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In the Matter of

Docket # UM 1209

MIDAMERICAN ENERGY HOLDINGS CO.

**APPLICATION FOR INTERVENTION BY
THE KARUK TRIBE OF CALIFORNIA**

**Re: APPLICATION FOR AUTHORIZATION
TO ACQUIRE PACIFIC POWER & LIGHT**

**NOTICE IS HEREBY GIVEN TO THE PUBLIC UTILITY COMMISSION OF OREGON AND
ALL OTHER INTERESTED PARTIES:**

THE KARUK TRIBE OF CALIFORNIA hereby intervenes and requests to be recognized as an interested party in the above entitled matter. The Karuk Tribe, hereinafter (“Tribe”), is a federally-recognized Indian Tribe (1979), and herein applies to the Oregon Public Utility Commission pursuant to O.R.S. § 756.525 and O.A.R. § 860-012-001 to be granted party status in Docket UM-1209 as it pertains to the Application of MidAmerican Energy Holdings Company for authorization to acquire Pacific Power & Light Corporation and continue in its existing operation.

The Karuk Tribal Headquarters are located along the banks of the Klamath River in Happy Camp, California. The Karuk People have always had a culturally deep and dependant relationship with the Klamath River. Generation after generation, Karuk people have centered their lives on the bountiful blessings and resources along and within this River. Most of the Tribe’s ceremonial practices focus on the River and her many gifts. Sacred ceremonial sites sit proudly along the riverside. The resources of the Klamath River and most especially the salmon are intertwined in their culture and ceremonial practices. The spiritual, physical and cultural health of the Tribe is dependent on the continued health of the River and the proper management and preservation of the fish migration.

The Karuk Tribe, having a vested interest in the preservation of these waters and their resources, requests participation as an intervening party in the pending hearings regarding the MidAmerican Energy Holdings Corporation application for acquisition of PacifiCorp.

Any and all notifications and other relevant information pertaining to the above entitled matter should be directed to the following individuals:

Barbara Lee Norman
Attorney for the Karuk Tribe
P.O. Box 657
Yreka, CA 96097

Sandi R. Tripp, Director
Karuk Tribe Department of Natural Resources
P.O. Box 1016
Happy Camp, CA 95546

ARGUMENT AND AUTHOITIES IN SUPPORT OF INTERVENTION

The Public Utilities Commission may permit a party to apply to appear and participate in a proceeding at any time before the final taking of evidence and shall grant the application “if the Commission determines that such appearance and participation will not unreasonably broaden the issues or burden the record.” (O.R.S. § 756.525(2)). Oregon regulations further provide that an application should include the following elements: (1) the “nature and extent of the petitioner’s interest in the proceeding;” (2) “the issues petitioner intends to raise at the proceeding;” and “(3) “any special knowledge or expertise of the petitioner that would assist the Public Utilities Commission in resolving the issues in the proceeding.” (O.A.R. § 860-012-001).

THE KARUK TRIBE’S INTEREST IN THE PENDING PROCEEDING

The pending application for acquisition of PacifiCorp by MidAmerican Energy Holdings Corporation will have a direct effect on this intervening Tribe. The Karuk Tribe has a cultural, ancestral, and economic interest in the protection and preservation of the middle and lower Klamath River. The operation of PacifiCorp has had and continues to have a direct and damaging effect upon the entirety of the Klamath River.

The middle and lower Klamath River have been negatively affected by PacifiCorp and their manner of the operation of the Klamath Hydroelectric Project which has directly and dramatically reduced fish population that once flourished in the Klamath River. The acquisition of PacifiCorp by MidAmerican Energy Holdings Co. is an issue which bears upon prevention of continued hydroelectric power practices which negatively affect the Klamath River's precious aquatic balance.

Continued operation of the Klamath Hydroelectric Project, without future implementation of strict ecological safeguards, will perpetuate and advance the destruction of the once abundant fish populations that made the Klamath River a famous retreat for tourists and fishermen. The Klamath River was once the third most productive salmon river in America, with an average of over 800,000 salmon returning to spawn annually. Since the dam was built in 1917, salmon runs have plummeted. Only 1/10th as many salmon return today. Some runs of salmon have been lost altogether, while others, such as the once dominant spring-run Chinook, are on the brink of extinction. The increasing reduction of fish in the River has negatively impacted both the Tribe and the River communities financially and a substantial loss of tourism has resulted.

The irresponsible manner of the past and present operation of the Klamath Hydroelectric Project operated by PacifiCorp has resulted in extensive ecological damage to the salmon population and continues to have significant socio-economic impact upon the Tribe.

The Karuk Tribe, the collective Klamath River communities and all individuals and groups who are environmentally concerned continue to be damaged by ongoing corporate carelessness harmfully impacting the natural fish abundance of the Klamath and Trinity Rivers. The Tribe has an interest in familiarizing themselves with the operational intentions and ecological practices of MidAmerican Energy Holding Corporation. The Tribe likewise has an ongoing interest in securing compliance and fulfillment by PacifiCorp of their prior promises and guarantees that they would protect the spring salmon run by installing fish ladders at the upper basin dams. This was not done and the salmon population further diminished, as a result salmon populations are at a historical low.

