

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**
3 **UM 1209**

4 In the Matter of

5 MIDAMERICAN ENERGY HOLDINGS
6 COMPANY

7 Application for Authorization to Acquire
8 Pacific Power & Light, dba PacifiCorp

STAFF'S RESPONSE TO CITIZENS UTILITY
BOARD OF OREGON'S MOTION TO MODIFY
THE SCHEDULE

9 **INTRODUCTION**

10 On November 1, 2005, the Citizens' Utility Board of Oregon ("CUB") filed a motion to
11 modify the schedule in this docket. In a November 2, 2005 telephone conference, the parties
12 discussed CUB's motion to modify the schedule ("CUB's Motion"). During the telephone
13 conference, Staff stated that it had not had an opportunity to fully consider CUB's Motion, but
14 that its overriding concern was that a full and complete record be developed for the Public Utility
15 Commission of Oregon ("Commission"). On November 3, 2005, ALJ, Christina Smith issued a
16 ruling establishing the deadline for responses as November 7, 2005. Accordingly, Staff takes
17 this opportunity to respond to CUB's Motion.

18 **DISCUSSION**

19 CUB's Motion requests that the schedule be modified in a manner that will add an
20 additional round of testimony by the Applicant between Staff and Intervenor testimonies and
21 offers an example of a potential modified schedule with the additional round of testimony by
22 Applicant. *See* CUB Motion at 2-3. Staff agrees in principle with CUB that the schedule should
23 be amended in order to allow for the development of a full and complete record.

24 ///

25 ///

26 ///

1 While Staff agrees and supports CUB's Motion to modify the schedule, it does not
2 support CUB's proffered schedule¹ because it does not allow the Applicants the ability to
3 respond in writing to Staff and Intervenors' surrebuttal. Therefore, Staff respectfully requests
4 that a modified schedule include Applicant's sursurrebuttal testimony. This round of testimony
5 would be Applicant's response to Staff and Intervenors' surrebutal testimony and would be filed
6 at such a time in the schedule to allow the parties time to pursue a round of discovery on
7 Applicant's sursurrebuttal testimony before the evidentiary hearing.

8 For example, Staff would propose the following, or a similar, schedule:

9	Staff and Intervenor Testimony:	November 21, 2005
10	Applicant Rebuttal Testimony:	December 7, 2005
11	Staff and Intervenor Surrebuttal:	December 30, 2005
12	Applicant Sursurrebutal Testimony:	January 9, 2006 ²
13	Evidentiary Hearings:	January 18 - 20, 2006

15 Staff's proposed schedule is preferable to CUB's proposed schedule because it not only
16 mitigates CUB's concerns, but it also follows the traditional procedure of allowing the
17 Applicants to file the last round of testimony. If Applicant's last round of testimony is filed in
18 adequate time before the evidentiary hearing, it has the additional benefit of allowing the parties
19 to more effectively and efficiently prepare a full and complete record at the evidentiary hearing.
20 For example, it allows the parties the opportunity to seek discovery of Applicant's rebuttal to
21 Staff and Intervenors' testimony in preparation for the evidentiary hearing. Otherwise, the
22 Applicants may respond to Staff and Intervenors' testimony at the evidentiary hearing without
23

24 ¹ While CUB's Motion outlines a schedule, it is referred to as an "example." Staff takes this to mean that
25 CUB's proposed schedule is only one possible schedule that would include additional testimony by the
Applicants.

26 ² This assumes that a ruling adopting a modified schedule provides a five day data response turnaround at
this point in the schedule.

1 Staff and Intervenors having an opportunity to consider and seek discovery of Applicant's
2 rebuttal. Thus, Staff supports the CUB's Motion in principle, but requests a slight modification
3 to CUB's proposed procedure.

4 **CONCLUSION**

5 For the foregoing reasons, Staff respectfully requests that the Commission grant CUB's
6 Motion and modify the schedule consistent with Staff's proposed objectives for creating a full
7 and complete record.

