UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE

SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported) November 20, 2001

PORTLAND GENERAL ELECTRIC COMPANY

(Exact name of registrant as specified in its charter)

Oregon	**Commission File Number**	**93-0256820**
(State or other jurisdiction of incorporation or organization)	1-5532-99	(I.R.S. Employer Identification No.)

121 SW Salmon Street, Portland, Oregon 97204

(Address of principal executive offices) (zip code)

Registrant's telephone number, including area code: **(503) 464-8000**

Item 5. Other Events

General Rate Case

On November 20, 2001, the Public Utility Commission of Oregon (OPUC, or the Commission) denied a request by a coalition of interest groups to reconsider the Commission's August 31, 2001 general rate order that authorized retail price increases that became effective October 1, 2001.

Enron Bankruptcy Proceedings

Enron Corp. (Enron) has recently experienced significant financial difficulties and a significant decrease in the trading price of its common stock, precipitated by a net loss in the third quarter of 2001, a restatement of prior period financial statements, a formal investigation by the Securities and Exchange Commission, and the termination of the proposed acquisition of Enron by Dynegy Inc. On December 2, 2001, Enron, along with certain of its subsidiaries, filed to initiate bankruptcy proceedings under Chapter 11 of the federal Bankruptcy Code. Portland General Electric Company (PGE or the Company) is not included in the filing.

Management cannot predict with certainty what impact the bankruptcy of Enron may have on PGE. However, it does believe that the assets and liabilities of PGE will not become part of the Enron estate in bankruptcy (based in part upon an opinion from legal counsel attached as Exhibit 99.1 hereto) and therefore does not expect the Enron bankruptcy proceedings to have a material effect on PGE's operations. Although Enron owns all of PGE's common stock, PGE as a separate corporation owns or leases the assets used in its business and PGE's management, separate from Enron, is responsible for PGE's day to day operations. Regulatory and contractual protections restrict Enron access to PGE assets. Under Oregon law and specific OPUC merger conditions (as interpreted by an opinion from legal counsel attached as Exhibit 99.2 hereto), Enron's access to PGE cash or assets (through dividends or otherwise) is limited. Under the merger conditions, PGE cannot make any distribution to Enron that would cause PGE's equity capital to fall below 48 percent of total PGE capitalization (excluding short-term borrowings) without Commission approval. The merger order also contains notification requirements regarding dividends and retained earnings transfers to Enron. Lastly, the order requires that PGE maintain its own accounting system as well as separate debt and preferred stock ratings. PGE maintains its own cash management systems and finances itself both on a short term and long term basis separate from Enron.

Proposed Acquisition of PGE by NW Natural

On October 5, 2001, Enron and Northwest Natural Gas Company (NW Natural) entered into a Stock Purchase Agreement providing for the purchase by NW Natural of all of the issued and outstanding common stock of PGE. Applications have been filed with the OPUC and Federal Energy Regulatory Commission (FERC) for authorization for NW Natural to purchase PGE from Enron. The proposed transaction is expected to close in the second half of 2002, following the receipt of required regulatory approvals, as well as the approval of NW Natural's shareholders.

Under the October 5, 2001 Stock Purchase Agreement, Enron agreed that PGE would conduct its business in a manner consistent with past practice and would use all reasonable efforts to preserve intact its present business organization and goodwill. The Stock Purchase Agreement also provides restrictions on the payment of dividends from PGE to Enron, with certain exceptions. PGE understands from Enron that Enron and NW Natural remain committed to completion of the transaction.

Financing Activities

On November 27, 2001, PGE filed an application with the FERC to increase from $450 million to $550 million its authorization to issue short-term debt, including commercial paper, credit facilities, and other indebtedness. A decision is anticipated by the end of 2001 or shortly thereafter. The increase will allow additional financial flexibility and liquidity in the management of PGE's day-to-day business.

