924, in Book 37, Page 4 of the Deed Records; thence north 73° 32' West a distance of 225 feet, thence northeasterly and parallel with said west right of way line of the Columbia River Highway a distance of 190 feet, thence South 73° 32' East a distance of 225 feet to said westerly right of way line of the Columbia River Highway; thence southwesterly on said westerly right of way of the Columbia River Highway a distance of 190 feet to the point of beginning, free from any encumbrances except for an easement and right of way for road purposes which extends along the southerly line of the above described parcel of land;

Being the same parcel which was conveyed from Fred Watters and Wanda Watters, husband and wife, to Portland General Electric Company, an Oregon corporation, by warranty deed dated May 23, 1961, recorded at Book 145, Page 450 of the Columbia County Deed Records.

EXHIBIT "A-2"

The Goble substation including, but not limited to, the power transformer, high and low-side substation structure and attachments thereto, metering, station improvements, footings, foundations and roadways, fence, yardlights, and the land described as follows:

PARCEL A:

A tract of land situated in the Southeast one-quarter of Section 11, Township 6 North, Range 2 West of the Willamette Meridian in the County of Columbia and State of Oregon, more particularly described as follows:

Commencing at the southeast corner of said Section 11, thence N. 1° 25' 59" E. along the east line thereof, a distance of 656.61 feet to a point in the north line of the South one-half of the South one-half of said Southeast one-quarter of Section 11, thence N. 59' 09" W. along said north line, a distance of 922.36 feet to the point of beginning of the tract herein to be described; thence at right angles to said north line N. 3° 00' 51" E. a distance of 400.00 feet to a point, thence N. 86° 59' 09" W. parallel with said north line of the south one-half of the south one-half of the southeast one-quarter of Section 11, a distance of 628.04 feet to a point; thence S. 3° 00' 51" W., a distance of 400.00 feet to a point in said north line of the south one-half of the south one-half of the southeast one-quarter of Section 11; thence S. 86° 59' 09" E. along said north line, a distance of 628.04 feet to the point of beginning,

Being the same parcel which was conveyed from Charles R. Holden and Mary F. Holden, husband and wife, to Portland General Electric Company, an Oregon corporation, by warranty deed dated August 6, 1975, and recorded at Book 202, Page 126 of the Columbia County Deed Records.

PARCEL B

A tract of land in Columbia County, State of Oregon, beginning at the Southeast corner of that tract of land conveyed to Portland General Electric Company by deed dated August 6, 1975, and recorded in Book 202, Page 126, Deed Records of Columbia County, Oregon: Thence South 3° 00' 51" West, along a Southerly projection of the East line of said PGE Company tract to a point on the Northerly right-of-way of County Road No. P-243 (Goble-Shiloh Basin Road); Thence Northwesterly along the North right-of-way of said County Road to an iron rod, said iron rod being at the most Southerly corner of that tract of land quitclaimed and released from the County of Columbia to PGE Company by Quitclaim Deed dated December 24, 1975 and recorded January 13, 1976 in Book 204, Page 163, Deed Records of Columbia County, Oregon; Thence, tracing the southerly boundary of the last aforesaid tract, North 49° 51' 30" West 164.10 feet to the most westerly corner thereof; Thence, continuing on the northerly boundary of THOMAS ROAD No. P-6, North 49° 51' 30" West 6.28 feet to a 5/8 inch iron rod at an angle point of said road; Thence tracing the northerly boundary of said road, North 64° 29' 10" West 136.47 feet to a 5/8-inch iron rod; Thence, tracing a southerly extension of the westerly line of Tract as described in aforesaid Book 202, Page 126, North 3° 00' 51" East 51.38 feet to the southwest corner thereof; Thence, tracing the southerly line of aforesaid Tract South 86° 59' 09" East 628.04 feet to the place of beginning;

Being the same parcel reserved to the grantor in the conveyance from Portland General Electric Company, an Oregon corporation, to Pete Matlaco Company, dated January 17, 1979, and recorded at Book 221, Page 887 of the Columbia County Deed Records.

1526/C/cb/mn

① 2003-03-03 (CRPUD) (PGE) (PGE) (PGE)
NEW
② 2003-03-03 (CRPUD) (PGE) (PGE) (PGE)
A-100-10-1000
Exhibit "B"
System Interconnections

RECEIVED

NOV 03 2003

STEVE HAWKE

PGE and CRPUD will share the substation facilities described below. They will be owned and maintained by PGE, but operated by both PGE and CRPUD as required.

Within the Scappoose Substation, the 8.4 MVA, 115 kV/13 kV transformer (WR-1) and associated 13 kV breaker (R-116) which exclusively supplies the Scappoose 13 kV feeder.

To effect the separation of the PGE system from that being transferred to the CRPUD, the following work will be performed by PGE. (All conductors are primary unless mentioned otherwise.)

Rainier Area

1. On Highway 30 at the south city limits of Rainier, remove three spans and poles between and deadend 3Ø on poles #411 and #1803 (B72-15D3).
2. From the Rainier Substation to Timoney Rd, underbuild the transmission line with 3Ø 950 feet. Remove one span and deadend 3Ø on poles #1221 and #534. Install three 1Ø reclosers on pole #1868. Install primary metering in or near substation (B72-16d4).
3. Extend 3Ø 1,100 feet underground from Rainier Substation to Norwood Rd at Park St, pole #1229. On E. Second St, south of Wescott St, remove one span and deadend 1Ø on poles #598 and #601 and transfer secondary (B72-16d3 and B72-21a).
4. On New Bedford St, Rainier, remove one span between poles #604 and #1262, and install 1Ø 250 feet between poles #604 and #596 (B72-16d3,21a).
5. On Norwood St, Rainier, add second phase 1,500 feet 1Ø from pole #1229 at Park St west to end of line, then extend 2Ø 1,000 feet west to pole #1258 on Lewis Rd (B72-21a,b).
6. On Debast Rd south of Sandy Ln, Rainier, remove one span and dead-end 2Ø on poles #1821 and #1822 (B72-16c3).
7. On Fernhill Rd north of Townsend Rd, Rainier, install primary metering on pole #890 (B72-17d2). On Townsend Rd, install a transformer on pole #897 and transfer one span of secondary (B72-17d3). Reclosers exist on poles #894 and #1071.
8. On Mill St, Rainier, build 350 feet 1Ø from Fir St to Washington Wy; remove two spans from new poles to pole #811 and pole #808; install one transformer and transfer one service. Tie through on Fir St at poles #794 and #805 (B72-17a3).
9. On Dike Rd east of Mill St, Rainier, install primary metering on pole #848 and three 1Ø reclosers on pole #849 (B72-17a2).

Columbia City Area

10. On Oregon St, St. Helens, extend 3Ø 4,500 feet north from Deer Island Rd, pole #42 (B51-33c), to Columbia City limits at 4th St. Add third phase 300 feet on 4th St from pole #445 to pole #483 (B51-28d). Tie through at 2nd St and I St at pole #367 (B51-28a).
11. On Highway 30 in Columbia City, remove capacitors on poles #768 and #773 (B51-21,28b).
12. On M St east of Highway 30, Columbia City, remove two spans between poles #449 and #382, and deadend 3Ø on pole #382. Install one span of secondary on L St from pole #965 to pole #260 (B51-28d).
13. Underbuild existing 13 kV lines on Highway 30, Columbia City, from pole #456 on F St to pole #453 on I St 1,200 feet 1Ø and transfer taps and transformers to new conductor (B51-28a).
14. On 5th St, Columbia City, extend 400 feet 1Ø from pole #3 south to new pole at J St. Install transformer and transfer two services to new pole (B51-28a).
15. On I St at 6th St, Columbia City, extend underground secondary from vault #1086 to pole #639 on I St. Install pole and transfer secondary from pole #3 (B51-28a).
16. At F St and Highway 30 in Columbia City, open corners at pole #456 and tie through on F St (B51-28a).
17. At E St and Highway 30 in Columbia City, open corners and tie through on E St and extend 1Ø 350 feet on 5th St from pole #857 to pole #242 at 5th St and B St. Build 400 feet 3Ø on 2nd St from pole #376 to pole #141 on E St. On Smith Rd at Highway 30, remove one span between poles #771 and #61 and deadend 2Ø on pole #61. Relocate transformer from pole #771 to pole #61 and install one span of secondary (B51-28a).

St. Helens Area

18. On Highway 30 north of Sykes Rd, St. Helens, remove one span and deadend 3Ø on poles #1357 (B41-8) and #1134 (B41-5d). Install 3Ø UG tap from pole #1134 on Highway 30 to new transformer location. Remove 3Ø UG tap and OH service from pole #1358 on Sykes Rd (B41-5d). Relocate existing pad-mount transformer. Extend underground secondary from pad #4628 to pole #2114 (B41-5d).
19. On West Rd north of McBride St in St. Helens, expose, cut and terminate 1Ø UG and tie through at pad #4493 (B41-5d).
20. On Bachelor Flat Rd west of West Rd, St. Helens, remove one span and deadend 3Ø on poles #211 and #441 (B41-5d). Tie through at pole #223 on Bachelor Flat Rd east of Sykes Rd (B41-5c). Build 1,000 feet 3Ø from new pole east of pole #211 on Bachelor Flat Rd to pole #448 on Vernonia Rd on easement named Frantz St (B41-5c,d).

21. On Frantz St at Vernonia Rd in St. Helens, install 1Ø underground 600 feet south from pole #448, and install one transformer and transfer two services. Remove span between poles #448 and #446 and deadend 3Ø on pole #446 (B41-5d).
22. On Vernonia Rd, St. Helens, build 650 feet 1Ø line from pole #448 at Frantz St east to Mayfair Dr and install UG tap to intercept UG primary (B41-5d). Transfer tap for Mill St (B41-5d) and Mayfair Dr to new 1Ø line. Install two transformers and transfer services on Vernonia Rd (B41-5a).
23. On Pittsburg Rd in St. Helens west of Allendale Rd, remove one span and deadend 3Ø on poles #4023 and #450. Build 950 feet 1Ø line on Pittsburg Rd east from pole #4023 to Hankey Rd and transfer tap for Hankey Rd. Install service pole on Hankey Rd and one span of secondary; transfer service (B41-5a).
24. On Sunset Blvd, St. Helens, add second and third phases 2,000 feet from Columbia Blvd, pole #1378 (B41-4c), to Pittsburg Rd, pole #1625 (B41-5a).
25. On Pittsburg Rd, remove one span and deadend 3Ø on poles #1731 and #1732. On Pittsburg Rd at 18th St, install two poles and one span three phase line. Remove two spans between new poles and poles #1899 and #1644. Extend one phase east two spans, install transformer, and transfer secondary (B41-4b).
26. At Pittsburg Rd and Highway 30, remove two spans crossing Highway 30 and deadend 3Ø on poles #58 and #461. Tie through at pole #12 on West St east of 11th St (B51-33d).
27. On Deer Island Rd at Highway 30, St. Helens, remove one span and deadend 3Ø on poles #42 and #711 (B51-33c), and on Highway 30 north of Deer Island Rd remove one span and deadend 3Ø on poles #492 (B51-33c) and #112 (B51-33d).
28. Open and lock 115 kV breaker W-176 at St. Helens Substation serving the St. Helens-Reichhold 115 kV line (B41-9d).
29. At St. Helens Substation, disconnect Yankton 13 kV and Warren 13 kV feeders from source. Close switch #2080 on Highway 30, pole #2010 (B41-8).
30. At Old Portland Rd and Railroad Ave, St. Helens, install two spans from pole #867 to pole #1907 (B41-9b).

Scappoose Area

31. On Highway 30 south of Chapman Rd, Scappoose, remove one span and deadend 3Ø on poles #408 and #406. Extend 400 feet secondary from pole #406 north to customer on railroad easement. Remove switch #3333 from pole #406 (B32-12b).
32. Smith Rd east of 6th St, Scappoose, remove one span and deadend 3Ø on poles #1703 and #13. Add second phase from Smith Rd to Wheeler St on back-lot line between 5th St and 6th St. Extend 2Ø line on Wheeler St from pole #1287 to pole #1390 on Chapman Rd (B32-12b).

33. On J. P. West Rd west of 4th St, Scappoose, remove one span and deadend 2Ø on poles #640 and #434 (B32-12c). Tie through at pole #785 (B32-11) on Keys Rd.
34. On Watts Rd west of 4th St, Scappoose, remove one span and deadend 3Ø on poles #450 and #393 (B32-12c). Extend 1,500 feet 3Ø on Dutch Canyon Rd from Watts Rd, pole #435 (B32-14) to pole #103 (B32-13), and add 1,650 feet 1Ø from pole #103 to pole #179 near Old Highway 30 (B32-13).
35. On 4th St south of Watts, Scappoose, expose cut and terminate 1Ø underground fed from pole #1000 (B32-12c). Tie through at pad #1964 on Rogers Wy (B32-13).
36. On Chinook Wy south of Watts Rd, remove one span between poles #749 and #825 and deadend 2Ø on pole #825 on Fir Ln. Extend 200 feet 2Ø on Fir Ln from pole #1370 (B32-12c) to pole #349 on Highway 30 (B32-13).
37. On Highway 30 at south city limits of Scappoose, remove one span and deadend 3Ø on poles #349 (B32-13) and #350 (B32-12d). Extend 3Ø from pole #593 at 3rd St and Santosh St south to Elm St, then on Elm St to Highway 30, then south on Highway 30 to pole #349 at the city limits (B32-12d,13).
38. At Elm St and 3rd St, Scappoose, remove one span and deadend 3Ø on poles #235 and #236. On Elm St east of 5th St, remove one span and deadend 2Ø on poles #317 and #1114. Install secondary from pole #317 to pole #1115 on Endicott Ln. Install 600 feet 1Ø from pole #800 at east end of Watts Rd (Elm St) to pole #216 south of Honeyman Rd (B32-12d).
39. On 5th St south of Vine St, Scappoose, install pad mounted transformer adjacent to pad #1487 and install 275 feet underground secondary to serve customers on Vine St (B32-13).
40. On Santosh St east of 3rd St, Scappoose, remove one span and deadend 2Ø on poles #1022 and #673 and set a new service pole near boundary. Extend 200 feet 1Ø on Santosh St west from 4th St (B32-12d).
41. On Maple St east of 3rd St, Scappoose, remove one span and deadend 2Ø on poles #636 and #637, and set a new service pole near boundary with new UG service and street crossing. Extend 200 feet 1Ø on 4th St from pole #675 to pole #756 on Maple St (B32-12d).
42. On Oak St at 3rd St, Scappoose, raise the deadend to tap PUD 3Ø circuit on pole #488. Install 1Ø 200 feet on 4th St from pole #633 at Oak St to a new pole at Maple St. Install secondary from pole #488 to pole #536 on Oak St (B32-12d).
43. On Myrtle St east of 3rd St, Scappoose, remove one span and deadend 1Ø on poles #486 and #1477. Extend 200 feet 1Ø on Myrtle St west from pole #1499 at 4th St to pole #1718. Install street crossing and reroute service to new transformer on Olive St east of 3rd St (B32-12d).

