

Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com
Suite 400
333 S.W. Taylor
Portland, OR 97204

February 6, 2006

Via Electronic and US Mail

Public Utility Commission
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem OR 97308-2148

Re: In the Matter of MIDAMERICAN ENERGY HOLDINGS COMPANY
Application for Authorization to Acquire Pacific Power & Light, dba PacifiCorp
Docket No. UM 1209

Dear Filing Center:

Enclosed please find the original and six copies each of the Brief of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Please return one file-stamped copy of each document in the self-addressed, stamped envelope provided. Thank you for your assistance.

Sincerely,

/s/ Anna E. Studenny
Anna E. Studenny

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Brief of the Industrial Customers of Northwest Utilities upon the parties, shown below, on the official service list by causing the foregoing document to be deposited, postage-prepaid, in the U.S. Mail, or by service via electronic mail to those parties who waived paper service.

Dated at Portland, Oregon, this 6th day of February, 2006.

/s/ Anna E. Studenny
Anna E. Studenny

BRYAN CONWAY
PO BOX 2148
SALEM OR 97309-2148
bryan.conway@state.or.us

ALEXANDER, BERKEY, WILLIAMS & WEATHERS, LLP
CURTIS G BERKEY
2000 CENTER ST - STE 308
BERKELEY CA 94704
cberkey@abwwlaw.com

CITIZENS' UTILITY BOARD OF OREGON
LOWREY R BROWN
610 SW BROADWAY - STE 308
PORTLAND OR 97205
lowrey@oregoncub.org

CITIZENS' UTILITY BOARD OF OREGON
JASON EISDORFER
610 SW BROADWAY - STE 308
PORTLAND OR 97205
lowrey@oregoncub.org

COMMUNITY ACTION DIRECTORS OF OREGON
JIM ABRAHAMSON
COORDINATOR
PO BOX 7964
SALEM OR 97303-0208
jim@cado-oregon.org

DANIEL W MEEK ATTORNEY AT LAW
DANIEL W MEEK
ATTORNEY AT LAW
10949 SW 4TH AVE
PORTLAND OR 97219
dan@meek.net

DEPARTMENT OF JUSTICE
JASON W JONES
ASSISTANT ATTORNEY GENERAL
REGULATED UTILITY & BUSINESS SECTION
1162 COURT ST NE
SALEM OR 97301-4096
jason.w.jones@state.or.us

DEPARTMENT OF JUSTICE
JANET L PREWITT
ASST AG
1162 COURT ST NE
SALEM OR 97301-4096
janet.prewitt@doj.state.or.us

DEPARTMENT OF JUSTICE
MICHAEL T WEIRICH
ASSISTANT ATTORNEY GENERAL
REGULATED UTILITY & BUSINESS SECTION
1162 COURT ST NE
SALEM OR 97301-4096
michael.weirich@state.or.us

DEPT OF JUSTICE - GENERAL COUNSEL DIVISION
D KEVIN CARLSON
1162 COURT ST NE
SALEM OR 97301-4096
d.carlson@doj.state.or.us

ESLER STEPHENS & BUCKLEY

JOHN W STEPHENS
888 SW FIFTH AVE STE 700
PORTLAND OR 97204-2021
stephens@eslerstephens.com

KARUK TRIBE OF CALIFORNIA

BARBARA LEE NORMAN
ATTORNEY
PO BOX 657
YREKA CA 96097
bnorman@karuk.us

LEAGUE OF OREGON CITIES

ANDREA FOGUE
SENIOR STAFF ASSOCIATE
PO BOX 928
1201 COURT ST NE STE 200
SALEM OR 97308
afogue@orcities.org

MIDAMERICAN ENERGY HOLDINGS CO

DOUGLAS L ANDERSON
SENIOR VICE PRESIDENT
302 S 36 ST - STE 400
OMAHA NE 68131
danderson@midamerican.com

MUNGER, TOLLES & OLSEN, LLP

ROBERT DENHAM
355 SOUTH GRAND AVE
35TH FLOOR
LOS ANGELES CA 90071
robert.denham@mto.com