8 DATED this 7th day of November 2005.

9 Respectfully submitted,

10 **HARDY MYERS**
11 Attorney General

12 /s/ Jason W. Jones
13 Jason W. Jones, #00059
14 Assistant Attorney General
15 Of Attorneys for Staff of the Public Utility
16 Commission of Oregon
17
18
19
20
21
22
23
24
25
26

CERTIFICATE OF SERVICE

I certify that on November 7, 2005, I served the foregoing upon the parties hereto by sending a true, exact and full copy by regular mail, postage prepaid or by hand delivery/shuttle mail and by electronic mail to:

NW ENERGY COALITION 219 FIRST ST STE 100 SEATTLE WA 98104 steve@nwenergy.org	RATES & REGULATORY AFFAIRS PORTLAND GENERAL ELECTRIC RATES & REGULATORY AFFAIRS 121 SW SALMON STREET, 1WTC0702 PORTLAND OR 97204 pge.opuc.filings@pgn.com
UTILITY WORKERS UNION OF AMERICA PO BOX 37 SAN CLEMENTE CA 92674-0037 uwua@redhabanero.com	JIM ABRAHAMSON -- CONFIDENTIAL COMMUNITY ACTION DIRECTORS OF OREGON 4035 12TH ST CUTOFF SE STE 110 SALEM OR 97302 jim@cado-oregon.org
DOUGLAS L ANDERSON MIDAMERICAN ENERGY HOLDINGS CO 302 S 36 ST STE 400 OMAHA NE 68131 danderson@midamerican.com	SUSAN ANDERSON CITY OF PORTLAND OFFICE OF SUSTAINABLE DEV 721 NW 9TH AVE -- SUITE 350 PORTLAND OR 97209-3447 susananderson@ci.portland.or.us
ADAM S ARMS -- CONFIDENTIAL MCKANNA BISHOP JOFFE & SULLIVAN LLP 1635 NW JOHNSON ST PORTLAND OR 97209 aarms@mbjlaw.com	EDWARD BARTELL KLAMATH OFF-PROJECT WATER USERS INC 30474 SPRAGUE RIVER ROAD SPRAGUE RIVER OR 97639
CURTIS G BERKEY ALEXANDER, BERKEY, WILLIAMS & WEATHERS 2000 CENTER STREET, SUITE 308 BERKELEY CA 94704 cberkey@abwwlaw.com	CHARLTON H BONHAM TROUT UNLIMITED 828 SAN PABLO AVE SUITE 208 ALBANY CA 94706 cbonham@tu.org
MAGGIE BRILZ IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 mbrilz@idahopower.com	LOWREY R BROWN -- CONFIDENTIAL CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY, SUITE 308 PORTLAND OR 97205 lowrey@oregoncub.org
JOANNE M BUTLER IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 jbutler@idahopower.com	D KEVIN CARLSON DEPT OF JUSTICE - GENERAL COUNSEL DIVISION 1162 COURT ST NE SALEM OR 97301-4096 d.carlson@doj.state.or.us