On November 28, 2001, in response to concerns surrounding the ability of PGE to remain fully insulated from current financial difficulties faced by Enron (as described above), Moody's Investors Service downgraded the long-term and short-term credit ratings of the Company. The Company's ratings were downgraded as follows: senior secured debt to 'A3' from 'A2', senior unsecured debt to 'Baa1' from 'A3', preferred stock to 'Baa3' from 'Baa2', and commercial paper to 'P-2' from 'P-1'. All ratings remain on review for possible further downgrade.

On November 29, 2001, Fitch affirmed the Company's ratings and revised the Rating Watch status to Negative from Evolving for all the company's outstanding debt securities.

PGE 's credit ratings as of December 4, 2001 are as follows:

	Moody's	Standard & Poor's	Fitch
Senior secured debt	A3	A	BBB+
Senior unsecured debt	Baa1	A-	BBB
Preferred stock	Baa3	BBB+	BBB-
Commercial paper	P-2	A-1	F2
Status:	On review for possible downgrade	CreditWatch with Negative Implications	Ratings Watch Negative

PGE's credit ratings remain within investment grade. However, management is unable to predict what actions, if any, will be taken by the rating agencies in the future.

Information Regarding Forward Looking Statements

This report includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements include statements concerning plans, objectives, goals, strategies, future events or performance, and other statements which are other than statements of historical facts. Future events and actual results may differ materially from the results set forth in or implied in the forward-looking statements. Important factors that could cause actual results to differ materially from those in the forward-looking statements herein include, but are not limited to, changes in the cost of power and natural gas, political developments affecting federal and state regulatory agencies, and developments with respect to the bankruptcy of Enron.

Item 7. Financial Statements and Exhibits

c. Exhibits:

(99) Additional Exhibits

99.1 Legal opinion re: Consolidation with Enron, Inc: regarding the Enron Corp. bankruptcy filing under Chapter 11 and substantive consolidation matters

99.2 Legal opinion re: Power of the Oregon Public Utility Commission to Prevent the Removal of Cash from or the Encumbering of Assets of Portland General Electric Company to Satisfy the Debts of Enron Corp.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

PORTLAND GENERAL ELECTRIC COMPANY

(Registrant)

December 4, 2001 By: /s/ James J. Piro

James J. Piro

Senior Vice President

Chief Financial Officer and
Treasurer

Exhibit 99.1

December 4, 2001

HAND-DELIVERED

Portland General Electric Company

121 S.W. Salmon Street

1WTC17

Portland, OR 97204

Attention: Douglas R. Nichols, Esq.

Vice President, General Counsel and Secretary

Re: Consolidation with Enron Corp.

Ladies and Gentlemen:

We are counsel for Portland General Electric Company, an Oregon corporation ("PGE"). This opinion is being given at the request of PGE.

We have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of such corporate records, certificates of public officials and other documents and instruments as we have deemed necessary or appropriate for this opinion. As to the facts upon which this opinion is based, we have relied upon factual information provided to us by PGE and its corporate officers and from such other sources as we have deemed reasonable.

We have not made or updated any independent inquiry, search, investigation, legal or factual analysis, or research to (a) verify the accuracy of any matter or opinion which is subject to our "actual knowledge" or words of similar import or (b) determine the facts as to matters about which we have no knowledge. The words "actual knowledge" mean the conscious awareness of facts or other information by Michael M. Morgan, Albert N. Kennedy, and Zachary W.L. Wright.

On December 2, 2001, Enron Corp. ("Enron") filed a voluntary petition for reorganization under Chapter 11 of the bankruptcy code in the case captioned *In re Enron Corp*., United States Bankruptcy Court for the Southern District of New York Chapter 11 Case No. 01-16034-AJG.

Whether a federal bankruptcy court should, on a motion by Enron, or a creditor or trustee of Enron, ignore the separate existence of PGE and order the assets and liabilities of PGE to be substantially consolidated with the assets and liabilities of Enron.