OREGON DEPARTMENT OF ENERGY

PHIL CARVER
625 MARION ST NE STE 1
SALEM OR 97301-3742
philip.h.carver@state.or.us

PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOC

GLEN H SPAIN
PO BOX 11170
EUGENE OR 97440-3370
fish1ifr@aol.com

PORTLAND GENERAL ELECTRIC

RATES & REGULATORY AFFAIRS
RATES & REGULATORY AFFAIRS
121 SW SALMON ST 1WTC0702
PORTLAND OR 97204
pge.opuc.filings@pgn.com

PUBLIC POWER COUNCIL

MARK THOMPSON
1500 NE IRVING ST - STE 200
PORTLAND OR 97232
mthompson@ppcpdx.org

KARUK TRIBE DEPT OF NATURAL RESOURCES

SANDI R TRIPP
PO BOX 1016
HAPPY CAMP CA 95546
stripp@karuk.us

KLAMATH OFF-PROJECT WATER USERS INC

EDWARD BARTELL
30474 SPRAGUE RIVER ROAD
SPRAGUE RIVER OR 97639

LEAGUE OF OREGON CITIES

CHRISTY MONSON
1201 COURT ST NE - STE 200
SALEM OR 97301
cmonson@orcities.org

MIDAMERICAN ENERGY HOLDINGS COMPANY

MARK C MOENCH
SENIOR VICE PRESIDENT—LAW
201 S MAIN ST - STE 2300
SALT LAKE CITY UT 84111
mcmoench@midamerican.com

NATURAL RESOURCES DEFENSE COUNCIL

RALPH CAVANAGH
SENIOR ATTORNEY
111 SUTTER ST FL 20
SAN FRANCISCO CA 94104
rcavanagh@nrdc.org

OREGON ENERGY COORDINATORS ASSOCIATION

JOAN COTE
2585 STATE ST NE
SALEM OR 97301
cotej@mwvcaa.org

PACIFICORP

ANDREA L KELLY
825 NE MULTNOMAH ST STE 800
PORTLAND OR 97232
andrea.kelly@pacificcorp.com

PORTLAND GENERAL ELECTRIC

DOUGLAS C TINGEY
121 SW SALMON 1WTC13
PORTLAND OR 97204
doug.tingey@pgn.com

RENEWABLE NORTHWEST PROJECT

ANN ENGLISH GRAVATT
917 SW OAK - STE 303
PORTLAND OR 97205
ann@rnp.org

RICHARDSON & O'LEARY
PETER J RICHARDSON
PO BOX 7218
BOISE ID 83707
peter@richardsonandoleary.com

UTILITY WORKERS UNION OF AMERICA
PO BOX 37
SAN CLEMENTE CA 92674-0037
uwua@redhabanero.com

WESTERN WIND POWER
PAUL WOODIN
282 LARGENT LN
GOLDENDALE WA 98620-3519
pwoodin@gorge.net

AF LEGAL & CONSULTING SERVICES
ANN L FISHER
ATTORNEY AT LAW
2005 SW 71ST AVE
PORTLAND OR 97225-3705
energlaw@aol.com

ATER WYNNE LLP
LISA F RACKNER
ATTORNEY
222 SW COLUMBIA ST STE 1800
PORTLAND OR 97201-6618
lfr@aterwynne.com

HOOPA VALLEY TRIBE FISHERIES DEPT
MICHAEL W ORCUTT
PO BOX 417
HOOPA CA 95546
director@pcweb.net

IDAHO POWER COMPANY
MAGGIE BRILZ
PRICING AND REGULATORY SERVICES
PO BOX 70
BOISE ID 83707-0070
mbrilz@idahopower.com

IDAHO POWER COMPANY
JOHN R GALE
VICE PRESIDENT, REGULATORY AFFAIRS
PO BOX 70
BOISE ID 83707-0070
rgale@idahopower.com

IDAHO POWER COMPANY
GREGORY W SAID
DIRECTOR, REVENUE REQUIREMENT
PO BOX 70
BOISE ID 83707
gsaid@idahopower.com