44. At Scappoose Substation, tie existing 13 kV circuit to existing overbuilt line (insulated 57 kV) on pole #1277. Remove two spans between poles #79 and #1653. Tie through at pole #394 (B32-12a).
45. On Columbia Blvd, Scappoose, extend 800 feet 3Ø from pole #397 on 3rd St. to West Ln. Tie through to pole #85 on West Ln and open corner on pole #85. Install 300 feet secondary to pole #1037 from new pole on Prairie St to feed PUD customers on Honeyman Rd (B32-12a).
46. South of Honeyman, underbuild transmission line with 3Ø 900 feet from pole #583 to pole #587 (B31-18). Remove span and deadend on poles #438 and #440 (B32-13).
47. On Honeyman Rd west of Meir Rd, remove one span between poles #1054 and #1000. On Honeyman Rd, extend 600 feet 3Ø from pole #1054 to pole #4306 and install transformer on pole #4308 and transfer service (B41-32).
48. From 13 kV line on Johnson Landing Rd, underbuild transmission line from pole #1165 with 3Ø 2,000 feet south to pole #1178 near Multnomah County line. Extend 3Ø 400 feet west and tie through on pole #1681 on Watson Rd. Remove one span on Highway 30 north of Watson Rd and deadend on poles #294 and #293 (B32-24).
49. On Johnson Landing Rd east of Highway 30, remove one span and dead-end 3Ø on poles #300 and #299 (B32-24).

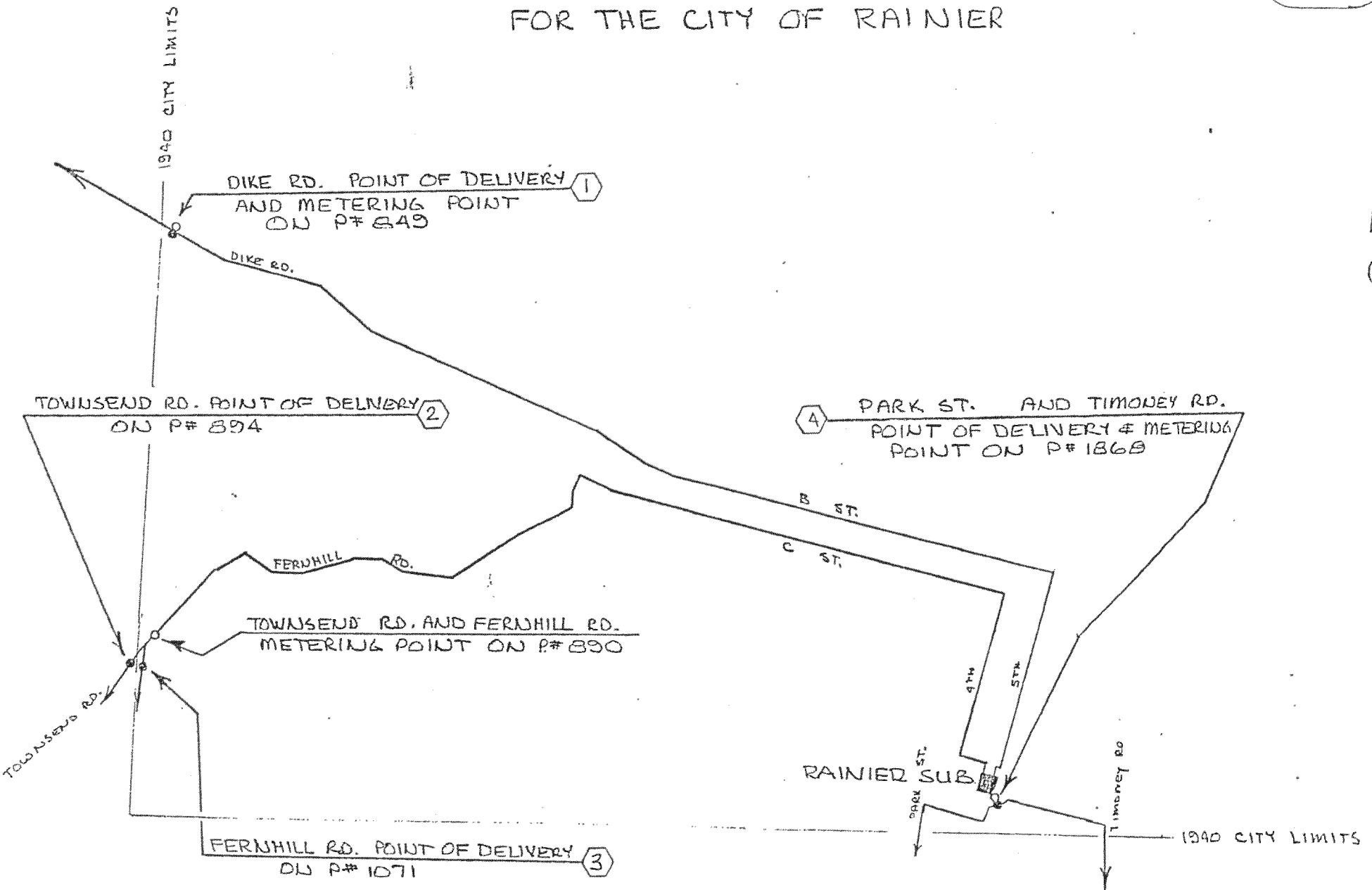
Detailed engineering and construction drawings shall be finalized subsequent to this agreement. New facilities shall be installed using prudent utility practices. A copy of all jobs shall be sent to the CRPUD engineer. Actual construction may require field changes, transformer relocations and service rearrangements not fully described in this exhibit.

PGE shall own and maintain all system protective devices at the points of interconnection. Both CRPUD and PGE may operate said devices as necessary.

At the completion of all work, there will be six specific points of delivery and five metering points. They are shown on Exhibits B-1, B-2 and B-3 attached hereto.

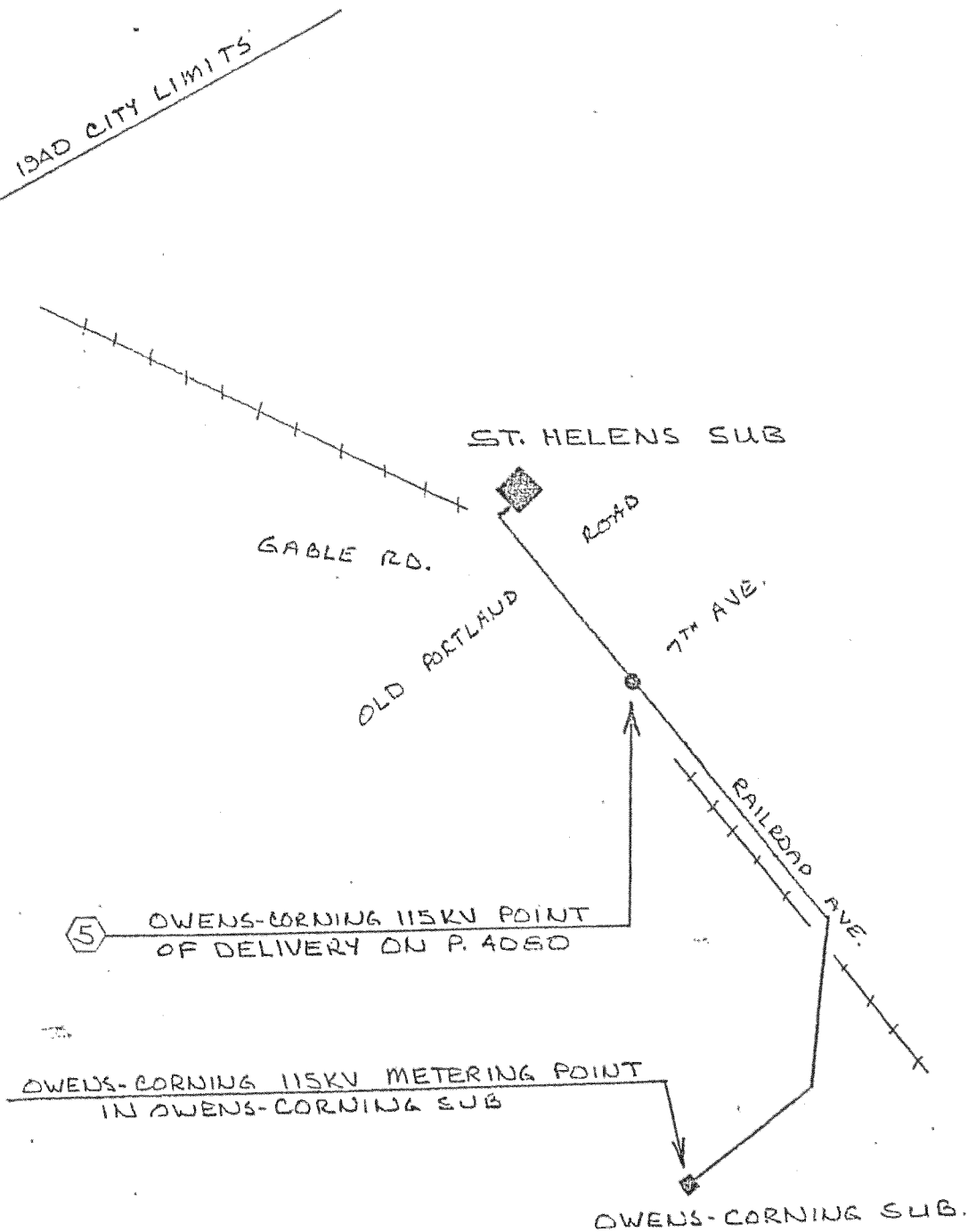
POINTS OF DELIVERY & METERING POINTS FOR THE CITY OF RAINIER

B-1



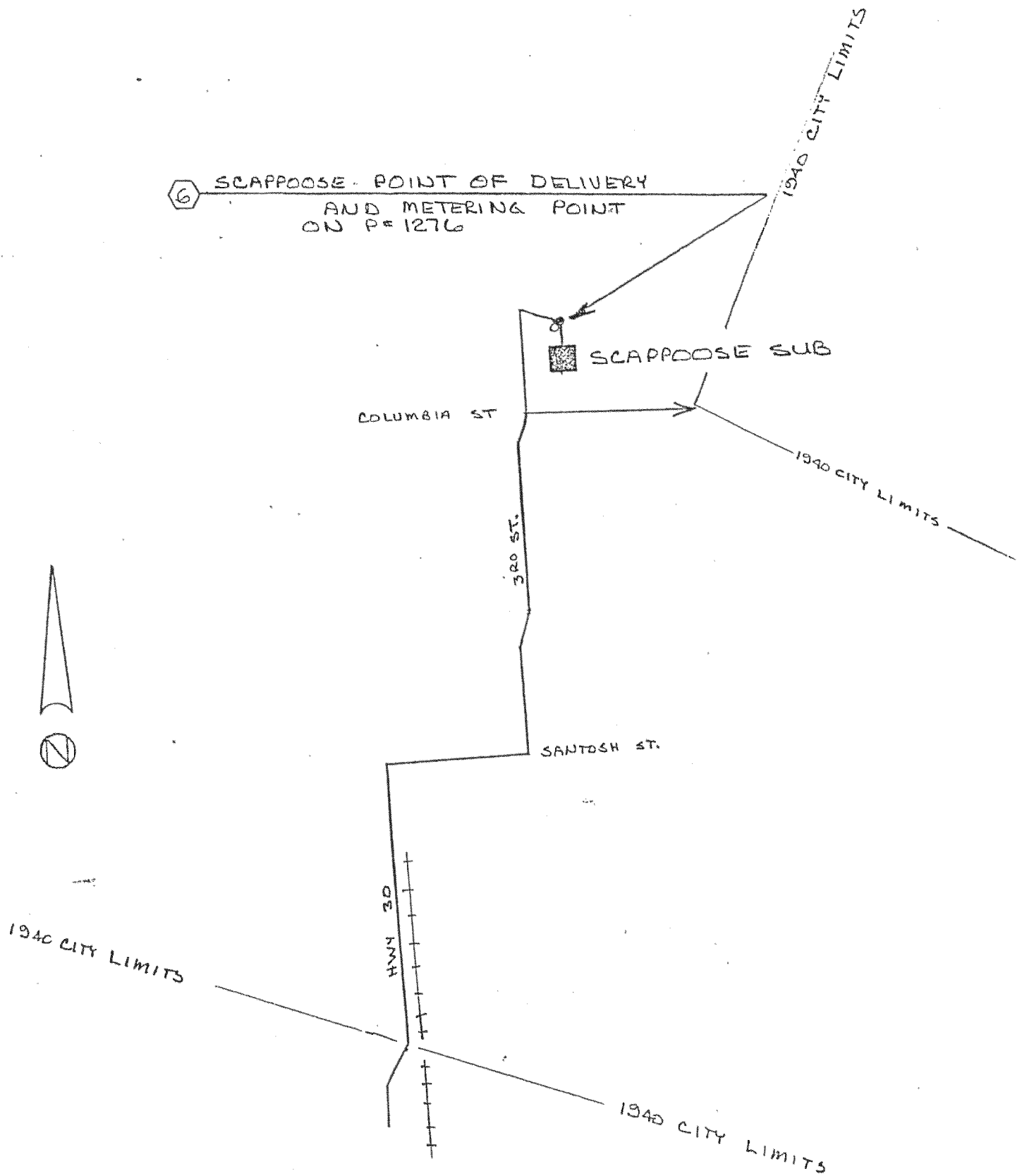
POINT OF DELIVERY & METERING POINT
FOR THE CITY OF ST. HELENS

B-2



POINTS OF DELIVERY & METERING POINTS FOR THE CITY OF SCAPPOOSE

B-3



SPEAKER
#3

Testimony
Of
Bernie Bottomly, Director of Community Services
Pacific Power
Before the
Multnomah County Board of Commissioners
Regarding the Proposed Willamette Valley PUD
July 8, 2004

Chair Linn, Members of the Commission, thank you for the opportunity to appear before you today regarding the boundary of the proposed Willamette Valley PUD. My name is Bernie Bottomly, I am the Director of Community Services for Pacific Power. Pacific Power is opposed to the proposed PUD because it is impractical, will add unnecessary complexity to the electrical system and will require substantial new expenditures without the reasonable likelihood of providing any benefit to customers.

We also have a number of concerns regarding the boundary of the proposed PUD which I would like to detail.

First, the proposed boundary of the PUD, because it was developed as a purely political exercise, does not reflect the practical reality of how the existing electrical system has developed over the last hundred years. The most obvious example is in the northwest corner of the proposed PUD where the boundary follows precinct lines rather than the long-standing dividing line between PGE and Pacific Power service territories.

The proposed PUD boundary reads, in part;

"...the centerline of Interstate-84, then west along the, along the centerline of Interstate-84 to the centerline of Interstate-5, then north along the centerline of Interstate-5 to the centerline of Lloyd Blvd, then west along the centerline of Lloyd Blvd to the centerline of NE Oregon St, then west along the centerline of NE Oregon St to the midpoint of the Steel Bridge."

