

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1121

In the Matter of)	
)	
OREGON ELECTRIC UTILITY)	
COMPANY, LLC, <i>et al.</i> ,)	RULING
)	
Application for Authorization to Acquire)	
Portland General Electric Company.)	

DISPOSITION: DEPOSITION TO BE HELD; ADDITIONAL PROTECTION GRANTED

This ruling involves Portland General Electric Company's (PGE's) request for a protective order precluding the Industrial Customers of Northwest Utilities (ICNU) from taking the deposition of PGE's President and Chief Executive Officer, Peggy Fowler. On June 21, 2004, I issued a ruling asking ICNU to specify the information it seeks from Ms. Fowler and to explain how the ORCP 36B(1) standard will be met.

ICNU responded on June 22, 2004. PGE replied to ICNU's response on June 24, 2004.

ICNU's Position

ICNU intends to seek information from Ms. Fowler about the following:

1. Changes in PGE under Enron ownership;
2. Effectiveness of conditions placed on Enron ownership;
3. Current PGE situation;
4. Changes to current situation if Applicants owned PGE;
5. Benefits to PGE and customers from Applicants' ownership of PGE;
6. Changes in PGE's operations or costs from Applicants' ownership of PGE;
7. Transition of ownership issues;
8. Public statements made by Ms. Fowler regarding the proposed transaction.

ICNU claims that the information it seeks is relevant to its claims or defenses, or is reasonably calculated to lead to discovery of admissible evidence. Specifically, it claims that the information sought will assist ICNU, and the Commission, in determining whether the

proposed transaction will benefit PGE's customers. Further, obtaining information about PGE's current situation addresses Applicants' claim that this transaction can lead PGE out of the "present industry turmoil." ICNU Response at 5; citation omitted. As Ms. Fowler is in the unique position of being the only named PGE employee who would be named by Applicants to the PGE Board, ICNU wishes to question her about how PGE will change if owned by Applicants.

Finally, ICNU contends it may ask Ms. Fowler about other issues, not identified in its response, if its inquiry is reasonably calculated to lead to admissible evidence.

PGE's Position

PGE's reply does not specifically raise an objection to the deposition, but asks for conditions to be placed upon the deposition if the Administrative Law Judge determines that the deposition should go forward. Specifically, PGE asks that the scope of the deposition be limited to the issues identified in ICNU's response. Further, PGE requests that the deposition be limited to no more than four hours.

Discussion

As discussed in the June 21 ruling, the party seeking discovery has to show that the information it seeks is relevant, or reasonably calculated to lead to the discovery of admissible information. The areas of inquiry outlined by ICNU are arguably relevant to the issues involved in the pending proceeding. Therefore, ICNU has met the burden of discoverability.

PGE, however, has raised valid concerns about the deposition of Ms. Fowler. ICNU could have engaged in less intrusive means of discovery. Further, the deposition of Ms. Fowler should not be a generalized questioning of PGE and its operations. ICNU should have no difficulty in completing its questioning within four hours. The limits suggested by PGE are appropriate under the circumstances of this deposition, and are adopted. Ms. Fowler may only be questioned on the specific issues set forth in ICNU's June 22, 2004 response, and the deposition will not be longer than four hours. I have attached a copy of the issues as Appendix A.

Finally, ICNU may file a new motion if it needs either more time to question Ms. Fowler, or has other areas of inquiry to pose to Ms. Fowler.

Dated at Salem, Oregon, this 25th day of June, 2004.

Kathryn Logan
Administrative Law Judge

APPENDIX A

- The changes within PGE under Enron ownership;
- The effectiveness of the merger conditions from the Enron proceeding;
- Whether PGE was a “local company” under Enron’s ownership;
- The situation PGE currently is facing under Enron ownership;
- How ownership by the Applicants would change PGE’s current situation;
- PGE’s perspective on ownership by the Applicants;
- Whether PGE will benefit from ownership by the Applicants;
- Whether customers will benefit from ownership of PGE by the Applicants;
- Whether the transaction as currently proposed will provide a “net benefit” to customers;
- How PGE expects the potential transition from ownership by Enron to ownership by the Applicants to take place;
- Any changes in PGE’s operations or costs that the Company expects as a result of the potential change in ownership;
- Ms. Fowler’s expectations as to her role at PGE under new ownership and the role of the PGE Board of Directors;
- Any plans for PGE should the proposed transaction not be successful; and
- Whether alternatives to the proposed transaction would benefit customers.