FACTUAL ASSUMPTIONS

PGE has certified to us, and we have assumed, without independent inquiry, the following facts:

PGE is a corporation duly incorporated and validly existing under the laws of the State of Oregon. PGE, in all material respects, observes proper corporate formalities, including conducting business and issuing communications solely in its own name and maintaining separate corporate books and records of account.

PGE maintains a separate business from Enron by, *inter alia*, in all material respects, maintaining books and records separate from Enron; maintaining its bank accounts separate from Enron; not commingling its assets with those of Enron; holding all of its assets in its own name; conducting its own business in its own name; preparing and maintaining separate financial statements; showing its assets and liabilities separate and apart from those of Enron; paying its own liabilities and expenses only out of its own funds; observing all corporate and other organizational formalities; maintaining an arm's length relationship with Enron and entering into transactions with Enron only on a commercially reasonable basis; paying the salaries of its own employees from its own funds; not guaranteeing or becoming obligated for the debts of Enron; not holding out its credit as available to satisfy the obligations of Enron; not acquiring the obligations or securities of Enron; not making loans to Enron; using separat e stationery, invoices and checks bearing its own name; not pledging its assets for the benefit of Enron; holding itself out solely as a separate entity; correcting any known misunderstanding regarding its separate identity; not identifying itself as a division of Enron; and maintaining adequate capital in light of its contemplated business operations. PGE, Enron and other affiliates filed consolidated tax returns and utilized tax sharing arrangements that are commonly utilized by affiliated corporations filing consolidated tax returns.

NON-CONSOLIDATION DISCUSSION

Substantive consolidation is a judicially created doctrine arising from the general equitable powers granted to the federal bankruptcy courts. Under the doctrine of substantive consolidation, a bankruptcy court may, if appropriate circumstances are determined to exist, consolidate the assets and liabilities of the debtor and an entity affiliated with the debtor by merging their respective assets and liabilities into the debtor's estate and treating the related entities as one consolidated entity for purposes of the bankruptcy proceedings. This power is implemented by the Federal Bankruptcy Code, 11 USC 105(a) which provides, in pertinent part, that: "[T]he court may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this Title."

Decisions regarding substantive consolidation are made on a case-by-case basis and reflect the court's analysis of the particular factual circumstances presented. A court's inquiry requires an examination of the structures of the entities proposed to be consolidated and their relationships with their respective creditors, affiliated entities and third parties. Circumstances in which substantive consolidation has been ordered include cases where it can be shown that (1) one or more entities are merely "alter-egos of one another" or (2) creditors justifiability relied upon the credit or financial condition of separate business entities as if they were one business entity. Where related entities have done an inadequate job of maintaining separate records and observing other formalities of separate existence, courts are more likely to find reasonable the expectations of the creditors of the entity seeking consolidation. Orders or judgments requiring substantive consolidation have also been issued or en tered where the inter-relationships of entities are so entangled that the time and expense necessary even to attempt to separate them are so substantial as to threaten the realization of any net assets for creditors.

Although the cases demonstrate that no single factor is determinative, recent cases have focused on a test that requires consideration of two factors: (1) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (2) whether the affairs of the debtor and the other entity are so entangled that consolidation will benefit all creditors.

In determining whether or not to order substantive consolidation, the courts have considered certain objective factors, including:

1. The difficulty of segregating and ascertaining individual assets and liabilities;

2. The presence of separate financial statements and of separate, complete and accurate books and records;

3. The perception of separate corporate identity by creditors, suppliers and others dealing with the entities;

4. The commingling of assets and business functions including the maintenance of separate bank accounts;

5. The unity of interests and ownership between the various corporate entities;

6. The presence of independent management or directors between the various corporate entities;

7. The existence of parent and intercorporate guarantees on loans; and

8. The transfer of assets without observance of corporate formalities.

Because discussions relating to substantive consolidation are made on a case-by-case basis by a court of equity, there is no certainty as to the factors on which a court will focus in a particular case. However, the reported cases decided to date suggest that the existence of some, or even most, of the factors listed above should not, by themselves, result in the application of the substantive consolidation doctrine. Moreover, even where these factors are present to some extent, recent reported cases suggest that substantive consolidation should be ordered only when the benefits of substantive consolidation outweigh the prejudice to creditors that would result from consolidation. Thus, under this balancing test, the objective factors are just one element in the overall proof of the necessity or desirability of consolidation. The courts uniformly recognize that consolidation should be used sparingly.