The long standing boundary between PGE and Pacific Power reads, in part;

"...thence Southeasterly, along said Harbor line, to the extended centerline of N.E. Flanders; thence East, along the centerline of N.E. Flanders, to the centerline of Columbia River Highway No. 2 (Banfield Freeway)..."

The mismatch between the two boundaries would require the transfer of two existing Pacific Power customers to the PUD and would require considerable investment in duplicate underground distribution service.

Pacific Power and PGE have a close and complex, integrated transmission system in the area of the proposed district. Teasing apart these two systems to accommodate the needs of a new PUD would be difficult, would reduce the reliability not just of electric service within the PUD but could impact service to downtown and other areas.

For example, portions of both Pacific Power's Knott-Harrison 115 kV Line and Harrison-Lincoln 115 kV Line are within the proposed PUD boundary. Also, our Harrison 115 kV Switching Station is within the boundary.

The above two lines and switching station provide service to Holliday Substation in the Lloyd area and Lincoln Substation, near downtown Portland. These are two of our most important substations in Portland. Harrison Switching Station currently provides a number of interconnections to PGE's southeast Portland system, via their 115 kV lines which provides redundancy and outage protection for both companies. While only the Harrison Station falls within the proposed PUD boundary, changes and additional complexity at Harrison add to the potential for problems in other areas.

It's not clear how or even if the proposed PUD would supply transmission level power to the area and where it might try to locate its substation. Frankly, it's been difficult to get our engineering staff to assess the potential impacts of separating out our facilities from those a new PUD might need to construct because they can't get past the fact that the whole idea makes no sense from an electrical engineering standpoint.

There are a whole host of broader policy reasons why Pacific Power opposes the formation of this PUD, among them:

- Public ownership does not mean lower prices. A common misconception is that public ownership automatically means lower prices for consumers. If this were true, all publicly owned utilities would have lower prices than all investor owned utilities. That simply is not the case. Pacific Power, an investor owned utility, has prices that are lower than most of the public utilities in Oregon.
- Public ownership means tax free financing. Public entities do have access to tax free debt -- but only for improvements to the system, not for the initial purchase of the system. The initial purchase comes under the federal limitation on using tax exempt bonding to convert private sector enterprises to public ownership. To get tax exempt bonding for the initial purchase, the PUD would need to shoulder aside such important programs as low income housing and economic development for access to the tax free bonds under the federally mandated cap.
- BPA will supply cheap power. While BPA is required to supply up to 100 percent of the power needs for any public utility that requests it, there is no requirement that BPA supply that power at any particular rate. BPA rates have fluxuated significantly in the past few years, and a number of public utilities saw significant increases -- 30, 40 and 50% increases -- because of their reliance on BPA resources. In its April 2003 report on the reasons behind

the increase in BPA rates, the agency said that 75 to 80 percent of the increase was due to its decision to serve 3,300 megawatts beyond its resource base. Formation of a new PUD which will rely substantially or entirely on BPA for supply will exacerbate this problem.

Because of the manifest unworkability of the proposed PUD, because it will increase the complexity and reduce the reliability of the existing, long established electrical system in the Portland area and because it holds little prospect of lowering rates or improving service to its customers, Pacific Power opposes the Willamette Valley PUD.

Thank you again for the opportunity to appear before you.

#3

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk
This form is a public record

MEETING DATE: 07.08.04

SUBJECT: Willamette Electric People's Utility
District Boundary Hearing

AGENDA NUMBER OR TOPIC: R-5

FOR: _____ AGAINST: ✓ THE ABOVE AGENDA ITEM

NAME: Bernie Bottomly

ADDRESS: Pacificorp

CITY/STATE/ZIP: _____

PHONE: _____ DAYS: _____ EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#4

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 07.08.04

SUBJECT: Willamette Electric People's Utility
District Boundary Hearing

AGENDA NUMBER OR TOPIC: R-5

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: John Kauffman, Director - Elections

ADDRESS: 1040 SE Morrison St

CITY/STATE/ZIP: Portland, OR 97214-2495

PHONE: _____ DAYS: 503.988.3720 EVES: _____

EMAIL: John.F.Kauffman@Co.multnomah. FAX: 503.988.3119
OR.US

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#5

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7/8/04

SUBJECT: PUD

AGENDA NUMBER OR TOPIC: R-5

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: DAN MEEK

ADDRESS: 10949 SW 4TH AVE

CITY/STATE/ZIP: POX

PHONE: _____ DAYS: 293-9021

EVES: _____

EMAIL: dan@meek.net

FAX: _____

SPECIFIC ISSUE: PUD BOUNDARY

WRITTEN TESTIMONY: NA

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#6

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

**Please complete this form and return to the Board Clerk
This form is a public record**

MEETING DATE: 7/8/04

SUBJECT: Boundaries for Willamette Electric Peoples'
Utility District

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Lauren Schmitz Shapton

ADDRESS: 4019 SE Oak St.

CITY/STATE/ZIP: Portland OR 97214

PHONE: _____ DAYS: 503 464-8579 EVES: 503 230 9850

EMAIL: LShapton@aol.com FAX: 503 461-8780

SPECIFIC ISSUE: I want to be kept outside the
boundary

WRITTEN TESTIMONY: attached

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Good morning. I appreciate the opportunity to testify before the County Commission on this matter.

My name is Lauren Shapton and I have owned a home at 4019 SE Oak St. in Portland for the last 10 years. I have been a registered voter in Multnomah County for the last 11 years. My property is about one block outside of the boundary of the proposed inner east Portland PUD. My request is simple. When the boundary lines are drawn, please do NOT make it any bigger and include my home. In fact, will you please make the boundary smaller? I'm worried that my home will be pulled into this tiny PUD when the engineering is done, if this thing actually passes. The lines that serve my house go straight through the proposed PUD territory. I already voted NO on this last November and I don't want my vote overridden by an engineering study paid for by a PUD board. I understand enough about the realities of engineering to know that this is a possibility. I have a coworker who was pulled into the Columbia River PUD against her wishes and without any vote in a similar situation.

I want assurance that my home will remain outside of the PUD boundary for several reasons. First, I believe that my home will have greater market value outside of the PUD if it's not saddled with the extra taxes for start-up costs and acquisition of capital that PUD customers will have. Secondly, I believe I will have lower rates than my neighbors inside the boundary who will have the costs of revenue bonds added to their power costs. Third, I am concerned about electric reliability for my family and my neighborhood. And lastly, I am a Green Power customer and I don't want to lose this choice. I am concerned that this small PUD will not be able to offer renewables as cheaply or as effectively as PGE has done. As a Product Manager for Portland General Electric, I understand the importance of market power in influencing change.

I'd so much rather be talking to you about things that will make my neighborhood stronger, like social services, affordable housing, and keeping public schools top-notch, but as long as the PUD supporters refuse to take "no" for an answer we have to be distracted with these types of meetings. Again, I urge you – please make sure my home and property remain outside of the Inner East Portland PUD.

Thank you for your time.

Lauren Shapton
4019 SE Oak St
Portland OR

#7

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7/8/04

SUBJECT: PUD formation

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: ☒ THE ABOVE AGENDA ITEM

NAME: HASSAN AMAN

ADDRESS: 2747 SE 35TH PL

CITY/STATE/ZIP: PORTLAND, OR. 97202

PHONE: _____ DAYS: 503-742-8303

EVES: _____

EMAIL: Hassan-Aman@PGW.Com

FAX: _____

SPECIFIC ISSUE: SE/NE PUD Boundary

WRITTEN TESTIMONY: Yes

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Testimony before the Multnomah County Commission regarding the
Inner SE/NE PUD Boundary

Hassan Aman
2747 SE 35th Place
Portland OR

July 8, 2004

Good Morning Chair Linn and Commissioners. My name is Hassan Aman and I am a 30 year resident, a 30 year voter and property owner within the proposed PUD. My purpose here today is to ask to be excluded from the boundary of the PUD. Let me explain why I make this request.

I am an Electrical Distribution Engineer. I have a Bachelor's Degree in Mathematics, a Bachelor's Degree in Mechanical Engineering, a Master's Degree in Nuclear Engineering and a minor in Electrical Engineering. I have also worked for PGE for the last 30 years in electrical design and system operation.

I have worked on the system within the PUD area for years, including from 1998 to 2002 when PGE underwent a substantial expense to again upgrade power delivery to this area. Given the proposed boundary area, I believe it will be impossible for the PUD to maintain service integrity at a breakeven level considering the complexity of the infrastructure. In other words, it will cost the customers of the PUD more to match PGE's existing level of service, because PGE's considerable economy of scale. Since PGE has 755,000 customers, it can provide upgrades to the infrastructure that cannot be matched by a small new PUD serving just 26,000 customers.

Let me provide a simple example of what I mean: Every day, equipment in any utility system has the chance of experiencing a failure of some type. A substation transformer can easily cost a few million dollars to replace. In the event that PGE has a substation failure, we can bring in a portable substation and have customers back in service in a matter of hours, and a permanent replacement transformer in place in a matter of a day or so. But given the very small boundary area of this proposed PUD, which will need to be

simultaneously paying for the cost of the utility assets, start-up costs and severance costs, how are they also going to set aside money for these unexpected and expensive technical problems? This is a very serious issue to consider as you review the proposed boundary area.

The bottom line, from an engineering point of view, is that to break out this area and create this hole in the fabric of poles, wires and transformers is a certifiable dumb idea. Personally, as a resident of the area, I wouldn't want to be served by this PUD, and for these and other reasons, I hope the final boundary area does not include my home.

And this feasibility study? Who does that? Someone who stands to make a lot of money later for doing a study on the cheap now? What do they know about the engineering of my community? I know about the engineering of my community. And I want PGE to continue to provide my home with power just as I and the other voters in Multnomah County stated clearly in the election last November.

As an engineer, nothing matters more to me than the quality and reliability of electric service. I have it and want to keep it. Please leave me out of this Inner SE/NE Portland PUD.

#8

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7/8/04

SUBJECT: Exclusion from PUD

AGENDA NUMBER OR TOPIC: _____

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Dale B. Williams

ADDRESS: 2735 SE 33rd Place

CITY/STATE/ZIP: Portland, OR 97202

PHONE: _____ DAYS: 503-234-3818 EVES: None

EMAIL: dale.williams1@worldnet.att.net FAX: _____

SPECIFIC ISSUE: PUD Boundary

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

July 8, 2004

Chair Linn & County Commissioners:

My name is Dale Williams. I am a voter and have been a property owner at 2735 SE 33rd Place in the Richmond Neighborhood for more than 18 years. I am here today because I want to be excluded from the Inner East Portland PUD.

There are several reasons that I am requesting the boundary NOT include my home.

First, from a reliability point of view, this is a potential disaster. My area has some of the most reliable electric service in the region. Our lights almost never go out. To create this hole in a six county electrical infrastructure is guaranteed to reduce reliability.

Second, from a distribution standpoint, the boundaries of this PUD don't make sense. Cutting up an existing electrical distribution system along political lines will be expensive for all concerned. Electricity does not follow political lines; substations and power lines will have to be changed.

The proponents of the PUD obviously have not considered how distribution systems work. If they did, they surely would never have drawn the boundaries on political lines and without regard to substations, transmission lines, or facilities.

So – once again – please exclude my home and me as a voter, and leave me out of this political experiment in providing electrical service.

#9

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 7/8/04

SUBJECT: PUD Formation Proposal

AGENDA NUMBER OR TOPIC: R-5

FOR: _____ AGAINST: ☒ THE ABOVE AGENDA ITEM

NAME: Charles Hinkle

ADDRESS: 900 SW Fifth Ave

CITY/STATE/ZIP: Portland OR 97267

PHONE: DAYS: 503-254-9266 EVES: 503-655-5679

EMAIL: cfhinkle@steel.com FAX: 503-220-2480

SPECIFIC ISSUE: Opposed to PUD because it divides city
in violation of Art XI, §12 of Oregon Constitution

WRITTEN TESTIMONY: yes

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



900 S.W. Fifth Avenue, Suite 2600
Portland, Oregon 97204
main 503.224.3380
fax 503.220.2480
www.stoel.com

CHARLES F. HINKLE
Direct (503) 294-9266
cfhinkle@stoel.com

July 6, 2004

BY HAND DELIVERY

Ms. Agnes Sowle
Multnomah County Attorney
Suite 500
501 SE Hawthorne Blvd.
Portland, OR 97214

Re: Proposed Inner-Southeast Portland PUD Formation

Dear Agnes:

I understand that a petition for the formation of a People's Utility District in Southeast Portland has been submitted to the Board of County Commissioners, and that on July 8, 2004, the Board will hold a hearing required by ORS 261.161 to consider the boundaries of the proposed PUD. I also understand that at the July 8 hearing, the Board will consider a resolution calling for an election on the proposal, pursuant to ORS 161.171(1).

I am writing on behalf of certain interested persons to request that the Board reject the petition, and decline to call an election on the proposal, on the ground that the district proposed by the petition violates Article XI, section 12, of the Oregon Constitution. The first sentence of that section governs the creation of PUDs; it reads in part as follows:

"Peoples' Utility Districts may be created of territory, contiguous or otherwise, within one or more counties, and *may consist of an incorporated municipality, or municipalities*, with or without unincorporated territory, *** ." (Emphasis added.)

Under the plain meaning of that language, a PUD may not be created from a portion of a municipality. Article XI, section 12, was adopted through the initiative process, and "[i]n interpreting a constitutional provision adopted through the initiative process, our task is to discern the intent of the voters. The best evidence of the voters' intent is the text of the provision itself. * * * The context of the language of the ballot measure may also be considered; however,

Oregon
Washington
California
Utah
Idaho



Ms. Agnes Sowle, County Attorney
July 6, 2004
Page 2

if the intent is clear based on the text and context of the constitutional provision, the court does not look further.” *Stranahan v. Fred Meyer, Inc.*, 331 Or 38, 56, 11 P3d 228 (2000) (citation omitted).

The methodology set out in *PGE v. Bureau of Labor and Industries*, 317 Or 606, 859 P2d 1143 (1993), for analyzing the text of a statute also “applies *** to the interpretation of laws and constitutional amendments adopted by initiative or referendum ***.” *Id.* at 612 n 4. In the first level of analysis under that methodology, “the court considers rules of construction ***.” *Id.* at 611. One of the well-established rules of construction for statutes (and therefore for constitutional provisions as well, under *PGE*) is the rule that “[w]hen the legislature [or, in the case of an initiated measure, the electorate] uses different terms in related statutes [or constitutional provisions], [courts] presume that the legislature [or voters] intended different meanings.” *State v. Guzek*, 322 Or 245, 265, 906 P2d 272 (1996).

In describing the territory that can be included in the creation of a people’s utility district, Article XI, section 12, uses different language to describe counties and municipalities: a PUD may be created “*within* one or more counties,” but it “may *consist* of an incorporated municipality, or municipalities.” (Emphasis added.) The different words indicate the voters’ intent to differentiate between counties and cities, and to allow a PUD to be created in part of a county, but not in part of a city. When PUDs are created, counties can be divided between PUD and non-PUD territory, but cities may not be so divided.

