

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 1121**

In the Matter of the Application of OREGON ELECTRIC UTILITY COMPANY, LLC, TPG PARTNERS III, L.P., TPG PARTNERS IV, L.P., MANAGING MEMBER LLC, NEIL GOLDSCHMIDT, GERALD GRINSTEIN, and TOM WALSH for an Order Authorizing Oregon Electric Utility Company LLC to Acquire Portland General Electric Company

TESTIMONY OF ANDREA FOGUE ON BEHALF OF THE LEAGUE OF OREGON CITIES

I. INTRODUCTION

The intent of this testimony is to address issues of importance to cities in Oregon and their residents. This testimony is submitted by Andrea Fogue, Senior Staff Associate for the League of Oregon Cities (qualifications found at LOC Exhibit 1). The League of Oregon Cities (LOC) is a voluntary association representing all 239 of Oregon’s active incorporated cities. Founded in 1925, the League provides a wide array of services from training and research to policy setting and legislative advocacy. The League’s membership includes all 50 cities served by Portland General Electric (PGE).

In addition to the cities within PGE’s service territory, the League represents cities served by Pacific Power and consumer-owned utilities statewide. The League has an interest in protecting not only cities as consumers of electricity, but also the approximately 2.3 million ratepayers that reside in Oregon cities. In November 2002, the League’s Board of Directors adopted a set of principles specific to the purchase of PGE. This testimony will address the following principles:

- Retain all local taxes and fees
- Maintain the authority of cities, municipal electric utilities, and other consumer-owned electric utilities.
- Preserve low-cost electricity

- Retain consumer protections
- Ensure reliability and safety of the electric system
- Continue SB 1149 (Oregon’s electric restructuring law) provisions including funding public purposes (conservation, renewable resources, and low-income weatherization)
- Retain Portland General Electric as an integrated utility
- If Portland General Electric is purchased by a public entity the governing entity will be responsible for:
  - A regional approach to governing;
  - Decisions to acquire power;
  - The rate structure for the system;
  - Decisions about the level and type of service to be provided;
  - The uses to be made of system revenues;
  - The process for obtaining public input before governance authority is exercised;
  - The provisions of SB 1149
  - Service quality and consumer protections and;
  - All other rights and responsibilities appropriate to the type of public ownership structure

In addition, the testimony will discuss the importance of long-term stability. The League considers the purchase of PGE critical to the well-being of Oregon’s communities and economy.

## II. RETAIN ALL LOCAL TAXES AND FEES

City authority to manage local rights of way and charge utilities for the use of those rights of way has a long history in Oregon. The Legislature spoke in 1911 to this authority, and in 1931, adopted a new law to permit collection of a “privilege tax” from utilities operating in a city without a franchise for the use of rights of way. The use of the term “privilege tax” does not mean it is a “tax”. Traditionally, franchise fees and privilege taxes have been recognized as a rental payment for the use of the right of way. Utilities use rights of way in special ways beyond those made by other users.

The PUC has examined city franchise fees/privilege taxes several times over the past 50 years. The PUC has recognized the fees are for the use of rights of way, and that certain percentages of the fees should be spread system-wide. These local taxes and fees are essential to the ability of cities to provide services to meet the needs and expectations of Oregon's citizens and businesses.

### III. MAINTAIN THE AUTHORITY OF CITIES, MUNICIPAL ELECTRIC UTILITIES AND OTHER CONSUMER-OWNED UTILITIES

Cities and consumer-owned utilities have long provided essential services to Oregonians. Cities, beginning in the 1880s, have formed municipal electric utilities. These utilities are non-profit, locally-owned and governed. They provide affordable power and energy services to citizens within their communities. Existing authority of cities, municipal electric utilities and other consumer-owned utilities should be maintained and in no way diminished by this proposal to purchase PGE.

