

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1209

In the Matter of)	
)	
MIDAMERICAN ENERGY HOLDINGS)	
COMPANY)	RULING
)	
Application for Authorization to Acquire)	
Pacific Power & Light, dba PacifiCorp.)	

DISPOSITION: PETITIONS GRANTED; SCHEDULE APPROVED

On August 2, 2005, a prehearing conference was held in Salem, Oregon. Making a personal appearances were Brent Gale for MidAmerican Energy Holdings Company (MidAmerican), Katherine McDowell for MidAmerican and PacifiCorp; Jason Eisdorfer for Citizens' Utility Board of Oregon (CUB); Melinda Davison for the Industrial Customers of Northwest Utilities (ICNU); Jason Jones for Staff; Rachel Shimshak for the Renewable Northwest Project (RNP); Ralph Cavanagh for the Natural Resources Defense Council (NRDC); Steve Weiss for the NW Energy Coalition; Jim Abrahamson for the Community Action Directors of Oregon and the Oregon Energy Coordinators Association (CADO/OECA); Sarah Wallace for Idaho Power Company; Benjamin Walters for the City of Portland; and Glen Spain for Pacific Coast Federation of Fishermen's Associations (PCFFA). Making an appearance by telephone were Curtis Berkey for the Yurok Tribe; Bernardo Garcia for the Utility Workers Union of America (UWUA); Sandi Tripp from the Karuk Tribe; Linda Williams and Dan Meek for the Utility Reform Project and Beth Alt; and Tom Schlosser and Rob Roy Smith for the Hoopa Valley Tribe.

Petitions to Intervene had been filed by RNP, UWUA, NRDC, ICNU, Idaho Power Company, Portland Metropolitan Association of Buildings and Managers (BOMA), Portland General Electric Company (PGE), and Multnomah County. No objections were made to these petitions, and the petitions to intervene were granted pursuant to OAR 860-012-0001. Also, CUB submitted its notice of intervention pursuant to ORS 774.180, which was acknowledged. Parties may be represented by non-lawyers and out-of-state lawyers in this docket, but those persons may not make legal argument. An out-of-state attorney may make legal arguments in this case if the attorney submits

documents to the Commission in compliance with the Uniform Trial Court *pro hac vice* Rules, as discussed on the Commission website.

In addition, CUB and ICNU filed notices of intent to request intervenor funding. Those notices were acknowledged, and further intervenor funding matters will be handled by Chief ALJ Michael Grant.

Parties were reminded of electronic filing rules, which went into effect this year. *See* Order No. 04-753. Also, Mr. Meek requested that parties be permitted to serve each other electronically. There were no objections, and the request is granted. Parties are reminded that Adobe Acrobat documents should be able to be searched and allow text to be selected. Also, parties should ensure that documents containing graphics and color are transmitted with the necessary effects.

Parties also received a memorandum regarding the process and qualifications for selecting a moderator, a copy of which is attached. The Commission is interested in using a moderator to set agendas for discussions, smooth the progress of talks between the parties, and aid the parties in clarifying their positions. Parties should suggest names and comment on the qualifications of a moderator by 9:00 a.m. on Monday, August 8, 2005. The Commission will choose a moderator soon thereafter, and will give heightened consideration to candidates with a broad base of support.

Additionally, as settlement agreements are reached, Applicant is responsible for submitting comprehensive settlement documents to the Commission, including original signature pages. The documents should be submitted at the earliest practical date so the Commission knows which issues remain to be decided.

A standard protective order has been issued in this case, Order No. 05-867. The standard protective order has been recently modified to put the burden on the party designating information as confidential to make the designation in good faith. Any party that disagrees with that designation should notify us immediately so we can resolve the dispute.