1	PHIL CARVER -- CONFIDENTIAL OREGON DEPARTMENT OF ENERGY 625 MARION ST NE STE 1 SALEM OR 97301-3742 philip.h.carver@state.or.us	RALPH CAVANAGH -- CONFIDENTIAL NATURAL RESOURCES DEFENSE COUNCIL 111 SUTTER ST FL 20 SAN FRANCISCO CA 94104 rcavanagh@nrdc.org
2		
3	BRYAN CONWAY PO BOX 2148 SALEM OR 97309-2148 bryan.conway@state.or.us	JOHN CORBETT YUROK TRIBE PO BOX 1027 KLAMATH CA 95548 jcorbett@yuroktribe.nsn.us
4		
5		
6	JOAN COTE -- CONFIDENTIAL OREGON ENERGY COORDINATORS ASSOCIATION 2585 STATE ST NE SALEM OR 97301 cotej@mwvcaa.org	CHRIS CREAM -- CONFIDENTIAL MULTNOMAH COUNTY 501 SE HAWTHORNE, SUITE 500 PORTLAND OR 97214 christopher.d.cream@co.multnomah.or.us
7		
8		
9	MELINDA J DAVISON -- CONFIDENTIAL DAVISON VAN CLEVE PC 333 SW TAYLOR, STE. 400 PORTLAND OR 97204 mail@dvclaw.com	MICHAEL EARLY INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES 333 SW TAYLOR STE 400 PORTLAND OR 97204 mearly@icnu.org
10		
11		
12	JASON EISDORFER -- CONFIDENTIAL CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY STE 308 PORTLAND OR 97205 jason@oregoncub.org	ANN L FISHER AF LEGAL & CONSULTING SERVICES 2005 SW 71ST AVE PORTLAND OR 97225-3705 energlaw@aol.com
13		
14		
15	ANDREA FOGUE LEAGUE OF OREGON CITIES PO BOX 928 1201 COURT ST NE STE 200 SALEM OR 97308 afogue@orcities.org	JOHN R GALE IDAHO POWER COMPANY PO BOX 70 BOISE ID 83707-0070 rgale@idahopower.com
16		
17		
18	BERNARDO R GARCIA UTILITY WORKERS UNION OF AMERICA 215 AVENDIA DEL MAR, SUITE M SAN CLEMENTE CA 92672 uwua@redhabanero.com	ANN ENGLISH GRAVATT -- CONFIDENTIAL RENEWABLE NORTHWEST PROJECT 917 SW OAK - STE 303 PORTLAND OR 97205 ann@rnp.org
19		
20		
21	DAVID E HAMILTON NORRIS & STEVENS 621 SW MORRISON ST STE 800 PORTLAND OR 97205-3825 davidh@norrstev.com	NANCY HARPER IBEW, LOCAL 125 17200 NE SACRAMENTO GRESHAM OR 97230 nancy@ibew125.com
22		
23	BRIAN JOHNSON TROUT UNLIMITED 825 SAN PABLO AVE SUITE 208 ALBANY CA 94706 bjohnson@tu.org	ANDREA L KELLY PACIFICORP 825 NE MULTNOMAH ST STE 800 PORTLAND OR 97232 andrea.kelly@pacificorp.com
24		
25		
26		

1	BARTON L KLINE -- CONFIDENTIAL IDAHO POWER COMPANY PO BOX 70	KAITLIN LOVELL -- CONFIDENTIAL TROUT UNLIMITED 213 SW ASH ST, SUITE 205
2	BOISE ID 83707-0070	PORTLAND OR 97204
3	bkline@idahopower.com	klovell@tu.org
4	KATHERINE A MCDOWELL STOEL RIVES LLP 900 SW FIFTH AVE STE 1600	DANIEL W MEEK DANIEL W MEEK ATTORNEY AT LAW 10949 SW 4TH AVE
5	PORTLAND OR 97204-1268	PORTLAND OR 97219
6	kamcdowell@stoel.com	dan@meek.net
7	WILLIAM MILLER -- CONFIDENTIAL IBEW, LOCAL 125 17200 NE SACRAMENTO	MARK C MOENCH MIDAMERICAN ENERGY HOLDINGS COMPANY 201 SOUTH MAIN ST, STE 2300
8	GRESHAM OR 97230	SALT LAKE CITY UT 84111
9	bill@ibew125.com	mcmoench@midamerican.com
10	CHRISTY MONSON LEAGUE OF OREGON CITIES 1201 COURT ST. NE STE. 200	BARBARA LEE NORMAN KARUK TRIBE OF CALIFORNIA PO BOX 657
11	SALEM OR 97301	YREKA OR 96097
	cmonson@orcities.org	bnorman@karuk.us
12	MICHAEL W ORCUTT HOOPA VALLEY TRIBE FISHERIES DEPT PO BOX 417	MATTHEW W PERKINS -- CONFIDENTIAL DAVISON VAN CLEVE PC 333 SW TAYLOR, STE 400
13	HOOPA CA 95546	PORTLAND OR 97204
14	director@pcweb.net	mwp@dvclaw.com
15	JANET L PREWITT -- CONFIDENTIAL DEPARTMENT OF JUSTICE 1162 COURT ST NE	LISA F RACKNER -- CONFIDENTIAL ATER WYNNE LLP 222 SW COLUMBIA ST STE 1800
16	SALEM OR 97301-4096	PORTLAND OR 97201-6618
17	janet.prewitt@doj.state.or.us	lfr@aterwynne.com
18	PETER J RICHARDSON RICHARDSON & O'LEARY PO BOX 7218	STEVE ROTHERT -- CONFIDENTIAL AMERICAN RIVERS 409 SPRING ST, SUITE D
19	BOISE ID 83707	NEVADA CITY CA 95959
	peter@richardsonandoleary.com	srothert@americanrivers.org
20	GREGORY W SAID IDAHO POWER COMPANY PO BOX 70	THOMAS P SCHLOSSER -- CONFIDENTIAL MORISSET, SCHLOSSER, JOZWIAK & MCGAW 801 SECOND AVE, SUITE 1115
21	BOISE ID 83707	SEATTLE WA 98104-1509
22	gsaid@idahopower.com	t.schlosser@msaj.com
23	ROB ROY SMITH -- CONFIDENTIAL MORISSET, SCHLOSSER, JOZWIAK & MCGAW 1115 NORTON BUILDING	THANE SOMERVILLE -- CONFIDENTIAL MORISSET, SCHLOSSER, JOZWIAK & MCGAW 801 SECOND AVE, SUITE 1115
24	801 SECOND AVENUE	SEATTLE WA 98104-1509
25	SEATTLE WA 98104-1509	t.somerville@msaj.com
26	r.smith@msaj.com	