The burden of demonstrating that the factors favoring substantive consolidation are present is on the party requesting the consolidation. Such party must also show that substantive prejudice results from the maintenance of corporate separateness and that no injustice or frustration of a bankruptcy reorganization would occur as a result of the consolidation. Where a creditor has looked solely to the credit or assets of one entity, recent cases applying this balancing test recognize that such creditor may have valid grounds to oppose consolidation.[1]

In our view, the circumstances justifying substantive consolidation are not present in the relationship between PGE and Enron. The financial and business affairs of PGE are segregated and readily distinguishable from those of Enron. The assets and liabilities of PGE and Enron are separately identifiable and no commingling of assets exists. Creditors did not deal with PGE and Enron as a single economic unit.

There is no substantial integration of operations between PGE and Enron. PGE observes all corporate and other statutory formalities in the conduct of it business. Therefore, creditors of Enron should not reasonably rely on the assets of PGE to

satisfy obligations of Enron. It would be difficult for any creditor of Enron to persuade a court that substantive consolidation of PGE with Enron is the proper approach because there is no prejudice to creditors associated with the recognition of separate entities.

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[1] For discussion of the factors considered by courts in determining whether substantive consolidation is appropriate, *see In re Bonham*, 229 F3d 750 (9th Cir 2000); *In re Auto-Train Corp., Inc.*, 810 F2d 270 (DC Cir 1987); *In re Giller*, 962 F2d 796 (8th Cir 1992); *In re Augie/Restivo Baking Co.*, 860 F2d 515 (2d Cir 1988); *Eastgroup Properties v. Southern Motel Assoc., Ltd.*, 935 F2d 245 (11th Cir 1991); *FDIC v. Colonial Realty Co.*, 966 F2d 57 (2d Cir 1992).

Based upon all of the foregoing, we are of the opinion that, in a properly presented case, a federal bankruptcy court should not, on a motion of Enron, or of a creditor or trustee of Enron, disregard the separate existence of PGE and order the assets and liabilities of PGE to be substantively consolidated with those of Enron.

Our advice on the issue addressed in this letter represents our opinion as to how that issue would be resolved were it to be considered by the highest court of the United States of America. However, there can be no assurance that any particular court, in exercising its discretionary, equitable power, could not reach a conclusion contrary to the opinion expressed herein.

This letter represents our opinion as of the date it bears. We do not assume any obligation to provide you with any subsequent opinion or advice by reason of any fact that the Primary Lawyer Group did not have actual knowledge at that time, by reason of any change subsequent to that time in any law covered by any of our opinions, or for any other reason.

Our opinion is limited to the matters stated in this letter and no additional opinion is implied or may be inferred beyond the matters expressly stated in this letter. This letter is addressed to you. We understand, however, that you intend to disclose the contents of this letter to certain lenders and rating agencies and to file this letter as an exhibit to a Current Report to the Securities and Exchange Commission on Form 8-K. We consent to such disclosure and filing.

TONKON TORP LLP

Albert N. Kennedy,

for Tonkon Torp LLP

ANK/ldh

097204\00001\428497 V002

PORTLAND GENERAL ELECTRIC COMPANY

CERTIFICATE

To: Tonkon Torp LLP

Re: Opinion Letter/Enron Corp.

Portland General Electric Company, an Oregon corporation (the "Company"), has asked you to deliver your legal opinion with respect to the likelihood of the consolidation of the Company into Enron Corp.'s ("Enron") bankruptcy case.