Finally, proposed steps to a schedule were discussed. The formal schedule will begin with comments, which allow parties to make initial arguments regarding the case without the constraints of testimony. The next steps are testimony, then an executive summary in which the authoring party states its position regarding each of the issues in the case prior to hearing. Opening presentations are to be made before the Commissioners prior to the hearing, in which parties may make their arguments to the Commissioners. If factual questions arise, the Commissioners may also participate in the hearing to ask questions of appropriate witnesses on supplemental direct examination. The parties indicated that two days should be reserved for hearing. Following the hearing, briefs will be submitted.

After a review of the parties' proposed schedule, discussion with the Commission, and consideration of the steps needed to create a record and clarify the parties' positions on issues, the following schedule is set in this docket:

Applicants letter on effects of PUHCA repeal on Application	Aug 22, 2005
Deadline for Petitions to Intervene and Submit Intervenor Budgets	Aug 29, 2005
<i>Workshops</i>	<i>Aug 29-30, 2005</i>
Opening Comments	Oct 14, 2005
<i>Settlement Conference</i>	<i>Oct 24, 2005</i>
Applicants' Supplemental Direct Testimony	Oct 28, 2005
<i>Settlement Conference</i>	<i>Nov 7, 2005</i>
Staff & Intervenor Testimony	Nov 21, 2005
All Parties' Rebuttal Testimony	Dec 12, 2005
Executive Summary and Cross-Examination Statements	Dec 21, 2005
Opening presentations to Commissioners	Jan 4, 2006
Hearings	Jan 5-6, 2006
Opening brief (all parties)	Jan 27, 2006
Reply brief (all parties)	Feb 10, 2006

The October 25 Issues Presentation to Commissioners was added to the schedule in lieu of a workshop with Commissioners. The Presentation will be in a format similar to presentations made at public meeting and will allow parties to discuss issues raised by the Application and other events in the docket. Each party will be given an opportunity to address the Commissioners at that time.

Public comment meetings will be held in October. Open house meetings will be held in Portland, Pendleton, Medford, Klamath Falls, and Bend. Town hall meetings will be held in Portland and Medford. Dates will be set at a subsequent conference.

Parties are on notice that telephone conferences will be held on Wednesday mornings from 8:30 to 9:30 a.m. as needed, at the request of a party or the administrative law judge. An electronic mail will be sent the day before the conference with an agenda and the dial-in number if the conference is to be held. If parties have any questions regarding the conferences, please contact Annette Taylor.

Dated at Salem, Oregon, this 4th day of August, 2005.

Christina M. Smith
Administrative Law Judge

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1209

In the Matter of)	
)	
MIDAMERICAN ENERGY HOLDINGS)	
COMPANY)	MEMORANDUM
)	RE: MODERATOR
Application for Authorization to Acquire)	
Pacific Power & Light, dba PacifiCorp.)	

As discussed in the July 15, 2005, memorandum, the Commission is interested in using a moderator to assist in non-hearings related discussions among the parties, including workshops and settlement conferences. To assist in the selection process, the Commission has tentatively established the following qualifications for a moderator in this proceeding:

- A person who is neutral and not affiliated with either a customer group or a utility company. This person may not necessarily have utility experience.
- A person who can set agendas for meetings with input from all sides.
- A person who knows when to step in and moderate the discussion and when to step out and allow the discussion to unfold.
- A person who can keep the discussion civil and promote professional working relationships.
- A person who can clarify the discussion – if parties appear headed toward settlement, the person can maintain that direction; if parties appear to be coalescing around two polarized positions, the person can clarify the differences on that issue and move the discussion forward on other issues.
- ❖ This person is not an arbitrator and will not resolve the case. If a resolution is possible, this person will help focus the parties’ efforts on that goal. If not, this person will help the parties develop a clearer understanding of the differences in position on issues so that litigation can move forward.

Parties may submit comments related to the moderator qualifications and also submit names of qualified applicants. The deadline for such submissions is 9:00 a.m. on Monday, August 8, 2005. The Commission will then select a moderator and issue a final job description as soon as practicable. The Commission will give heightened consideration to qualified applicants with a broad base of support among parties.

Dated at Salem, Oregon, this 2nd day of August, 2005.

Christina M. Smith
Administrative Law Judge