1	GLEN H SPAIN -- CONFIDENTIAL PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOC PO BOX 11170	JOHN W STEPHENS -- CONFIDENTIAL ESLER STEPHENS & BUCKLEY
2	EUGENE OR 97440-3370 fish1ifr@aol.com	888 SW FIFTH AVE STE 700 PORTLAND OR 97204-2021 stephens@eslerstephens.com
3	MARK THOMPSON PUBLIC POWER COUNCIL	DOUGLAS C TINGEY PORTLAND GENERAL ELECTRIC
4	1500 NE IRVING STREET, SUITE 200 PORTLAND OR 97232	121 SW SALMON 1WTC13 PORTLAND OR 97204
5	mthompson@ppcpdx.org	doug.tingey@pgn.com
6	SANDI R TRIPP KARUK TRIBE DEPT. OF NATURAL RESOURCES	SARAH WALLACE -- CONFIDENTIAL ATER WYNNE LLP
7	PO BOX 1016 HAPPY CAMP CA 95546	222 SW COLUMBIA STE 1800 PORTLAND OR 97201-6618
8	stripp@karuk.us	sek@aterwynne.com
9	BENJAMIN WALTERS -- CONFIDENTIAL CITY OF PORTAND - OFFICE OF CITY ATTORNEY	MICHAEL T WEIRICH DEPARTMENT OF JUSTICE
10	1221 SW 4TH AVE - RM 430 PORTLAND OR 97204	REGULATED UTILITY & BUSINESS SECTION 1162 COURT ST NE
11	bwalters@ci.portland.or.us	SALEM, OR 97301-4096 michael.weirich@state.or.us
12	STEVEN WEISS NORTHWEST ENERGY COALITION	LINDA K WILLIAMS KAFOURY & MCDOUGAL
13	4422 OREGON TRAIL CT NE SALEM OR 97305	10266 SW LANCASTER RD PORTLAND OR 97219-6305
14	weiss.steve@comcast.net	linda@lindawilliams.net
15	PAUL WOODIN WESTERN WIND POWER	
16	282 LARGENT LN GOLDENDALE WA 98620-3519	
17	pwoodin@gorge.net	

18 Neoma Lane
19 Neoma Lane
20 Legal Secretary
21 Department of Justice
22 Regulated Utility & Business Section
23
24
25
26