### IV. PRESERVE LOW-COST ELECTRICITY

Oregon and other Pacific Northwest states enjoy some of the lowest electric rates in the country, largely due to the region's federal hydropower system. Residential and small farm customers in investor-owned utility areas have received the benefits of BPA's low-cost power through an exchange authorized in federal statute. Savings have been substantial and customers of PGE have saved through the exchange since the early 1980s. However, in recent years, ratepayers served by PGE have seen an increase in the cost of electricity. Not only is low-cost electricity essential to residential customers, but preserving low-cost electricity is critical to recruiting new businesses and industries to locate in Oregon, and boosting the state's economic vitality.

### V. RETAIN CONSUMER PROTECTIONS

The League supports the joint testimony submitted by the Public Interest Parties regarding consumer protections (Public Interest Parties, pg. 3, II Consumer Protections), "SB 1149 ensured that residential customers would never be cut loose into a deregulated energy market and would be guaranteed a cost-

based rate from their privately-owned utility company. In addition, in answer to those who said that deregulation would bring “choice” to residential customers, Oregon customers now have the protection of regulation AND choice through the portfolio of energy options that each regulated utility responsible under SB 1149 is required to offer to its customers. The most popular options offered through the portfolio are clean energy options where consumers can choose to get some or all of their power from renewable resources plus having the option of supporting salmon habitat restoration.

We maintain that, at a minimum, OEUC must commit to support the portfolio construct that offers customers safe, regulated energy options while also guaranteeing a cost-of-service rate. This means not only support for the program legislatively, but also creating a positive working relationship and working environment with the stakeholders as we strive to improve the program.

The portfolio of energy options is unique to Oregon and an innovative approach to creating a diversified resource base. The portfolio has propelled Oregon into the forefront nationally as a growing market for clean energy purchases. But customers need to be assured that the portfolio will continue. Stability is the key to ensuring ongoing growth and trust in the portfolio. There should be an explicit guarantee of a perpetual presence and company support for a portfolio of energy options, with an emphasis on clean energy offerings.”

In addition to the consumer protections discussed in the previous testimony, the League is concerned with potential risk to PGE ratepayers resulting from Oregon Electric Utility Company’s high level of debt. A possible impact to ratepayers is the inability to make necessary infrastructure investments.

## VI. ENSURE RELIABILITY AND SAFETY OF THE ELECTRIC SYSTEM

As electricity is an essential commodity, it is critical that this purchase retain the reliability and safety of the system. This is not only important to protect the health and welfare of residents, but also for Oregon to attract and retain businesses. Cities are the primary place where businesses locate.

## VII. CONTINUE SB 1149 PROVISIONS INCLUDING FUNDING PUBLIC PURPOSES

In addition to the SB 1149 provisions discussed in previous testimony (LOC, pg.4, V Retain Consumer Protections), with SB 1149 city authority to locally manage public rights of way, and to charge for their use, was given strong reaffirmation (See ORS 757.667), “Nothing ... shall diminish, or authorize regulations that diminish, a city’s authority to control the use of its rights of way and to collect license fees, privilege taxes, rent or other charges for the use of the city’s rights of way.” The League also supports the joint testimony submitted by Public Interest Parties regarding public purpose funding (Public Interest Parties pg. 4, III Environmental Preservation), “SB 1149 instituted a public purposes charge dedicated to investment in energy efficiency, acknowledging that the cleanest and cheapest power is the power that does not need to be generated in the first place, and to renewable energy resource development to begin to set Oregon on a path toward cleaner energy generation.

The public purposes charge, and the Energy Trust of Oregon, the independent not-for-profit organization established to administer the majority of public purposes funding, have begun to demonstrate considerable success in lowering the energy demand in the service territories in which the public purposes investments are made. Not only are residential customers benefiting from more efficient housing and lighting but commercial and industrial customers are also benefiting through improved manufacturing processes, lighting and more efficient equipment. Moreover, additional renewable resources are being brought online, adding to the growing base of clean energy resources for a substantial portion of Oregon’s electricity system.