That conclusion is supported by the historical context of Article XI, section 12. In construing a constitutional provision adopted through the initiative, “caution must be used before ending the analysis *** without considering the history of the constitutional provision at issue.” *Stranahan*, 331 Or at 56-57. There are two items of historical evidence that are particularly relevant in demonstrating that Article XI, section 12 bars creation of a PUD in a portion of a municipality. First, the “purpose” of the proposed constitutional amendment, as described in the Voters’ Pamphlet for the 1930 general election, was as follows:

“Purpose: To amend article XI of the constitution so as to authorize the creation by the people of utility districts consisting of territory which is contiguous or otherwise, within one or more counties, which may include one or more incorporated municipalities, with or without territory outside of such municipalities ***.”



Ms. Agnes Sowle, County Attorney
July 6, 2004
Page 3

Thus, the voters' pamphlet led voters to understand that a PUD formed under the authorization of the proposed constitutional amendment might *include* municipalities, but nothing in that statement of purpose indicates any intention to allow a PUD to be formed from a *portion* of a municipality.

Second, the virtually contemporaneous action of the legislature supports that same conclusion even more expressly. The concluding sentence of Article XI, section 12, provides that "[t]he legislative assembly shall and the people may provide any legislation, that may be necessary, in addition to existing laws, to carry out the provisions of this section." Article XI, section 12, was adopted at the election of November 1930, and pursuant to the mandate of its concluding sentence, the legislature adopted implementing legislation at its very next session, which began in January 1931. Or Laws 1931 ch 279. Section 3 of that statute read, in part, as follows:

"*** Such peoples' utility districts may consist of territory, contiguous or otherwise, within one or more counties, and may consist of a municipality or municipalities, with or without unincorporated territory. *No municipality shall be divided in the formation of any such district.*" (Emphasis added.)

Plainly, the legislators who were elected at the same election in which Article XI, section 12, was adopted believed that a ban on the "division" of municipalities in the formation of PUDs was the appropriate manner in which to carry out the mandate of Article XI, section 12, that the legislature enact legislation "to carry out the provisions of" that section. In other words, the 1931 legislature believed that the constitution prohibited the division of a city when a PUD is created, and when it adopted legislation "to carry out the provisions of" the constitution, it carried forward the prohibition that it believed was contained in the constitution itself.

Thus, anyone who contends that Article XI, section 12, authorizes creation of PUDs in a portion of a city is forced to take the position that the legislature, just a few months after Article XI, section 12, was enacted, adopted a statute that violated that section. That is an implausible contention, especially in light of the fact that the statutory ban on "dividing" a municipality remained on the books for 48 years, without anyone challenging its constitutionality.

(I should add that it is appropriate to refer to actions by the 1931 legislature in determining the meaning of a constitutional amendment adopted in the preceding year, because the Oregon Supreme Court has acknowledged that after-the-fact historical resources may be helpful in determining the meaning of constitutional language. In *Smothers v. Gresham*



Ms. Agnes Sowle, County Attorney
July 6, 2004
Page 4

Transfer, Inc., 332 Or 83, 23 P3d 333 (2001), for example, the Court quoted an opinion by Judge Deady issued 30 years after the drafting of the Oregon Constitution for assistance in construing a term used in that Constitution, *id.* at 122, and it cited several court opinions from the 1880s for assistance in determining the content of Oregon's common law in 1857, *id.* at 129-31.)

As I noted above, the statutory prohibition on dividing municipalities in the creation of a PUD remained part of the PUD statutes for 48 years, until it was deleted by 1979 Or Laws ch 558, § 8. As a result of that amendment (and of a later amendment that changed the word "municipality" to the word "city" in several statutes), ORS 261.110(1) now provides that "[p]eople's utility districts may consist of territory, contiguous or otherwise, within one or more counties, and may consist of one or more cities, or a portion of a city, with or without unincorporated territory." If the legislature intended by that amendment to allow creation of a PUD in "a portion of a city," that amendment failed of its purpose, because the legislature cannot, by statute, confer a power that is barred by the constitution. "[A] state legislative interest, no matter how important, cannot trump a state constitutional command." *State v. Stoneman*, 323 Or 536, 542, 920 P2d 535 (1996). The constitutional command of Article XI, section 12, is that a PUD may be created only from territory that includes "an incorporated municipality, or municipalities." It does not authorize creation of a PUD from "a portion" of a municipality.

Members of the Multnomah County Board of Commissioners have taken an oath to support the Oregon Constitution, and they have a duty to follow a constitutional mandate in the face of an inconsistent statute, regardless of whether a court has ruled on the constitutionality of the statute. *Cooper v. Eugene Sch. Dist. No. 4J*, 301 Or 358, 364-65, 723 P2d 298 (1986). We request that the Board act in accordance with that duty. The Board should follow the clear mandate of Article XI, section 12, and decline to authorize placement on the ballot of a proposal to form a PUD in "a portion" of the City of Portland.

Very truly yours,

Charles F. Hinkle

/cfh

#10

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 07.08.04

SUBJECT: Boundary Hearing on the Willamette Electric PUD

AGENDA NUMBER OR TOPIC:

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Eugene E. Lee

ADDRESS: 3746 SE Brooklyn St.

CITY/STATE/ZIP: Portland, OR 97202

PHONE: _____ DAYS: 503/234-2973 EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE:

WRITTEN TESTIMONY:

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

July 8, 2004

Diane Linn, Chair
Multnomah County Commission
c/o
Deborah Bogstad, Board Clerk
deborah.l.bogstad@co.multnomah.or.us
501 SE Hawthorne Blvd., Suite 600
Portland, OR 97214

Re: Willamette Electric PUD Boundary Hearing

I submit this letter as testimony in the Boundary Hearing on the Willamette Electric PUD proposal. My name is Eugene Lee and my wife and I have lived in the Richmond neighborhood since 1957. My residence is in the proposed PUD boundary and I want to be excluded from this district.

This PUD boundary makes no sense. It was set for political reasons by people who won't have to face the large debt and uncertain reliability that will result if the PUD is approved. I would ask the Multnomah County Commission to take into account two issues that I believe support my request to be excluded from the boundary.

First, as a taxpayer and a customer of PGE in this proposed PUD area, I deserve to have a say in the design of the boundary. I know those who drew this boundary don't live in the area and won't have to deal with the consequences of the election if the PUD is approved. Those "outsiders" are here today and you can check their addresses. If you are serious about putting this initiative on the ballot, you should bring both technical experts and those who voted yes and no in the last PUD election together to draw up the boundary so it is technically feasible. You should also invite the voters who live right outside the proposed boundary to work on the issue because they would be affected.

My second reason relates to ORS.261.110, which says:

When any city or separate parcel of territory voting at a formation election casts a majority vote against formation of the district, the city or separate parcel of territory shall not be included in any district formed as a result of the election.

You have the ability to obtain information on who voted no in the last election. I argue you can interpret the language of 'separate parcel of territory' to mean a residential block or a business district. I recommend you determine each residential block and each business district parcel where a majority of people voted no in the last election and exclude them from the proposed boundary. If you accept this argument the results of the election will create a number of holes in the electrical system. But since this election is based on politics, rather than technical merit, those residential blocks and business districts that voted no should be automatically excluded from the PUD.

The proponents of this PUD keep saying how easy it is to separate six square miles from PGE's electric system. If you agree with their boundary arguments, it shouldn't be too difficult to consider my request for exclusion from the PUD. Thank you for letting me submit my testimony on this issue.

Eugene E. Lee
3746 SE Brooklyn
Portland, Oregon

#11

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 7/8/04

SUBJECT: PUD Boundary

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: DAVE JOHNSON

ADDRESS: 4306 SE Washington St

CITY/STATE/ZIP: Portland OR 97215

PHONE: _____ DAYS: 503 275 7979 EVES: 503 234 - 7681

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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2. Written testimony will be entered into the official record.

#12

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 7/8/04

SUBJECT: Willamette Electric PUD

AGENDA NUMBER OR TOPIC: R-5

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Jim Robinson

ADDRESS: 6615 N Princeton St

CITY/STATE/ZIP: Portland, OR 97203

PHONE: _____ DAYS: _____

EVES: 503-285-4805

EMAIL: _____

FAX: _____

SPECIFIC ISSUE: put it on the ballot, give voters the chance to create a PUD.

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

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IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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2. Written testimony will be entered into the official record.

#13

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 7/8/04

SUBJECT: PUD

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: DIAN YATES

ADDRESS: 110 SE 1st Ave

CITY/STATE/ZIP: Portland, OR 97239

PHONE: _____ DAYS: 503 224-3900 EVES: _____

EMAIL: dianc@portlandspun.com FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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2. Written testimony will be entered into the official record.

#14

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 7-8-04

SUBJECT: PUD

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: ☒ THE ABOVE AGENDA ITEM

NAME: WAYNE KINGSLEY FOR CENTRAL EASTSIDE INDUSTRIAL COUNCIL

ADDRESS: 110 SE CAPTAINERS

CITY/STATE/ZIP: PORTLAND, OR

PHONE: _____ DAYS: 503-224-3900 EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: SUBMITTED BY PETER STARK

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

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2. Written testimony will be entered into the official record.

Testimony Regarding The Creation Of A People's Utility District
Before the Multnomah County Board of Commissioners
By Peter Stark, President, Central Eastside Industrial Council
July 8, 2004

The Central Eastside Industrial Council (CEIC) is a non-profit, volunteer organization, responsible for representing businesses and property owners residing in the Central Eastside Industrial District (CEID). The 681-acre district encompassing property south of I-84 to Powell and the river to SE 12th contains 1,122 businesses and over 17,000 employees. As a council, we have grave concerns about being included in the boundary of the proposed People's Utility District in Inner Southeast and Northeast Portland.

We respectfully request that our region of the inner eastside be removed from the proposed PUD boundary for several reasons:

- This boundary is based solely on past voting records, not for effective delivery of electricity. Proponents drew the lines of the proposed PUD territory around eight voting precincts that supported last year's Multnomah County PUD measure. The measure was defeated in 121 precincts county-wide.
- Inclusion in this boundary brings uncertainty as to where our electricity will come from. In the past, public utilities have been able to get some or all of their power supply as a public preference customer from the Bonneville Power Administration. However, BPA is already oversubscribed by existing public preference customers. Consequently it must already obtain power from the same market as the private utilities to meet its supply obligations. A substantial new load such as that of the proposed PUD would add to that burden.
- Inclusion in this boundary will likely bring higher electric rates to businesses. The debt of purchasing and severing the current electric system is estimated to be close to \$150 million. This includes over \$90 million as the estimated purchase price of the system, separation costs of over \$35 million and facilities replacement costs around \$25 million. These costs would have to be passed on to ratepayers through their electric rates.
- Inclusion in this boundary will cost millions in litigation. If a PUD was created, many issues ranging from cost of the distribution system to access to generation and supply would have to be resolved. Resolution would require years of costly litigation.
- Inclusion in this boundary means less reliability for our businesses. We see no benefit to being cut off from the rest of the integrated electrical system and breaking up PGE into several small non-integrated utilities.
- Inclusion in this boundary disproportionably affects businesses because we generally use more electricity than residences. We also pay a larger share of property taxes than residents in the proposed boundary.

- Inclusion in this boundary is taxation without representation. The vast majority of business owners in the central eastside live outside of the proposed boundary. We can't vote on the measure, yet we would be paying a large share of the costs of forming a new PUD.

Thank you for considering our request to be removed from the proposed boundary.

Peter Stark
President,
Central Eastside Industrial Council
PO Box 14251
Portland, OR 97293-0251
(503) 768-4299

#15

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE:

7/18/04

SUBJECT:

Willamette Electric PUD

AGENDA NUMBER OR TOPIC:

FOR: ☒ AGAINST: ☐ THE ABOVE AGENDA ITEM

NAME:

Liz Trojan

ADDRESS:

12320 SW 60th Ave

CITY/STATE/ZIP:

Portland, OR

PHONE:

DAYS: 503-246-7850

EVES:

503-2970-2069

EMAIL:

elizat8@pobox.com

FAX:

SPECIFIC ISSUE:

put WEPUD on the ballot!

WRITTEN TESTIMONY:

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#146

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

7-8-04

MEETING DATE: RE

SUBJECT: WePUD Boundary

AGENDA NUMBER OR TOPIC: R-5

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: John Bradshaw

ADDRESS: owner - Portland Transmission

CITY/STATE/ZIP: Portland OR

PHONE: _____ DAYS: 503-239-0629 EVES: _____

EMAIL: _____ x24 FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Portland Transmission Warehouse

1016 S.E. Hawthorne Blvd. ♦ Portland, Oregon 97214 ♦ (503) 233-4966 ♦ (503) 233-2642 fax

July 8, 2004

Testimony to the Multnomah County Board of Commissioners

John Bradshaw

I am the owner and President of Portland Transmission Warehouse, a distribution company, located at 1016 SE Hawthorne. We are a third generation family business that has been in business at 10th, 11th and SE Hawthorne for 66 years. For reasons of credibility, I additionally note that we were the winner of the Austin Family School of Business at Oregon State University 2003 Small Family Business Award.

I am a past president of the Central Eastside Industrial Council. The district and the council has for years dealt with the uncertainty of transportation and other factors that have affected this industrial sanctuary in terms of future investment. Our current electrical supplier, PGE, has provided our company with reliable energy that we find predictable and budget conscious.

The proposed PUD is an absolutely unknown quantity to the businesses in the CEID including our business and the prospect of this PUD leads to further uncertainty in a vibrant industrial district that incorporates more than 1,400 businesses and depends on reliable and predictable energy costs. *& RELIABILITY?*

I conclude by requesting that the governing bodies exclude the Central Eastside Industrial District from the proposed PUD area.

#17

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7-8-04

SUBJECT: SE Inner PUD proposal

AGENDA NUMBER OR TOPIC: R5

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: Bobby Lee

ADDRESS: 2102 SE Stark

CITY/STATE/ZIP: Portland OR 97214

PHONE: _____ DAYS: 503-329-0146 EVES: same

EMAIL: emailto:bobby@aol.com FAX: _____

SPECIFIC ISSUE: _____

WRITTEN TESTIMONY: see attachment

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Comments on Proposed PUD in Southeast Portland
Bobby Lee, Resident of Buckman Neighborhood
July 8, 2004

Thank you for this opportunity to voice my concern as a resident of 2103 SE Stark in Buckman neighborhood. Prior to residing in SE Portland, I served on the Eugene City Council, Oregon State Board of Higher Education and as student body president at University of Oregon. While I served on the Eugene City Council I also served on the boundary commission, which was a challenging task, so my hats off to all of you for your hard work on behalf of our community.

My concern about this initiative is the boundary. As I understand the proposed boundary was developed based purely on political concerns with little or no regards to our neighborhood's geographic and physical layout. For example, the Laurelhurst neighborhood is completely left out even when there is no natural or physical buffer in between. If you walk through SE Portland, most of our neighbors will agree that the physical layout, including existing transportation infrastructure of the neighborhoods, is seamless between Laurelhurst and the proposed inner SE area. Moreover, residents on the west side of Mt. Tabor were also not included when it is clear that Mt. Tabor is a natural buffer.