To induce you to render those opinions, I, Douglas R. Nichols, Vice President and General Counsel of the Company, certify to you that the following are true and correct:

The Company and each of its subsidiaries is duly incorporated and validly existing as a corporation under the laws of the State of Oregon.

The Company and each of its subsidiaries has all requisite authority to conduct its business in each jurisdiction in which it conducts business.

PGE, in all material respects, observes proper corporate formalities, including conducting business and issuing written communications solely in its own name and maintaining separate corporate books and records of account.

PGE maintains a separate business from Enron by, *inter alia*, in all material respects, maintaining books and records separate from Enron; maintaining its bank accounts separate from Enron; not commingling its assets with those of Enron; holding all of its assets in its own name; conducting its own business in its own name; preparing and maintaining separate financial statements; showing its assets and liabilities separate and apart from those of Enron; paying its own liabilities and expenses only out of its own funds; observing all corporate and other organizational formalities; maintaining an arm's length relationship with Enron and entering into transactions with Enron only on a commercially reasonable basis; paying the salaries of its own employees from its own funds; not guaranteeing or becoming obligated for the debts of Enron; not holding out its credit as available to satisfy the obligations of Enron; not acquiring the obligations or securities of Enron; not making loans to Enron or buyi ng or holding evidence of indebtedness issued by Enron; using separate stationery, invoices and checks bearing its own name; not pledging its assets for the benefit of Enron; holding itself out solely as a separate entity; correcting any known misunderstanding regarding its separate identity; not identifying itself as a division of Enron; and maintaining adequate capital in light of its contemplated business operations. PGE, Enron and other affiliates filed consolidated tax returns and utilized tax sharing arrangements that are commonly utilized by affiliated corporations filing consolidated tax returns.

DOUGLAS R. NICHOLS, Vice President and General Counsel of Portland General Electric Company

Exhibit 99.2

December 4, 2001

HAND-DELIVERED

Portland General Electric Company

121 SW Salmon Street

1WTC17

Portland, OR 97204

Attention: Douglas R. Nichols, Esq.

Vice President, General Counsel and Secretary

Re: Power of the Oregon Public Utility Commission to Prevent the Removal of Cash from or the Encumbering of Assets of Portland General Electric Company to Satisfy the Debts of Enron Corp.

Ladies and Gentlemen:

We are counsel for Portland General Electric Company ("PGE"). This opinion is being delivered to you pursuant to a request by Douglas R. Nichols, the Vice President, General Counsel and Secretary of PGE. On December 2, 2001, Enron Corp. ("Enron") filed a voluntary petition for reorganization under Chapter 11 of the bankruptcy code in the case captioned *In re Enron Corp*., United States Bankruptcy Court for the Southern District of New York Chapter 11 Case No. 01-16034-AJG ("the Chapter 11 Petition"). Mr. Nichols asked us (1) to summarize the means under Oregon law by which the Oregon Public Utility Commission (the "Commission") may prevent PGE and Enron from removing cash from PGE or encumbering PGE's assets to satisfy Enron's debts and (2) to analyze whether, as a result of the Chapter 11 Petition, (a) the automatic stay will prevent the Commission from exercising those means or (b) Enron, as debtor-in-possession, will have the right to reject condition 6 of the Enron Merger Order (defined bel ow) as an executory contract.

The conclusions in this letter are subject to the assumptions described in Annex A. The law covered by this letter is limited to the federal law of the United States of America and the law of the State of Oregon.

We have not made or updated any independent inquiry, search, investigation, legal or factual analysis, or research to (a) verify the accuracy of any matter or opinion which is subject to our "actual knowledge" or words of similar import or (b) determine the facts as to matters about which we have no knowledge. The words "actual knowledge" mean the conscious awareness of facts or other information by Michael M. Morgan, Albert N. Kennedy, and Zachary W.L. Wright.