SB 1149 established the public purposes charge for a period of 10 years to provide a stable source of funding for sustained and consistent investment in efficiency and renewable resources. Despite the growing list of accomplishments of the Energy Trust and the growing recognition of the benefits of the public purpose investments, the public purpose charge will likely be a target for

attempted budgetary redirection. Because this is customer money and because the public purpose investments are showing their worth in reducing individual and system costs, improving the environment and supporting economic development, it is essential that program funding continue.”

#### VIII. RETAIN PORTLAND GENERAL ELECTRIC AS AN INTEGRATED UTILITY

PGE’s generation assets are not only located in the metro area, but impact local tax bases statewide where assets are located. In order to provide stability for local tax bases it is critical that PGE remain an integrated utility. Preserving PGE as an integrated utility will also enhance the reliability of the system and the value of PGE as an asset.

#### IX. PURCHASE OF PGE BY A PUBLIC ENTITY

If PGE is purchased by a public entity, the principle outlined in previous testimony (LOC pg. 1, I Introduction) should be used as guidance for establishing the governing entity.

#### X. LONG-TERM STABILITY

According to the initial application filed, Texas Pacific Group (TPG) has acknowledged that their ownership of PGE is limited to a maximum of 12 years (Application, pg. 4, Exhibit 3). This limitation is a concern because it restricts the ability of TPG to make critical long-term decisions that ensure stability for Oregon ratepayers. This uncertainty potentially negatively affects ratepayers and the ability for Oregon to attract and retain business. In addition, temporary ownership presents a conflict between balancing the needs of Oregon ratepayers and protecting the interests of TPG’s shareholders.

Compounding this issue is the question of whether Oregon Electric Utility Company or TPG will have direct control over PGE. The answer to this question relies on the approval of consent rights held by TPG that are subject to approval by the Securities and Exchange Commission and possible repeal of the Public Utility Holding Company Act.

## XI. CONCLUSION

Underlying the principles and issue of long-term stability addressed in this testimony is the question of whether this sale will benefit Oregon ratepayers and ensure that the public interest is protected. PGE is woven throughout the fabric of Oregon communities. Not only is the utility responsible for providing an essential commodity in electricity, but as a business, PGE supports our local economy and is involved in our communities. The League maintains that any purchase of PGE must uphold the principles and issues addressed in this testimony and ultimately meet the test of net benefit to Oregon ratepayers.

Dated this 21st day of July, 2004.

Respectfully submitted,

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Andrea J. Fogue, League of Oregon Cities

**LOC EXHIBIT 1**

**WITNESS QUALIFICATION STATEMENT**

NAME: Andrea Fogue

EMPLOYER: League of Oregon Cities

TITLE: Senior Staff Associate

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EDUCATION: B.A. Central University of Iowa

EXPERIENCE: I have been employed by the League of Oregon Cities for approximately four years. I am responsible for working with energy policy issues on behalf of cities in Oregon. In addition, I am a charter member of the Portfolio Advisory Committee established by SB 1149, Oregon's Electric Restructuring law and also work with the Northwest Energy Efficiency Alliance as their Oregon liaison to local governments.

OTHER EXPERIENCE: On behalf of the Oregon League of Cities, I have participated in AR 394, AR 421, UE 115, UE 116, UE 118 and UE 119. Prior to coming to Oregon I worked with the Iowa League of cities where I was also responsible for energy policy issues.



CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2004, I mailed an original and five copies of the foregoing TESTIMONY OF ANDREA FOGUE ON BEHALF OF THE LEAGUE OF OREGON CITIES to:

ADMINISTRATIVE LAW JUDGE KATHRYN LOGAN  
ADMINISTRATIVE LAW JUDGE CHRISTINA M. SMITH  
PUBLIC UTILITY COMMISSION OF OREGON  
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and on July 21, 2004, I hereby certify that the foregoing document was electronically mailed to all Persons on the Service List maintained by the Public Utility Commission for the UM 1121 proceeding who had an e-mail address posted. I further certify that for those persons on the Service List who were not identified as having an e-mail address, a copy was sent by mail, contained in a sealed envelope, with postage paid, and deposited in the post office at Salem, Oregon on said day.

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