STOEL RIVES LLP
KATHERINE A MCDOWELL
900 SW FIFTH AVE STE 1600
PORTLAND OR 97204-1268
kamcdowell@stoel.com

UTILITY WORKERS UNION OF AMERICA
BERNARDO R GARCIA
215 AVENDIA DEL MAR - STE M
SAN CLEMENTE CA 92672
uwua@redhabanero.com

YUOK TRIBE
JOHN CORBETT
PO BOX 1027
KLAMATH CA 95548
jcorbett@yuroktribe.nsn.us

AMERICAN RIVERS
STEVE ROTHERT
409 SPRING ST - STE D
NEVADA CITY CA 95959
srothert@americanrivers.org

DAVIS WRIGHT TREMAINE
SARAH WALLACE
ATTORNEY AT LAW
1300 SW FIFTH AVENUE
SUITE 2300
PORTLAND OR 97201
sarahwallace@dwt.com

IBEW, LOCAL 125
NANCY HARPER
17200 NE SACRAMENTO
GRESHAM OR 97230
nancy@ibew125.com

IDAHO POWER COMPANY
JOANNE M BUTLER
PO BOX 70
BOISE ID 83707-0070
jbutler@idahopower.com

IDAHO POWER COMPANY
BARTON L KLINE
SENIOR ATTORNEY
PO BOX 70
BOISE ID 83707-0070
bkline@idahopower.com

KAFOURY & MCDUGAL
LINDA K WILLIAMS
ATTORNEY AT LAW
10266 SW LANCASTER RD
PORTLAND OR 97219-6305
linda@lindawilliams.net

MCKANNA BISHOP JOFFE & SULLIVAN LLP
ADAM S ARMS
1635 NW JOHNSON ST
PORTLAND OR 97209
aarms@mbjlaw.com

MORISSET, SCHLOSSER, JOZWIAK & MCGAW
THOMAS P SCHLOSSER
801 SECOND AVE - STE 1115
SEATTLE WA 98104-1509
t.schlosser@msaj.com

MULTNOMAH COUNTY
CHRIS CREAN
ASSISTANT COUNTY ATTORNEY
501 SE HAWTHORNE - STE 500
PORTLAND OR 97214
christopher.d.crean@co.multnomah.or.us

NORTHWEST ENERGY COALITION
STEVEN WEISS
SR POLICY ASSOCIATE
4422 OREGON TRAIL CT NE
SALEM OR 97305
weiss.steve@comcast.net

PORTLAND CITY OF - OFFICE OF CITY ATTORNEY
BENJAMIN WALTERS
1221 SW 4TH AVE - RM 430
PORTLAND OR 97204
bwalters@ci.portland.or.us

TROUT UNLIMITED
CHARLTON H BONHAM
828 SAN PABLO AVE
SUITE 208
ALBANY CA 94706
cbonham@tu.org

TROUT UNLIMITED
KAITLIN LOVELL
213 SW ASH ST - STE 205
PORTLAND OR 97204
klovell@tu.org

MORISSET, SCHLOSSER, JOZWIAK & MCGAW
THANE SOMERVILLE
801 SECOND AVE - STE 1115
SEATTLE WA 98104-1509
t.somerville@msaj.com

MORISSET, SCHLOSSER, JOZWIAK & MCGAW
ROB ROY SMITH
1115 NORTON BUILDING
801 SECOND AVENUE
SEATTLE WA 98104-1509
r.smith@msaj.com

NORRIS & STEVENS
DAVID E HAMILTON
621 SW MORRISON ST STE 800
PORTLAND OR 97205-3825
davidh@norrstev.com

NW ENERGY COALITION
219 FIRST ST STE 100
SEATTLE WA 98104
steve@nwenergy.org

PORTLAND CITY OF - OFFICE OF SUSTAINABLE DEV
SUSAN ANDERSON
721 NW 9TH AVE -- SUITE 350
PORTLAND OR 97209-3447
susananderson@ci.portland.or.us

TROUT UNLIMITED
BRIAN JOHNSON
825 SAN PABLO AVE
SUITE 208
ALBANY CA 94706
bjohnson@tu.org

