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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of) Case UM 1121
OREGON ELECTRIC UTILITY COMPANY, LLC, et))
al.))
Application for Authorization to Acquire Portland)
General Electric Company.))
MOTION TO SUSPEND
CONSIDERATION BY FULL COMMISSION
REQUESTED.

Portland Building Owners and Managers Association (“BOMA”) submit the following Reply to Applicants’ and Texas Pacific Group (“TPG”) Response.

Applicant’s response illustrates the continuing efforts by Applicants and TPG, as puppet master, to confuse and obfuscate the Public, Interveners, and the Commission by drawing attention to some words and not others or by raising questions and ignoring the real issues.

In every case before it, the Commission has the authority to develop the timing of and mechanism for considering an ORS 757.511 application. The Commission has authority under the relevant statutes to condition the terms of approval of the acquisition if such conditions are in the public interest. This case with its multi-tiered, highly leveraged financial structure is unlike any ever considered by this Commission. Its issues are novel. There is no similar situation from which to take guidance. There has never been a multi-tiered financial structure of this type. There has never been an upstream puppet master not under Commission regulation with the ability to veto decisions of the utility no matter how rational.

There has never been a situation in which the subsequent transfer of ownership interest in the named applicant can be accomplished without any supervision by the Commission. And, finally, this Commission has never been confronted with a short term owner anxious to get in with very little cash investment and anticipates getting out within a very short time with a billion dollars. All information regarding this transaction is appropriate and necessary for scrutiny. The Commission should take the time it needs to have all of the information before it prior to making any decision.

With respect to the PUCHA exemption, Applicants cannot avoid one crucial detail. While both Mr. Walsh and Dr. Kohler testified to their impressions, understanding, and conclusions, although not having read the documents or been involved in the decision making, Applicants' witness Shifter testified from personal knowledge. Mr. Shifter testified that not getting an exemption or having PUHCA repealed was a deal breaker. This is hardly a willingness to operate without an exemption as described and is certainly inconsistent with the previously confidential documents recently released to the Oregonian.

To argue now, when they did not and could not before, that there is no investigation of Oregon Investment Council's investment in TPG is disingenuous. The applicants' initial response implicitly acknowledged it and they cannot profess otherwise now. Of course, the real issue is what was told to the OIC by TPG representatives to induce the investment. Applicants have made much in the press that the due diligence documents reflect initial thinking and cannot be construed as showing any intent. That raises the critical question: did they lie to OIC in telling the members what their plans were or are they lying here by saying they have no plans?

Finally, much has been said about the lack of finality of the financing arrangements. TPG and the applicants would have the Commission make its decision without seeing or considering the final arrangements. TPG says it has fully disclosed the arrangements. Is this true? It would seem not. There has been little or no discussion of "TPG Netherlands" ownership interest. See, December 8, 2004 U1 filing at the SEC. Who or what is that and what does it mean? The SEC filing should be fully examined

to determine whether the structure has been changed and if so, how that affects the transaction and the likelihood of gaining a PUCA exemption.

Applicants and TPG want to speed this transaction through as fast as possible simply to avoid scrutiny by the Commission and the Public. BOMA asks that the Commission suspend the proceedings to allow additional information to come to light that should be considered. There is little downside to waiting and a significant risk to the Public by allowing this application to be rushed through with an incomplete examination. The motion should be granted.

Dated this 10th day of January 2005.

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