Based upon the foregoing and such consideration of matters of law as we deemed to be relevant, and subject to the qualifications and assumptions set forth in this opinion, we are of the following opinion:

1. The Commission may enforce the following obligations by filing suit against PGE and/or Enron[1] in Oregon circuit court seeking a prohibitory or mandatory order:

a. PGE may not make any distribution to Enron that would cause PGE's equity capital to fall below 48 percent of the total PGE capital without Commission approval. This obligation is set forth as condition 6 of the stipulation attached as Appendix A and made part of Commission Order No. 97-196 (the "Enron Merger Order") issued in docket UM 814, the Matter of the Application of Enron Corp. for an Order Authorizing the Exercise of Influence over Portland General Electric Company. The statute under which Enron filed its application specifically authorizes such conditions. *See* ORS 757.511(3). ("The commission may condition an order authorizing the acquisition upon the applicant's satisfactory performance or adherence to specific requirements.") Acts prohibited by condition 6 would include any stock redemption, special dividend or other distribution of retained earnings, or any other mechanism that would cause PGE's equity to fall below 48 percent of its t otal capital. To help the Commission monitor whether such prohibited acts have occurred or will occur, condition 9 to the Enron Merger Order requires Enron to disclose to the Commission on a timely basis (as defined in the condition) its intent to transfer more than five percent of PGE's retained earnings over a six-month period (60 days before beginning the transfer), its intent to declare a special cash dividend from PGE (30 days before the declaration), and its most recent quarterly common stock cash dividend payment (30 days after the declaration).

b. PGE may not use any cash that it has raised by issuing stocks, bonds, notes, or other evidences of indebtedness to satisfy Enron's obligations.

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1 The remedies available under ORS 756.180 extend to any utility and "any other person subject to the jurisdiction of the Commission." ORS 756.180(1). Enron is an Oregon corporation and is subject to the Commission's jurisdiction for purposes of enforcing Order 97-180, which was issued in a docket opened by Enron's application. More importantly, it is long-established that Oregon courts have jurisdiction to enjoin not only the party with the primary obligation at issue, but also any party in active concert or participation with primary party who has notice of the injunction order. Therefore, we conclude that the Commission may seek injunctive relief against Enron if Enron directs or participates actively with PGE in a violation of one of the obligations described above.

Pursuant to ORS 757.435, PGE may not use any cash that it has raised by issuing such securities for any purpose other than that specified in the Commission order authorizing PGE to issue the security. Under ORS 757.415, the purposes for which the Commission may approve the issuance of such securities do not include the satisfaction of the obligations of other parties.

c. PGE may not assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect to Enron's long-term securities without prior Commission approval. Pursuant to ORS 757.440, "no public utility shall assume [in] any obligation or liability as guarantor, indorser, surety, or otherwise in respect to the securities of any other person, firm or corporation, when such securities are payable at periods of more than 12 months after the date thereof." Absent prior Commission approval, any such assumption is void.

d. PGE may not mortgage, encumber, or dispose of its property without prior Commission approval. Under ORS 757.480, PGE must obtain prior Commission approval to sell, lease, assign, or otherwise dispose of property worth over $100,000 that is "necessary or useful in the performance of its duties;" mortgage or otherwise encumber any necessary or useful property; or "merge or consolidate any of its lines, plants, system or other property." Prior Commission approval is also necessary to dispose of or encumber "any franchise, permit or right to maintain and operate * * * or perform any service as" a public utility. ORS 757.480(1). Absent that required approval, the transaction is void. ORS 757.480(3).

e. PGE may not issue notes or loan its funds or give credit on its books or otherwise to Enron without Commission approval. Pursuant to ORS 757.500, no public utility may take such action with any corporation having an affiliated interest.

The Commission may enforce each of these obligations against PGE and Enron pursuant to ORS 756.180(1), which authorizes the Commission to apply to circuit court to obtain, without bond, both mandatory and prohibitory injunctive relief [2]. Such relief may also extend to any officer, agent, employee, or representative of PGE or Enron. ORS 756.180(2).