This is a very poor way to plan our community. As you consider this proposal, I hope that you recognize that your role is to examine the logic of the proposed boundary based on the natural and physical layout of our community's landscape. This proposal has ignored those compelling factors and I urge you to vote no. Thank you for your time.

Bobby Lee
2103 SE Stark Street, Portland
(503) 329-0146

#18

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7-8-04

SUBJECT: Willamette Electric PUD

AGENDA NUMBER OR TOPIC: _____

FOR: _____ AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Gary Coe

ADDRESS: 120 SE Clay St

CITY/STATE/ZIP: Portland OR 97214

PHONE: _____ DAYS: 503-233-3577 EVES: 503-297-7716

EMAIL: gcoe@fleetsaleswest.com FAX: 503-797-4462

SPECIFIC ISSUE: Challenge of the boundaries

WRITTEN TESTIMONY: Submitted on 7-6-04
on Speed's Superstar stationary

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.



Received
7/9/04

July 6, 2004

Multnomah County Board of Commissioners
Attn: Deborah Bogstad
501 SE Hawthorne Blvd. #600
Portland, OR 97214

Greetings:

My name is Gary Coe and I operate several small businesses here in the Central Eastside Industrial District. Part of our holdings includes three city blocks between here and the river which house eight of those businesses. The Industrial District is boarded by Powell on the south, I-84 on the North, the Willamette River on the west and 12th Avenue on the east.

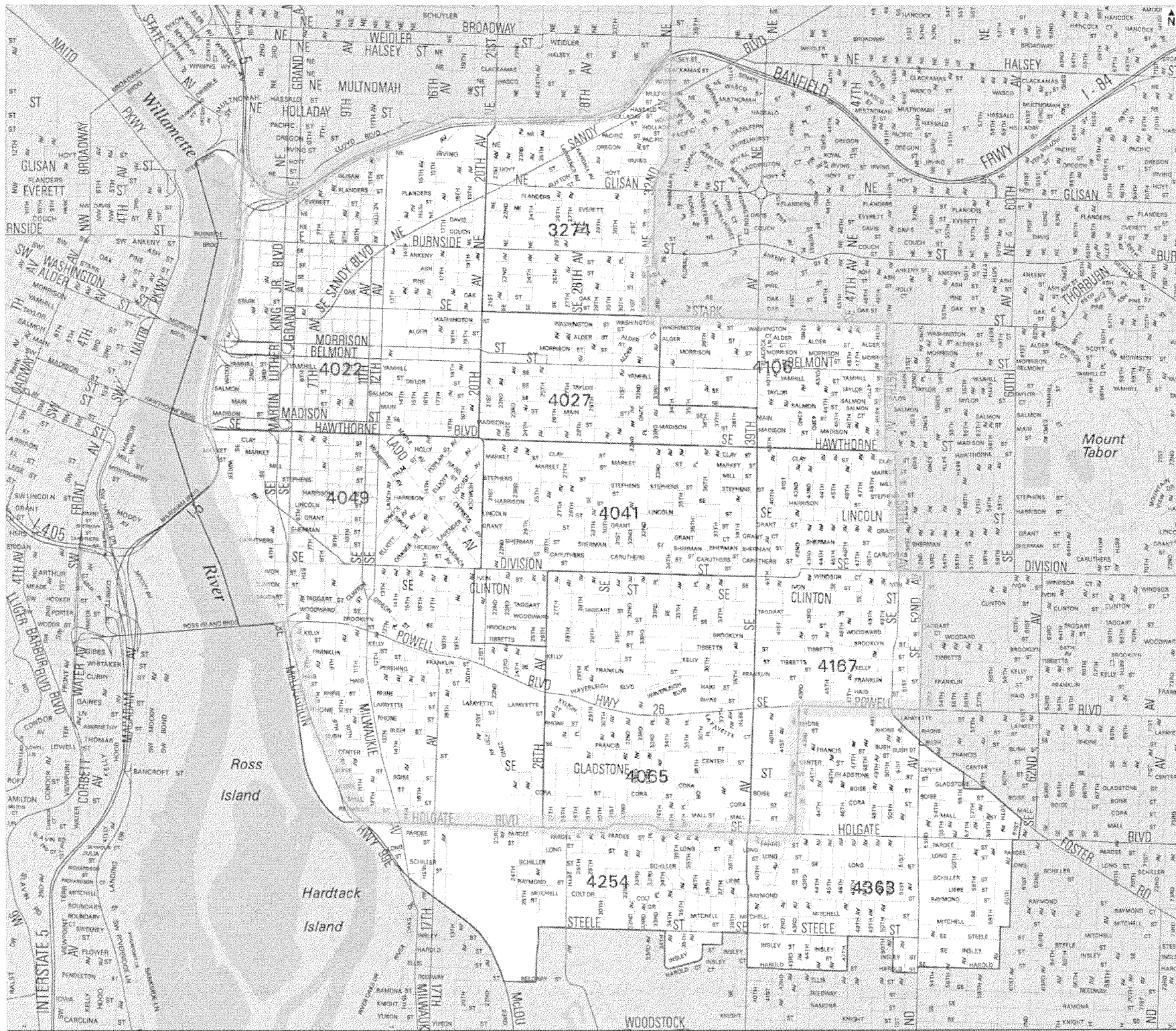
The Industrial District has been included in the proposed inner eastside PUD or whatever it is called. The problem is, like me, many of the property owners while living in Multnomah County, do not live within the boundaries of the PUD. Therefore, we are susceptible to additional property tax with no right to vote.

By a unanimous vote of the Board of Directors of the Central Eastside Industrial Council we respectfully request that the CEIC District be deleted from the proposed PUD.

Thank you,

Gary Coe

A handwritten signature in black ink, appearing to read "Gary Coe", is written over the printed name.



Representative District 42

Multnomah County, Oregon

— Precinct Boundary

4095 Precinct Number

This map was produced for the Multnomah County Board of Commissioners for the March 2004 General Election. The information on this map was derived from digital data provided by the Oregon State Office of the Secretary of State. The Oregon State Office of the Secretary of State is not responsible for any errors or omissions in this map. The Oregon State Office of the Secretary of State is not responsible for any errors or omissions in this map. The Oregon State Office of the Secretary of State is not responsible for any errors or omissions in this map.

Scale: 1" = 400'



Multnomah County Districts, Oregon
1000 S. Oregon Street, Suite 200
Portland, OR 97204
Phone: 503.281.3300 FAX: 503.281.3301



Location map

05050: jpb/cjs, January 17, 2003

#19

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 7-8-04

SUBJECT: WE PUD Boundary

AGENDA NUMBER OR TOPIC: R-5

FOR: X AGAINST: _____ THE ABOVE AGENDA ITEM

NAME: Kris Nelson

ADDRESS: 2125 SE Orange Ave.

CITY/STATE/ZIP: Portland OR 97214

PHONE: _____ DAYS: 234-2318 EVES: _____

EMAIL: krisj@earthlink.net FAX: _____

SPECIFIC ISSUE: Constitutionality of boundary

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#20

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

Please complete this form and return to the Board Clerk

*****This form is a public record*****

MEETING DATE: 7-8-04

SUBJECT: PUD Boundary Hearing

AGENDA NUMBER OR TOPIC: _____

FOR: X **AGAINST:** _____ **THE ABOVE AGENDA ITEM**

NAME: Norris Thomlinson

ADDRESS: 3265 SE Main St

CITY/STATE/ZIP: Portland 97214

PHONE: _____

DAYS: _____

EVES: _____

EMAIL: SCRUB & CORRUPT.NET

FAX: _____

SPECIFIC ISSUE: Nature of boundary separations,

WRITTEN TESTIMONY: _____

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

#21

MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP

Please complete this form and return to the Board Clerk

This form is a public record

MEETING DATE: 7-8-04

SUBJECT: WILLAMETTE ELECTRIC PUD

AGENDA NUMBER OR TOPIC: R-5

FOR: _____ AGAINST: X THE ABOVE AGENDA ITEM

NAME: DAVE VAN BOSSUYT

ADDRESS: 14700 NE SPRING CREEK LANE

CITY/STATE/ZIP: NEWBERG, OR 97132

PHONE: _____ DAYS: 463-6170 EVES: _____

EMAIL: _____ FAX: _____

SPECIFIC ISSUE: COLUMBIA RIVER PUD SEPARATION COSTS

WRITTEN TESTIMONY: Will be provided

IF YOU WISH TO ADDRESS THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Address the County Commissioners from the presenter table microphones. Please limit your comments to **3 minutes**.
3. State your name for the official record.
4. If written documentation is presented, please furnish one copy to the Board Clerk.

IF YOU WISH TO SUBMIT WRITTEN COMMENTS TO THE BOARD:

1. Please complete this form and return to the Board Clerk.
2. Written testimony will be entered into the official record.

Portland Transmission Warehouse

1016 S.E. Hawthorne Blvd. ♦ Portland, Oregon 97214 ♦ (503) 233-4966 ♦ (503) 233-2642 fax

July 8, 2004

Testimony to the Multnomah County Board of Commissioners

John Bradshaw

I am the owner and President of Portland Transmission Warehouse, a distribution company, located at 1016 SE Hawthorne. We are a third generation family business that has been in business at 10th, 11th and SE Hawthorne for 66 years. For reasons of credibility, I additionally note that we were the winner of the Austin Family School of Business at Oregon State University 2003 Small Family Business Award.

I am a past president of the Central Eastside Industrial Council. The district and the council has for years dealt with the uncertainty of transportation and other factors that have affected this industrial sanctuary in terms of future investment. Our current electrical supplier, PGE, has provided our company with reliable energy that we find predictable and budget conscious.

The proposed PUD is an absolutely unknown quantity to the businesses in the CEID including our business and the prospect of this PUD leads to further uncertainty in a vibrant industrial district that incorporates more than 1,400 businesses and depends on reliable and predictable energy costs. *RELIABLE.*

I conclude by requesting that the governing bodies exclude the Central Eastside Industrial District from the proposed PUD area.

BOGSTAD Deborah L

From: Jeana McClure [jeana_mac@yahoo.com]
Sent: Thursday, July 08, 2004 10:19 AM
To: BOGSTAD Deborah L
Subject: Boundary Hearing : Southeast Portland



boundary_hearin
g.doc (26 KB)

Ms. Bogstad,

Please see attached testimony regarding the boundary hearing for the proposed WEPUD.

Thank you,

Jeana McClure

Do you Yahoo!?
New and Improved Yahoo! Mail - 100MB free storage!
http://promotions.yahoo.com/new_mail

July 8, 2004

Deborah Bogstad, Board Clerk
Multnomah County
501 SE Hawthorne Blvd., Suite 600
Portland, OR 97214

RE: Boundaries of the Proposed Willamette Electric People's Utility District

Ms. Bogstad,

Please accept this written testimony in consideration of the boundaries for the proposed People's Utility District in my neighborhood.

I have lived in my home in the Richmond neighborhood for the last five years, and in a triplex in the Buckman neighborhood for the five years prior. In the last decade, I have not experienced any significant interruption of electrical service. Occasionally, the power will "blip" long enough to reset a clock, but that's all. Even during the ice storms and severe weather of 1996, my lights stayed on through the worst of it.

My current neighbors have lived in their home for more than 30 years, and while I won't presume to speak for them, I can say that they have told me their electrical service has been consistently reliable during that time.

My current home is at the intersection of Lincoln Street and 50th Avenue — inside this proposed boundary area. I have no interest in losing my stable and reliable electric service because I live on the wrong side of the street.

Jeana McClure
4916 SE Lincoln Street
Portland, OR 97215
503-232-2096
jeana_mac@yahoo.com

BOGSTAD Deborah L

From: Julie Franz [Julie_Franz@pgn.com]

Sent: Thursday, July 08, 2004 10:50 AM

To: BOGSTAD Deborah L

Subject: Testimony regarding the Boundaries of the Proposed WillametteElectric People's District.

Please submit the following testimony in regards to the Public Hearing scheduled for July 8 at 9:30 a.m. regarding the Boundaries of the Proposed Willamette Electric People's Utility District.

7/8/2004

Testimony regarding the Inner SE/NE Portland PUD
By Julie Franz

July 8, 2004

Chair Linn & Commissioners:

Thank you for the chance to speak to you today about the Inner SE PUD Boundary.

My name is Julie Franz. I own a home in the Kerns Neighborhood where I have lived with my husband, two daughters and son for the last 8 years.

I also have worked for PGE for the last eleven years, and I currently hold a position in Community Relations. Part of my work involves processing dozens of requests for financial support every week from various non-profits throughout the State of Oregon. These donations, sponsorships, and grants come from shareholder funds and the PGE Foundation, and are awarded – without consequence to customers – to numerous educational institutions and nonprofits throughout the State of Oregon.

But, that's not why I am here today. I am here today because my husband and I want our property excluded from this eight-precinct PUD. My home is just one house plus one street away from the PUD border. I want to be excluded from this PUD because I don't want this debt on my home or my electric bill for the next 20 or more years. I want to be excluded because my home is my largest investment, and I don't want these PUD proponents to make my house harder to sell if I choose to place it on the market, compared to the houses two streets away.

I also want my home excluded because I want to keep the safe and reliable power that comes from a company that has been around for over 100 years – not power that has been promised by this experimental start up. I want my home excluded because I know how much my employer gives to my community and I don't know if this new PUD will do any kind of community involvement. And I want my home excluded because my household voted NO last November on the PUD and I want my vote – and the vote of 68% of the people who went to the polls last November – to be respected.

So, I respectfully request, Commission Chair Linn and the Commissioners, if this boundary can be drawn according to precincts, I suggest it can be drawn around individual properties, as well. Please leave the Franz family out of the PUD!

Julie Franz

3144 NE Everett St.
Portland, OR 97232
(503) 232-7691

BOGSTAD Deborah L

From: Jennifer Shiprack [jshiprack@gardandgerber.com]
Sent: Thursday, July 08, 2004 2:02 PM
To: BOGSTAD Deborah L
Subject: Fwd: Re: PUD Testimony



CEIC.doc (31
KB)

Ms. Bogstad,

Please see attached note from Peter Stark. He said that he tried to forward this to you yesterday at 11:20 pm and it was returned, possibly due to a spam filter?? He asked me to please forward you his note and testimony. He hopes it may still be put in the public testimony file, as he did send it last night. Thank you. Jennifer

>Subject: Re: PUD Testimony
>Date: Wed, 7 Jul 2004 23:20:53 -0700
>x-sender: stark@pop.easystreet.com
>From: Peter Stark <stark@easystreet.com>
>To: <deborah.l.bogstad@co.multnomah.or.us>
>
>Ms. Bogstad:
>Attached please find written testimony from the Central Eastside
>Industrial Council to be considered for the public hearing on the PUD
>proposal July 8, 2004.
>
>Thank you,
>
>Peter Stark, President
>Central Eastside Industrial Council
>

Testimony Regarding The Creation Of A People's Utility District
Before the Multnomah County Board of Commissioners
By Peter Stark, President, Central Eastside Industrial Council
July 8, 2004

The Central Eastside Industrial Council (CEIC) is a non-profit, volunteer organization, responsible for representing businesses and property owners residing in the Central Eastside Industrial District (CEID). The 681-acre district encompassing property south of I-84 to Powell and the river to SE 12th contains 1,122 businesses and over 17,000 employees. As a council, we have grave concerns about being included in the boundary of the proposed People's Utility District in Inner Southeast and Northeast Portland.