The State of California has designated and assigned fishing rights to Ishi Pishi Falls along the Klamath River to the Karuk Tribe. The Tribe, as an intervener, has a direct interest in the outcome of this proceeding and in the protection this assignment of fishing rights.

The past and present operations of PacifiCorp have had a substantial adverse effect on the salmon habitat of the Klamath and Trinity rivers. All migrating salmon from the Trinity River use the main stem of the Klamath River as their corridor to and from the sea. The acquisition of PacifiCorp by MidAmerican Energy Holdings Co. is an issue which bears upon irresponsible hydroelectric power practices which negatively affect the precious aquatic balance of both the Klamath and Trinity Rivers. Therefore, the health of both rivers and their aquatic resources are dependent on the degree to which the utility corporations involved in this action are environmentally guided and ecologically concerned.

ISSUES TO BE RAISED BY THE KARUK TRIBE

The pending issues involved in this proceeding are of critical concern to the Karuk Tribe. The Tribe has actively participated in policy development regarding the preservation of the Klamath River for many years. The primary issues intended to be raised in this proceeding are as follows:

- Determination of PacifiCorp's accountability and their existing responsibility for remedying the ineffectiveness of current operations to insure salmon and salmonid survival and resulting adequacy of reproduction;
- The nature and degree of commitment to be made by MidAmerican Energy Holdings with the Tribe(s) to implement environmentally sound practices and willingness to assume the responsibility of implementing those environmentally operational measures that PacifiCorp failed to do.
- The future plans by both corporations to remedy ongoing environmental abuse and decimation of the Klamath River salmon population ;

- Prospective involvement by the affected Tribes in all ongoing projects and plans designed to protect the migration of the salmon in the Klamath and Trinity Rivers.
- The irremediable cultural impact of the decimation of the native fisheries through harmful damming operations.

The presentation of the above issues by the Tribe will not unduly burden the proceeding or record. The issues sought to be presented will be minimally time consuming and will contribute immeasurably to the fairness and thoroughness of the proceeding.

**THE KARUK TRIBE'S ASSISTANCE TO THE PUBLIC UTILITIES COMMISSION BY
AND THROUGH THEIR KNOWLEDGE AND EXPERTISE**

Since the Tribe's indigenous beginnings, the Klamath River and its adjoining streams and creeks have always been a most valued and treasured resource. The development of programs for the preservation of these precious waters is of highest priority to the people of the Tribe.

For the past two decades, the Karuk Tribe's Department of Natural Resources has worked toward the Tribal goals of a healthy ecosystem and maintaining a meaningful role in preserving the salmon population in the middle and Lower Klamath River. The Karuk Department of Natural Resources is comprised of a well trained and qualified staff including fisheries biologists, cultural biologists and water control specialists. The DNR programs include water quality and quantity, fisheries research, watershed and habitat restoration. The ongoing effects of the operation of the dams has been analyzed, documented and studied. The Tribe hopes to assist the Public Utilities Commission by providing their unique perspectives on river management, sharing the results of their findings and contributing their ideas for insuring salmon preservation in the future.

Recognizing the Tribe as an intervening party will not only protect the rights and interests of the Tribe and its members, it will also serve the interests of the Public Utilities Commission in deciding the important issues raised by the proposed acquisition.

The ecological, historical and cultural interests and the Tribe's expertise in these areas will benefit all the residents of Oregon and California and the Commission will be assisted with these additional insights. Focus on reduction of needless water allocation will improve habitat conditions for anadromous and resident fish species in the Klamath Basin. The Tribe's participation as an interested party will facilitate open discussions, preserve their position on the official record and allow for informed decision making consistent with protection of the Tribe's state-reserved fishing right.

CONCLUSION

For the foregoing reasons, the Karuk Tribe of California respectfully requests that the Oregon Public Utilities Commission grant its application to intervene in the above-captioned proceeding.

Dated: August 2, 2005

Respectfully submitted,

/s/ Barbara L. Norman

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* Relevant citations: Blake v. Arnett (9th Circuit 1981) 663 F 2d 906, 909; United States v Anderson (1984) 591 F. 2d 1358; United States v Adair (1983) 723 F 2d 1394; United States v Winans (1905) 198 U.S. 371, 381.

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of August, 2005, in addition to electronic service, I mailed the original and five copies of the Karuk Tribe's Application for Intervention with the Public Utility Commission of Oregon, via *First-Class Mail* to:

Public Utility Commission of Oregon

Attn: Filing Center

550 Capitol St., NE #215

P.O. Box 2148

Salem, OR 97308-2148

Email: PUC.FilingCenter@state.or.us

I further certify that on the on the 2nd day of August, 2005, in addition to electronic service, I served a copy of the Karuk Tribe's Application for Intervention on counsel via *First-Class Mail and/or E-mail* to the following addresses:

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I declare the above to be true and correct under penalty of perjury. Executed this 2nd day of August, 2005, at Happy Camp, California.

/s/ Barbara L. Norman, SBN 106114

Barbara L. Norman