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2 ORS 756.180, entitled "Enforcing utilities laws," provides in full:

"(1) Whenever it appears to the Public Utility Commission that any public utility or telecommunications utility or any other person subject to the jurisdiction of the commission is engaged or about to engage in any acts or practices which constitute a violation of any statute administered by the commission, or any rule, regulation, requirement, order, term or condition issued thereunder, the commission may apply to

(continued)

2. After review of federal law, it is our opinion that neither the "automatic stay" provided for in 11 USC S 362(a) nor the ability to reject executory contracts under 11 USC S 365 should prevent the Commission from enforcing Oregon law against Enron in the manner described in our first opinion for the reasons set forth below.

The automatic stay provision of the bankruptcy code, 11 USC S 362(a), precludes the commencement or continuation of certain enumerated judicial, administrative, and other actions or proceedings brought against a debtor who has sought protection under the code. On their face, none of subsections (1) through (8) of S 362(a) apply to a Commission action under ORS 757.180 because such an action would not be to recover a claim, enforce a pre-petition judgment, or pursue any other act addressed by these subsections.

Even if S 362(a) applied, the bankruptcy code has an exception for "the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power." *Id.* S 362(b)(4). The commission plainly is a governmental unit under the code. *See id.* S 101(27). Several courts have held that the police and regulatory power exception applies to actions brought by public utilities commissions. *See, e.g., Yellow Cab Coop. Assoc. v. Metro Taxi, Inc.*, 132 F3d 591, 596-97 (10th Cir 1997) (holding that the public utilities commission's order limiting the transfer of certificates authorizing taxicab operations fell within the police and regulatory power exception); *Pacific Gas & Electric Co. v. California Public Utils. Comm'n*, 263 BR 306, 318-19 (Bankr ND Cal 2001) (holding that the police and regulatory power exception applies to the public utilities commission's order restricting the rates that the debtor-utility could charge). T hus, the key question is whether the Commission would be enforcing its police or regulatory power if it were to seek relief against Enron under ORS 756.180.

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any circuit court of the state where such public utility or telecommunications utility or other person subject to the jurisdiction of the commission operates for the enforcement of such statute, rule, regulation, requirement, order, term or condition.

(2) Such court, without bond, has jurisdiction to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such public utility or telecommunications utility or any other person subject to the jurisdiction of the commission, or its officers, agents, employees and representatives from further violations of such statute, rule, regulation, requirement, order, term or condition, and enjoining upon them obedience thereto.

(3) The provisions of this section are in addition to and not in lieu of any other enforcement provisions contained in any statute administered by the commission."

Although it is not possible to predict with certainty the decision of a court after a hearing on the merits, it is our view that by seeking such relief against Enron under ORS 756.180 to enforce the obligations described above, the Commission would be enforcing its police or regulatory power. A governmental unit is exercising its police or regulatory power if it satisfies both the "pecuniary-purpose" and "public-policy" tests established by the courts. *See NLRB v. Continental Hagen Corp.*, 932 F2d 828, 833-34 (9th Cir 1991). Commission enforcement of the obligations described in our first opinion should satisfy the pecuniary-purpose test because none of the obligations are designed to protect the Commission's own pecuniary interest. *See, e.g., Yellow Cab*, 132 F3d at 597 ("If it is evident that a governmental action is primarily for the purpose of protecting a pecuniary interest, then the action should not be excepted from the stay." (internal quotations omitted)); *Univer sal Life Church, Inc. v. United States*, 128 F3d 1294, 1299 (9th Cir 1997) ("Only if the action is pursued 'solely to advance a pecuniary interest of the governmental unit' will the automatic stay bar it.'" (citation omitted)). Rather, the provisions are designed to protect the financial health of PGE, with the ultimate goal of ensuring adequate service at fair and reasonable rates. *See Enron Merger Order* at 7; *see also* ORS 756.040(1). This case would thus be similar to *Pacific Gas & Electric, supra*, in which the bankruptcy court concluded that the "fact that the result [of a CPUC order setting maximum rates] may be a negative impact on PG & E's, and a positive impact on PG & E's customers, does not change the fact that CPUC's ratemaking implements public policy." *Id.* at 318-19 (citing *Berg v. Good Samaritan Hosp.*, 230 F3d 1165, 1168 (9th Cir 2000)).