We respectfully request that our region of the inner eastside be removed from the proposed PUD boundary for several reasons:

- This boundary is based solely on past voting records, not for effective delivery of electricity. Proponents drew the lines of the proposed PUD territory around eight voting precincts that supported last year's Multnomah County PUD measure. The measure was defeated in 121 precincts county-wide.
- Inclusion in this boundary brings uncertainty as to where our electricity will come from. In the past, public utilities have been able to get some or all of their power supply as a public preference customer from the Bonneville Power Administration. However, BPA is already oversubscribed by existing public preference customers. Consequently it must already obtain power from the same market as the private utilities to meet its supply obligations. A substantial new load such as that of the proposed PUD would add to that burden.
- Inclusion in this boundary will likely bring higher electric rates to businesses. The debt of purchasing and severing the current electric system is estimated to be close to \$150 million. This includes over \$90 million as the estimated purchase price of the system, separation costs of over \$35 million and facilities replacement costs around \$25 million. These costs would have to be passed on to ratepayers through their electric rates.
- Inclusion in this boundary will cost millions in litigation. If a PUD was created, many issues ranging from cost of the distribution system to access to generation and supply would have to be resolved. Resolution would require years of costly litigation.
- Inclusion in this boundary means less reliability for our businesses. We see no benefit to being cut off from the rest of the integrated electrical system and breaking up PGE into several small non-integrated utilities.
- Inclusion in this boundary disproportionably affects businesses because we generally use more electricity than residences. We also pay a larger share of property taxes than residents in the proposed boundary.

- Inclusion in this boundary is taxation without representation. The vast majority of business owners in the central eastside live outside of the proposed boundary. We can't vote on the measure, yet we would be paying a large share of the costs of forming a new PUD.

Thank you for considering our request to be removed from the proposed boundary.

Peter Stark
President,
Central Eastside Industrial Council
PO Box 14251
Portland, OR 97293-0251
(503) 768-4299

BOGSTAD Deborah L

From: Olga Yashkova-McDonald [Olga_Yashkova-McDonald@pgn.com]
Sent: Thursday, July 08, 2004 3:46 PM
To: BOGSTAD Deborah L
Subject: Forming PUD



PUD letter.doc
(28 KB)

Hello, Deborah!

Please, see the attached letter expressing my opinion regarding the current "Inner East Portland PUD" issue.

Best regards,

Olga Yashkova-McDonald

Olga Yashkova-McDonald
PGE Network & Infrastructure Solutions
olga_yashkova-mcdonald@pgn.com
office: 503-464-8938
fax: 503-464-7586

Dear Sir/Madam,

Even though I am not an American citizen yet and I do not have a right to vote at this time, I live in the inner East Portland and I would like to express my personal view on why I am against forming a PUD.

My name is Olga Yashkova-McDonald, I am a PGE employee and my husband and I live in the Multnomah County at 4730 SE Stark #16, Portland, OR 97215. I also came from a country where not long ago everything was strictly state owned. There was no such thing as private property. The government owned all the stores, hospitals, parks, utility, telephone and cable companies and everything one can only think of.

When people in Portland started talking about forming a PUD my reaction to it was "no". When I started thinking more about it, I realized that people just do not understand what it means if a utility company is government owned. It is a bad idea and people who are pro-PUD, probably, never lived in a place where utility companies are owned by the government.

First of all, I have doubts that PUD can provide its customers a good customer service. Look at the customer service PGE has! The representatives are available from 7 am to 7pm Monday through Friday, and 24 hours during storms and outages! Doesn't it show how PGE values its customers already?

Second, how willing would be a state owned company to make payment arrangements with a customer like PGE does? My friend in Russia didn't have enough money to pay her electric bill and was a few days past due on her bill (I am not talking about 3-4 months past due) her lights went off. The electric company did not care to notify her. They did not care to turn her lights on in a timely matter like PGE does. The same is happening to water and gas companies because they are government owned.

Third, look at all PGE's contribution to the community. How many Rose Festival Parades and other events have you seen without PGE's sponsorship? Since the beginning of the year 2004 PGE employees already contributed 21,000 volunteer hours to the community. I just can not imagine all of these things happening if the state takes over.

PGE has been providing safe and reliable power to its customers for over 115 years; it has been a great contributor to the community. It just doesn't make any sense to me to change the things when they are good. In my opinion, nobody in the community will benefit from forming a PUD.

Sincerely,

Olga Yashkova-McDonald

4730 SE Stark #16
Portland, OR 97204
503-888-8456

BOGSTAD Deborah L

From: BOGSTAD Deborah L
Sent: Thursday, July 08, 2004 4:05 PM
To: KINOSHITA Carol
Subject: RE: PUD

Carol do you want me to cut and past this into today's resolution document?

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

-----Original Message-----

From: KINOSHITA Carol
Sent: Thursday, July 08, 2004 3:51 PM
To: SAMPLE Christopher E; KAUFFMAN John
Cc: SOWLE Agnes; TUNEBERG Kathleen A; RICHARDSON Richard H; RILES John R; THOMAS John S; BOGSTAD Deborah L; STODDARD Janice L
Subject: RE: PUD

Here's the legal description that John Thomas has revised and Janice has approved:

A portion of Multnomah County, within the City of Portland, as follows: starting at the intersection of the extended centerline of NE Flanders and the centerline of the Willamette River, then south along the centerline of the Willamette River to the midpoint of the Ross Island Bridge, then east along the centerline of Ross Island Bridge to the east bank of the Willamette River, then south along the east bank of the Willamette River to a westerly extension of SE Holgate Blvd, then east along the centerline of SE Holgate Blvd (and its westerly extension) to the centerline of SE 42nd Ave, then north along the centerline of SE 42nd Ave to the centerline SE Powell Blvd, then east along the centerline of SE Powell Blvd to the centerline of SE 52nd Ave, then north along the centerline of SE 52nd Ave to the centerline of SE Division St, then west along the centerline of SE Division St to the centerline of SE 50th Ave, then north along the centerline of SE 50th Ave to the centerline of SE Hawthorne Blvd, then west along the centerline of SE Hawthorne Blvd to the centerline of SE 49th Ave, then north along the centerline of SE 49th Ave to the centerline of SE Stark St, then west along the centerline of SE Stark St to the centerline of SE 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of SE Ankeny St, then east along the centerline of SE Ankeny St to the centerline of SE 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of Interstate-84, then west along the centerline of Interstate-84 to the extended centerline of NE Flanders then along the extended center line of NE Flanders to the centerline of the Willamette River and the point of beginning.

7/12/2004

-----Original Message-----

From: KINOSHITA Carol

Sent: Thursday, July 08, 2004 2:40 PM

To: STODDARD Janice L

Cc: SOWLE Agnes; TUNEBERG Kathleen A; RICHARDSON Richard H; RILES John R; THOMAS John S; BOGSTAD Deborah L; KAUFFMAN John; SAMPLE Christopher E

Subject: RE: PUD

Thank you for the prompt revised map that I'm attaching to this email. We also need you to revise the legal description. If the PGE and Pacific Power boundary cited in Bernie Bottomly's testimony is not sufficient for you to do this, please let us know. Thanx much!

-----Original Message-----

From: STODDARD Janice L

Sent: Thursday, July 08, 2004 2:35 PM

To: KINOSHITA Carol; KAUFFMAN John; SAMPLE Christopher E

Cc: SOWLE Agnes; TUNEBERG Kathleen A; RICHARDSON Richard H; RILES John R; THOMAS John S; BOGSTAD Deborah L

Subject: RE: PUD

Carol,

You should have just received a new PDF for the revised boundary. We were able to show what we felt was a fair interpretation of the testimony of Bernie Bottomly for the long standing agreement between PGE and Pacific Power to change a small piece of the boundary. I believe this will be adequate enough for the publication. When the revision for the boundary description is complete, it would be a good idea for us to review that document to see how adequate our interpretation was. Hopefully it will wash out. It also would be a good idea to know what or who the "2 Pacific Power Customers" are. The revision excluded more than 2 accounts, but still may be two customers.

Janice L. Stoddard

Assessment & Taxation

(503) 988-3375

FAX (503) 9885504

Janice.L.Stoddard@co.multnomah.or.us

-----Original Message-----

From: KINOSHITA Carol

Sent: Thursday, July 08, 2004 2:15 PM

To: KAUFFMAN John; SAMPLE Christopher E

Cc: SOWLE Agnes; STODDARD Janice L; TUNEBERG Kathleen A; RICHARDSON Richard H; RILES John R; THOMAS John S; BOGSTAD Deborah L

Subject: RE: PUD

Importance: High

We've asked Janice for revised legal and map, and I believe she is advising John Riles about the exception of two Pacific Power customers for the revised estimated total levy amount. She understands the urgency, and I am requesting that a copy of the revised legal be sent directly to Eric Sample as soon as it's available. We also need to revise both today's resolution and the proposed ballot titles for next week. Thanx Janice!

-----Original Message-----

From: KAUFFMAN John

Sent: Thursday, July 08, 2004 2:04 PM

To: SOWLE Agnes

Cc: KINOSHITA Carol; SAMPLE Christopher E

Subject: RE: PUD

Eric has already sent copy for the legal notice on formation and directors of The Willamette PUD to *The Oregonian* and we expect to get a draft back for proof-reading. Can we get a revised legal description today? If so, Eric can easily make the change. I will not be in the office this afternoon, so please email Eric. Thanks.

-----Original Message-----

From: SOWLE Agnes

Sent: Thursday, July 08, 2004 12:54 PM

To: KAUFFMAN John

Cc: KINOSHITA Carol

Subject: PUD

In case you don't yet know, they did pass the resolution but amended the boundaries to exclude the two pacificorps customers mentioned by Mr. Bottomly. Carol is getting a revised legal description. Do you have enough to publish for the board positions?

Agnes Sowle

Multnomah County Attorney

501 SE Hawthorne Blvd., Ste. 500

Portland, OR 97214

(503)988-3138

7/12/2004

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 04-096

Determining the Boundaries for Willamette Electric People's Utility District and Calling an Election on District Formation and Related Matters

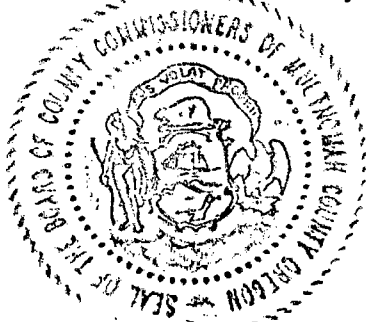
The Multnomah County Board of Commissioners Finds:

- a. On April 26, 2004, an electors' petition was filed with Multnomah County Elections Division (Elections) for formation of Willamette Electric People's Utility District (PUD).
- b. On April 27, 2004, Elections certified the petition (ORS 261.131) and sent the petition to the Office of Energy (ORS 261.151) on April 28.
- c. The petition complies with Oregon law.
- d. ORS 261.161(2) requires the Board to determine the boundaries of the proposed PUD based on the evidence at hearing and the report of the Oregon Office of Energy.
- e. A hearing on the boundaries was held on July 8, 2004, and the record was closed at the July 8 meeting. The record contains the report from the Oregon Department of Energy dated June 22, 2004, and all written communications received by the Clerk of the Board on this matter. The Board has reviewed the entire record.
- f. ORS 261.161(4) directs the Board to correct any deficiencies in the description of the boundaries of the proposed district. No evidence was presented at the hearing or is contained in the record which demonstrates that any areas are not permitted within the PUD's boundaries under ORS 261.110(6) and (7).
- g. The Board has not received any petitions for inclusion within the boundaries of the proposed PUD.
- h. The County Assessment and Taxation Division has reviewed the boundary description contained in the petition. No deficiencies in the proposed boundary description were found.
- i. If the petition complies with ORS chapter 261, the Board is required to refer the initiative to establish a PUD to the voters at the earliest practical date.
- j. Based on testimony presented by the Multnomah County Director of Elections, November 2, 2004, is the earliest practical date to submit the question of district formation and special levy to the electors within the proposed district at a special election, as required by ORS 261.171.

The Multnomah County Board of Commissioners Resolves:

1. The boundaries of the proposed Multnomah County People's Utility District shall be those presented in the petition except for properties served by Pacific Power and Light as described in the attached Exhibit A and illustrated in the attached Exhibit B.
2. The question of whether the district should be formed, the election of district directors, and the proposal for authorization of the district to impose a one-time special levy of 6 mills per one thousand dollars of assessed valuation (equal to \$0.60 per \$100,000 of assessed valuation) shall be submitted to the voters at the November 2, 2004, election.
3. The Director of Elections shall publish the notices required by law and place the PUD proposal on the November 2, 2004, ballot.

ADOPTED this 8th day of July 2004.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By

Agnes Sowle, County Attorney

EXHIBIT A

Willamette Electric People's Utility District Boundaries

A portion of Multnomah County, within the City of Portland, as follows: starting at the intersection of the extended centerline of NE Flanders and the centerline of the Willamette River, then south along the centerline of the Willamette River to the midpoint of the Ross Island Bridge, then east along the centerline of Ross Island Bridge to the east bank of the Willamette River, then south along the east bank of the Willamette River to a westerly extension of SE Holgate Blvd, then east along the centerline of SE Holgate Blvd (and its westerly extension) to the centerline of SE 42nd Ave, then north along the centerline of SE 42nd Ave to the centerline SE Powell Blvd, then east along the centerline of SE Powell Blvd to the centerline of SE 52nd Ave, then north along the centerline of SE 52nd Ave to the centerline of SE Division St, then west along the centerline of SE Division St to the centerline of SE 50th Ave, then north along the centerline of SE 50th Ave to the centerline of SE Hawthorne Blvd, then west along the centerline of SE Hawthorne Blvd to the centerline of SE 49th Ave, then north along the centerline of SE 49th Ave to the centerline of SE Stark St, then west along the centerline of SE Stark St to the centerline of SE 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of SE Ankeny St, then east along the centerline of SE Ankeny St to the centerline of SE 32nd Ave, then north along the centerline of SE 32nd Ave to the centerline of Interstate-84, then west along the centerline of Interstate-84 to the extended centerline of NE Flanders then along the extended center line of NE Flanders to the centerline of the Willamette River and the point of beginning.

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: R-6

Est. Start Time: 11:00 AM

Date Submitted: 05/24/04

Requested Date: July 8, 2004

Time Requested: 15 minutes

Department: Dept. of Community Justice

Division: Director's Office

Contact/s: Robb Freda-Cowie

Phone: 503-988-5820

Ext.: 85820

I/O Address: 503/2

Presenters: Joanne Fuller/Steve Liday/Dave Koch

Agenda Title: Proclamation Proclaiming July 18, 2004 through July 24, 2004 as Probation, Parole and Community Supervision Officers' Week in Multnomah County, Oregon

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.**

-
1. **What action are you requesting from the Board? What is the department/agency recommendation?** We request that the Board proclaim July 18, 2004 through July 24, 2004 as Probation, Parole and Community Supervision Officers' Week in Multnomah County, Oregon.
 2. **Please provide sufficient background information for the Board and the public to understand this issue.** During the week of July 18 through July 24, 2004, the American Probation and Parole Association is sponsoring the 2004 Probation, Parole & Community Supervision Officers' Week. This celebration recognizes the work that probation, parole and community supervision officers do to protect public safety and help offenders become productive citizens.

The Department of Community Justice's probation and parole officers, juvenile court counselors, juvenile custody services specialists, corrections counselors and technicians (and all the other staff that make their work possible) – as well as our volunteers and

interns – play an essential role in our public safety system. They are problem solvers, crime prevention specialists, motivators and educators. They hold offenders accountable for their behavior, they address the needs that drive criminal activity and they put juvenile and adult offenders back on the road to being contributing members of society. They selflessly put themselves in potential danger when they visit offenders in the community or supervise offenders in detention. Often they are the only support system an offender may have.

The work that community supervision officers do is often unacknowledged, but without them, our communities would be much less safe and our criminal justice system would be much more expensive.

3. Explain the fiscal impact (current year and ongoing). None.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
- ❖ **Is the revenue one-time-only in nature?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**

NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain:

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**
- ❖ **Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.**
- ❖ **Has this request been made before? When? What was the outcome?**

If grant application/notice of intent, explain:

- ❖ **Who is the granting agency?**
- ❖ **Specify grant requirements and goals.**
- ❖ **Explain grant funding detail – is this a one time only or long term commitment?**
- ❖ **What are the estimated filing timelines?**
- ❖ **If a grant, what period does the grant cover?**
- ❖ **When the grant expires, what are funding plans?**
- ❖ **How will the county indirect and departmental overhead costs be covered?**

4. Explain any legal and/or policy issues. None.
5. Explain any citizen and/or other government participation that has or will take place. The Department of Community Justice will hold informal observances in each office and facility.

Required Signatures:

Department/Agency Director: _____



Date: May 24, 2004

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. _____

Proclaiming July 18 through 24, 2004 as Probation, Parole and Community Supervision Officers' Week in Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

- a. Community corrections is an essential part of the criminal justice system;
- b. Department of Community Justice (DCJ) professionals uphold the law with dignity and affirm the right of the public to be safe-guarded from criminal activity;
- c. DCJ staff are responsible for supervising approximately 9,000 adult and 650 juvenile offenders in Multnomah County;
- d. DCJ staff hold adult and juvenile offenders accountable for their actions;
- e. DCJ staff are change agents – they are trained professionals who provide prevention, intervention and behavior-change services (including mental health and drug and alcohol abuse services) to offenders, which are effective in reducing criminal behavior and recidivism;
- f. DCJ staff work in partnership with law enforcement partners and community agencies and groups;
- g. DCJ staff provide services, support, and protection for victims;
- h. DCJ staff advocate for community and restorative justice.

The Multnomah County Board of Commissioners Proclaims:

July 18th through 24th, 2004 is proclaimed PROBATION, PAROLE and COMMUNITY SUPERVISION OFFICERS' WEEK in Multnomah County, Oregon, in honor, recognition and respect for the dedication and contributions of the County's Community Justice officers and staff.

ADOPTED this 8th day of July, 2004.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. 04-097

Proclaiming July 18 through 24, 2004 as Probation, Parole and Community Supervision Officers' Week in Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

- a. Community corrections is an essential part of the criminal justice system;
- b. Department of Community Justice (DCJ) professionals uphold the law with dignity and affirm the right of the public to be safe-guarded from criminal activity;
- c. DCJ staff are responsible for supervising approximately 9,000 adult and 650 juvenile offenders in Multnomah County;
- d. DCJ staff hold adult and juvenile offenders accountable for their actions;
- e. DCJ staff are change agents – they are trained professionals who provide prevention, intervention and behavior-change services (including mental health and drug and alcohol abuse services) to offenders, which are effective in reducing criminal behavior and recidivism;
- f. DCJ staff work in partnership with law enforcement partners and community agencies and groups;
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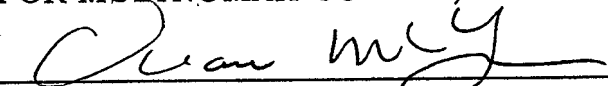
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July 18th through 24th, 2004 is proclaimed PROBATION, PAROLE and COMMUNITY SUPERVISION OFFICERS' WEEK in Multnomah County, Oregon, in honor, recognition and respect for the dedication and contributions of the County's Community Justice officers and staff.

ADOPTED this 8th day of July, 2004.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Diane M. Linn, Chair

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: July 8, 2004

Agenda Item #: R-7

Est. Start Time: 11:15 AM

Date Submitted: 05/24/04

Requested Date: July 8, 2004

Time Requested: 45 minutes

Department: Department of Community Justice

Division: Adult Services Division

Contact/s: Robb Freda-Cowie

Phone: 503 988-5820

Ext.: 85820

I/O Address: 503/250

Presenters: Joanne Fuller, Steve Liday and Don Trapp

Agenda Title: Briefing on DCJ's Progress in Implementing Phase III in the Redesign of Adult Community Justice Supervision Practices

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.**

-
1. **What action are you requesting from the Board? What is the department/agency recommendation?** None. This is an informational briefing at the request of the Chair's office.
 2. **Please provide sufficient background information for the Board and the public to understand this issue.**

A growing body of criminology research (begun in early 1990's by Dr. Don Andrews, et al.) has provided evidence that probation and parole supervision – combined with effective rehabilitation programs and sanction services – can be effective in reducing recidivism among offenders released into the community. This literature is commonly referred to in the corrections field as, "What Works."

The best practices described in the "What Works" literature are becoming the standard by which corrections services are being measured. Last legislative session, the Oregon

legislature passed SB 267, which requires agencies to use best practices or suffer reductions in funding, is further evidence of this trend.

Since 1997, the Department of Community Justice has been re-engineering its adult offender supervision program to incorporate "What Works" principles and strategies. These changes, implemented in three phases, have effectively altered the culture and climate of the organization, transforming how offenders are assessed and supervised, how outcomes are evaluated, how resources are allocated, and how parole/probation officers are trained.

Under the What Works model, supervision is focused on responding to the criminogenic factors that act as catalysts for criminal behavior. In the third phase of this initiative we have:

- Strengthened the process through which we assess the criminogenic factors for each new offender;
- Instituted a case planning process that tailors supervision strategies to respond to the unique factors that drive each case;
- Trained staff on motivational interviewing techniques that are aimed at promoting long-term behavioral change in the offender; and
- Institutionalized the What Works approach through practice and policy changes in the Department.

This briefing will update the Board on our progress in implementing the third phase of our What Works initiative and the outcomes that have been achieved so far.

3. Explain the fiscal impact (current year and ongoing).

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain:

- ❖ **What revenue is being changed and why?**
- ❖ **What budgets are increased/decreased?**
- ❖ **What do the changes accomplish?**
- ❖ **Do any personnel actions result from this budget modification? Explain.**
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If a contingency request, explain:

- ❖ **Why was the expenditure not included in the annual budget process?**
- ❖ **What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?**
- ❖ **Why are no other department/agency fund sources available?**

- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.
- ❖ Has this request been made before? When? What was the outcome?

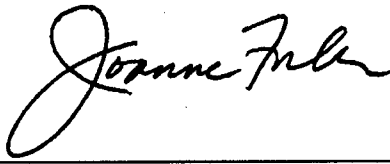
If grant application/notice of intent, explain:

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues. N/A
5. Explain any citizen and/or other government participation that has or will take place. N/A

Required Signatures:

Department/Agency Director: _____



Date: May 21, 2004

Budget Analyst

By: _____

Date:

Dept/Countywide HR

By: _____

Date:



Multnomah County Department of Community Justice

What Works in Probation and Parole

Doing "What Works": Phase III in the Redesign of Adult Community Justice

A Briefing to the Multnomah County
Board of County Commissioners
July 8, 2004



Multnomah County Department of Community Justice

What Works in Probation and Parole

What is "What Works"?

"What Works" is a term nationally used in corrections which refers to a set of common evidence-based principles and practices that have been shown to reduce offender recidivism.



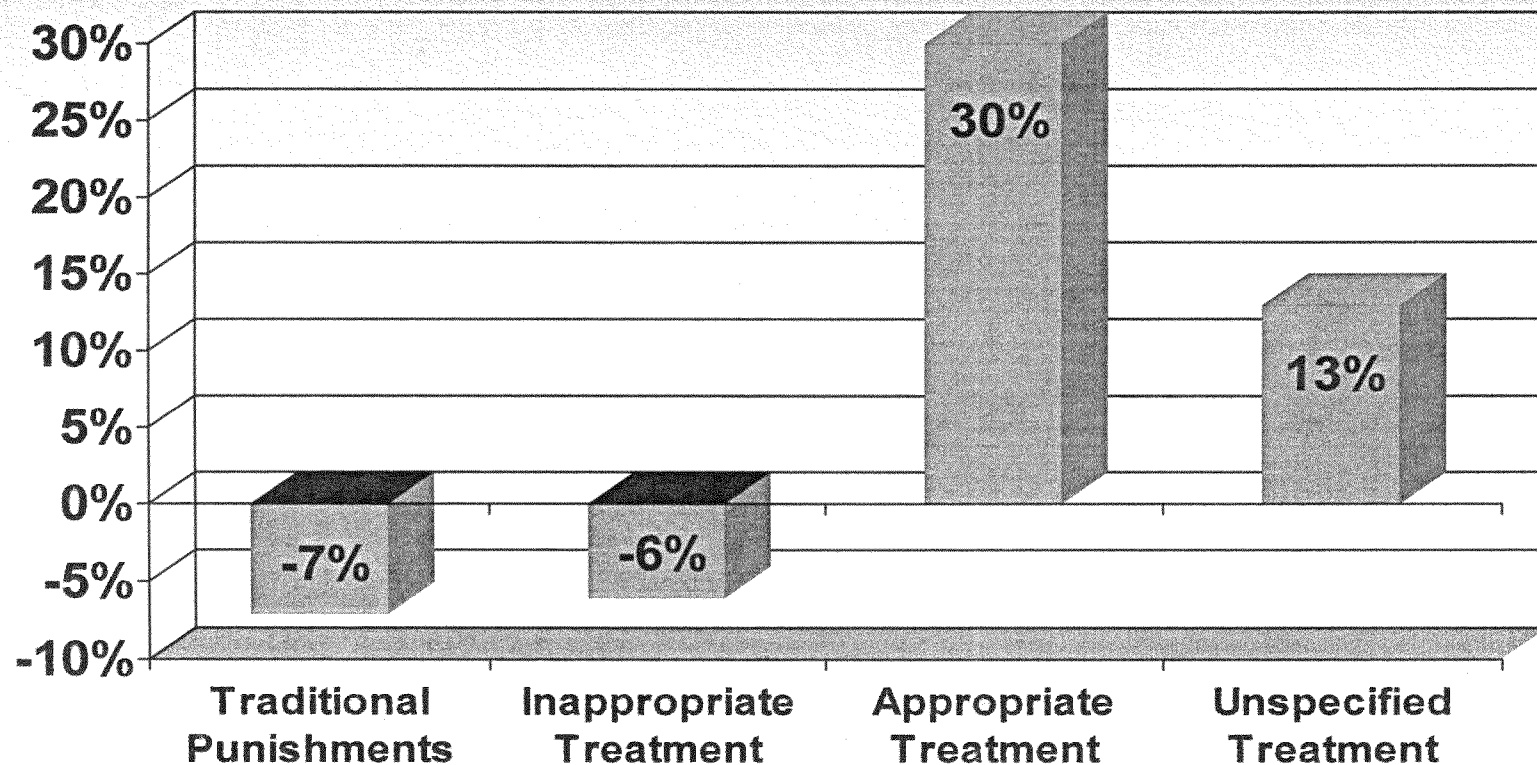


Multnomah County Department of Community Justice

What Works in Probation and Parole

Does "What Works" Work?

Reduction in Recidivism in 154 Controlled Studies



Source: An overview of Treatment Effectiveness, D.A. Andrews, 1994



Multnomah County Department of Community Justice

What Works in Probation and Parole

What Works Goals

- Increase Public Safety & Hold Offenders Accountable
 - Risk Control: Assure that highest risk offenders receive increased supervision & intervention
 - Risk Reduction: Change behavior to reduce future criminal behavior

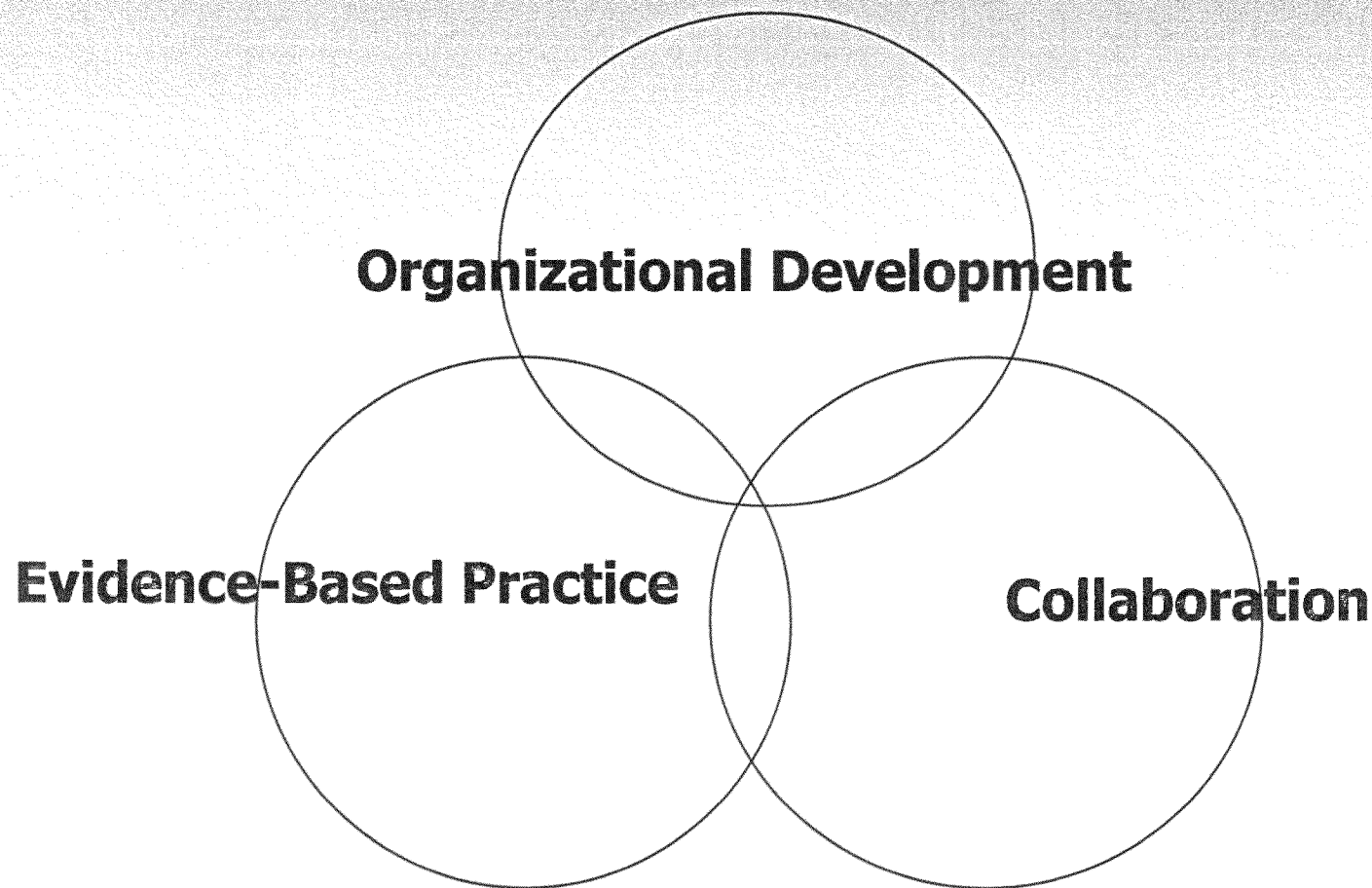




Multnomah County Department of Community Justice

What Works in Probation and Parole

What Works Principles





Multnomah County Department of Community Justice

What Works in Probation and Parole

Evidence-Based Practice

- **Assess Risk & Needs**
- **Case Management Planning**
- **Address Criminogenic Factors**
- **Proactive Supervision**
- **Use Balanced Approach**
- **Behavioral Approaches**
- **Sanctions to Address Violations**