The Commission action should also satisfy the public-policy test, which distinguishes between proceedings that implement public policy and those that adjudicate private rights only. *Continental Hagen*, 932 F2d at 833. To assist the determination, courts often consider whether the action "'concerns only parties who are immediately affected or a wider group of those subject to the authority of the agency or even the public as a whole.'" *In re Charter First Mortgage, Inc.* 42 BR 380, 383 (Bankr D Or 1984). In this case, any Commission effort to enforce the obligations described above would affect not only Enron and PGE, but also PGE's other creditors, the public generally, and, most importantly, PGE's customers.

We also conclude that 11 USC S 365, which permits a debtor-in-possession to assume or reject an executory contract, should not apply to condition 6 to the Enron Merger Order. Although condition 6 was one term of a stipulation entered into by some of the parties to the UM 814 docket, the Commission itself did not enter into a contract with Enron. Rather, the Commission exercised the police power of the State of Oregon to protect the welfare of the public and PGE's customers. Moreover, a contract is only executory within the meaning of the code if substantial performance remains due from both parties. *See, e.g., In re Texscan, Inc.*, 976 F2d 1269, 1273 (9th Cir 1992). In this case, even if we assume that the Commission and Enron entered a "contract", the Commission has fully performed that "contract" by approving Enron's application. Accordingly, as the debtor-in-possession, Enron cannot avoid condition 6 under 11 USC S 365 because there is no "executory contract."

Our advice on each legal issue addressed in this letter represents our opinion as to how that issue should be resolved were it to be considered by the highest courts of the state of Oregon and of the United States of America. The manner in which any particular issue would be treated in any actual court case will depend in part on facts and circumstances particular to the case, and this letter is not intended to guarantee the outcome of any legal dispute that may arise in the future.

This letter represents our opinion as of the date it bears. We do not assume any obligation to provide you with any subsequent opinion or advice, including without limitation by reason of any fact of which we did not have actual knowledge on the date of this letter, by reason of any change after the date of this letter in any law covered by any of our opinions, or for any other reason.

Our opinion is limited to the matters stated in this letter, and no additional opinion is implied or may be inferred beyond the matters expressly stated in this letter. In particular, our opinion addresses only the legal power and authority of the Commission. We do not offer any opinion whether or under what circumstances the Commission actually would choose to exercise that power and authority. This letter is addressed to you. We understand, however, that you intend to disclose the contents of this letter to certain lenders and rating agencies and to file this letter as an exhibit to a Current Report to the Securities and Exchange Commission on Form 8-K. We consent to such disclosure and filing.

TONKON TORP LLP

Zachary W.L. Wright,

for Tonkon Torp LLP

ZWLW/joc

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ANNEX A

We have relied, without investigation, upon the following assumptions:

1. PGE is not and will not become the subject of any bankruptcy proceeding, including without limitation, a consolidated Chapter 11 proceeding with Enron.

2. The copy of the Enron Merger Order we have reviewed is accurate, complete, conforms to an authentic original, has not been amended or revoked and remains in full force and effect.

3. The recipients of this letter and any person acting as an agent for those recipients have acted in good faith and without notice of any defense against the enforcement of any rights described in this letter.

4. The constitutionality or validity of a relevant statute, rule, regulation or agency action is not in issue unless a reported decision in the State of Oregon has specifically addressed but not resolved, or has established, its unconstitutionality or invalidity.

5. Except as modified by generally available published cases, all statutes cited in the letter, as well as the Enron Merger Order, will be enforced as written.