Multnomah County Department of Community Justice

What Works in Probation and Parole

Organizational Development

- **Clear Mission & Goals**
- **Training in best practices**
- **Leadership development**
- **Organizational decision-making involves multiple stakeholders**
- **Data driven decision-making**



Multnomah County Department of Community Justice

What Works in Probation and Parole

Collaboration

- **Broad policy leadership guiding system change**
- **Close collaboration with law enforcement, prosecution and state**
- **Service provider participation**
- **Connection to communities**
- **Participation of victims**

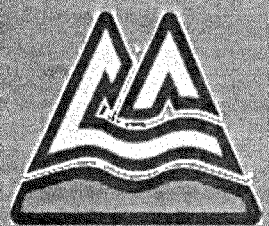


Multnomah County Department of Community Justice

What Works in Probation and Parole

Adult Services Redesign Phase I (1997-1999): Focus on Risk

- Focus on High/Medium risk
- Specialized caseloads (Gang, Sex Offender, DV, AAP, Female)
- Reduced caseloads under active supervision



Multnomah County Department of Community Justice

What Works in Probation and Parole

Adult Services Redesign Phase I (1997-1999): Focus on Risk

- Open Day Reporting Center
- Increase funding for drug and alcohol treatment
- Over 2,000 low-risk offenders sent to reduced supervision at "*no risk to public safety* (NIC study)."



Multnomah County Department of Community Justice

What Works in Probation and Parole

Adult Services Redesign Phase II : Focus on Needs (1999-2001)

- Enhanced Responsivity: formalized needs assessment, interventions specific to offender
- Focus on Re-entry: Centralized Intake, Transitional Services Unit (TSU)
- Address risks and needs: SST, Interchange
- Organizational Changes: Articulated mission/values and standardized practices



Multnomah County Department of Community Justice

What Works in Probation and Parole

Adult Services Redesign Phase III (2002-2004):

Integrate Evidence-Based Practices

- Institute proactive offender supervision model:
 - ✓ formalize policies for case plans, sanctioning offenders and case audits
- Adherence to best practice in:
 - ✓ Audits, performance appraisals, outcome measures
 - ✓ supervisory expectations



Multnomah County Department of Community Justice

What Works in Probation and Parole

Adult Services Redesign Phase III (2002-2004):

Integrate Evidence-Based Practices

- Intensive training on needs assessment, restorative justice and victims support, & motivational interviewing
- Training for support and administrative staff to promote a climate for offender behavior change
- Administrative support

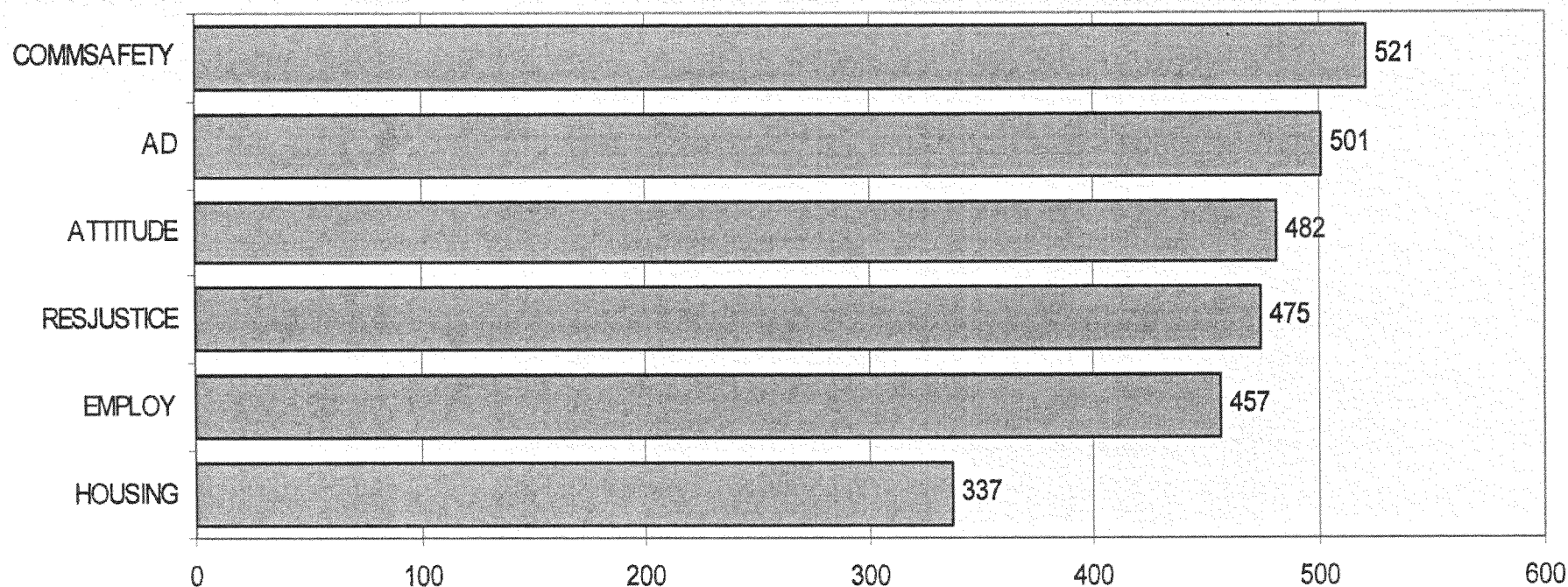


Multnomah County Department of Community Justice

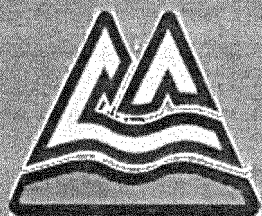
What Works in Probation and Parole

Results: Case Plans Completed

NEEDS CATEGORIES REFLECTED IN CASE PLAN OBJECTIVES AS OF JUNE 2004**



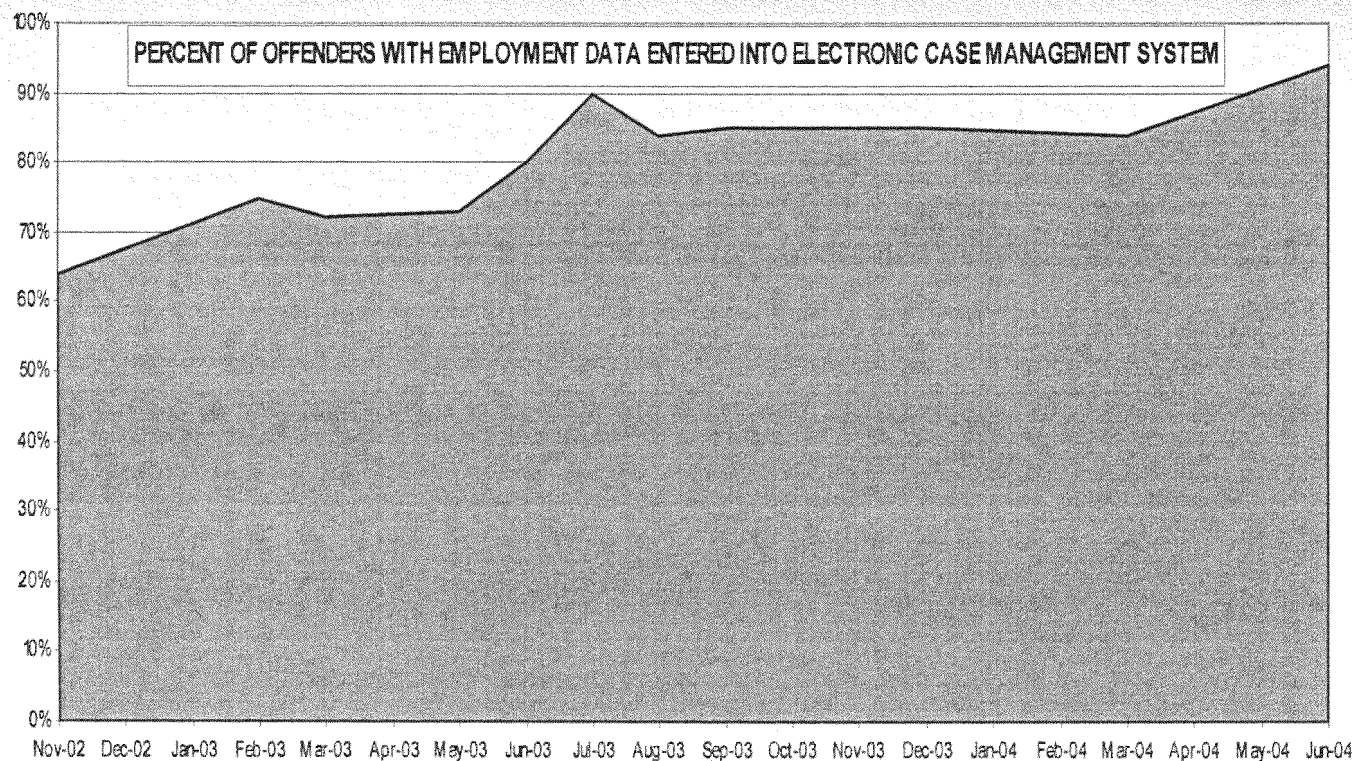
**** categories are duplicated counts cross 726 case plans and represent in decreasing frequency the needs addressed in these case plans.**

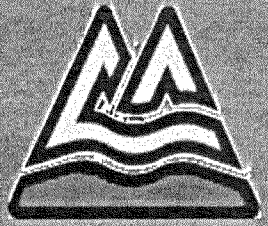


Multnomah County Department of Community Justice

What Works in Probation and Parole

Results: More Consistent Employment Tracking



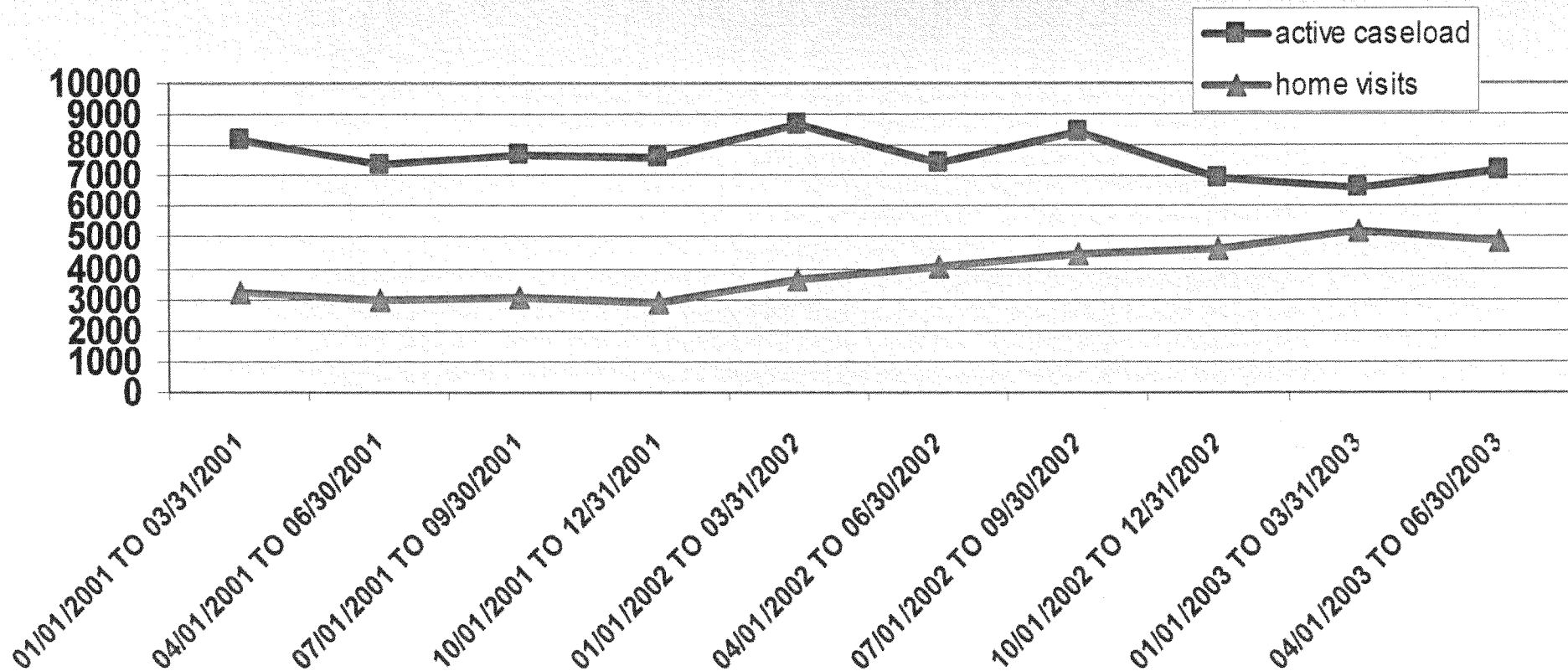


Multnomah County Department of Community Justice

What Works in Probation and Parole

Results: More Successful Community Contacts

QUARTERLY PPO COMMUNITY CONTACTS AS COMPARED TO OVERALL ACTIVE CASELOAD





Multnomah County Department of Community Justice

What Works in Probation and Parole

What's Next?

- Assess violence risk more accurately
- Ensure system integration through quality assurance
- Evaluate staff workload
- Enhance cultural competence of staff and organization
- Enhance support for victims
- *Hold system together*