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1209

In the Matter of)	
)	
MIDAMERICAN ENERGY HOLDINGS COMPANY)	BRIEF OF THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES
)	
Application for Authorization to Acquire Pacific Power & Light, dba PacifiCorp.)	
_____)	

Pursuant to the Oregon Public Utility Commission’s (“OPUC” or “Commission”) January 18, 2006 Bench Request, the Industrial Customers of Northwest Utilities (“ICNU”) submits this Brief regarding the Stipulation entered into between Mid-American Energy Holdings Company (“MEHC”), and Staff, ICNU, the Citizens Utility Board and other parties. The Commission has requested that the parties identify the harms discussed in their testimony, and the mitigating measures in the Stipulation that could potentially reduce those harms and provide benefits to Oregon ratepayers. This Brief addresses those issues and identifies some of the remaining potential harms of the application of MEHC to acquire PacifiCorp that are difficult to address with a specific merger condition. The Commission should recognize that the Stipulation is based on the unique record in this proceeding, represents a compromise in the positions of the parties, including ICNU, and is, in ICNU’s view, the minimum set of conditions necessary to meet the Commission’s net benefit standard.

1. Financial Stability and Common Equity

The Stipulation is intended to address the significant risk of harm to PacifiCorp's financial stability that could have occurred under MEHC's original proposal to acquire PacifiCorp. The MEHC original proposal could have harmed PacifiCorp's financial stability in numerous ways, including: 1) MEHC's weak credit rating and highly leveraged capital structure is a threat to PacifiCorp's financial health; and 2) the risk that Berkshire Hathaway could change its commitments to PacifiCorp and harm PacifiCorp's long-term health. ICNU/200, Gorman/2-12. In addition, MEHC's original proposal provided MEHC the opportunity to potentially manipulate the common equity ratio. Id. at Gorman/13-14.

The Stipulation includes ring-fencing conditions that improve on those included in MEHC's original application, help to potentially mitigate the threats to PacifiCorp's financial stability, and reduce the possibility that MEHC may manipulate PacifiCorp's common equity. Among other things, PacifiCorp and MEHC will have to maintain separate debt and stock, provide access to information, make commitments regarding dividends, and not request a higher cost of capital as compared to what PacifiCorp's cost of capital would have been. The Commission will be required to carefully monitor and enforce these provisions to ensure that they actually protect PacifiCorp and its ratepayers from potential financial instability and common equity manipulation. Finally, these ring-fencing conditions are an improvement over the existing ScottishPower ring-fencing provisions.

2. Rate Stability

Certain provisions of the Stipulation are intended to address the possibility that customers may face greater rate instability or rate increases under MEHC. The acquisition could harm ratepayers by increasing rates, charging customers the acquisition premium, and potentially damaging PacifiCorp's debt ratings. ICNU/200, Gorman/17-24. The Stipulation includes a provision designed to ensure that PacifiCorp will exclude the acquisition premium from utility rates, numerous commitments that PacifiCorp will not otherwise seek a higher revenue requirement, and short-term protection from a ratings downgrade related to Berkshire Hathaway. These commitments could adequately protect against some of the potential harms of MEHC ownership, if the Commission vigorously and effectively ensures that they are complied with.

3. Customer Benefits

In addition to the significant potential harms, ICNU's testimony stated that MEHC's application to acquire PacifiCorp did not include any meaningful benefits for customers. The commitments made by MEHC in its application and supporting testimony were primarily the continuation of existing PacifiCorp activities or new obligations that represented the minimum requirements of any prudent utility. ICNU/100, Canon/2. MEHC's application failed to include any rate credits and did not identify the benefits to individual states. Id.

The Stipulation significantly improves upon MEHC's application by providing for up to \$142.5 million in system-wide offsetable rate credits. Oregon is guaranteed to receive its pro rata share of these benefits. These benefits include the

removal of the high cost West Valley lease, and cost reductions related to corporate overheads, affiliate services, and A&G reductions. It is important to customers that MEHC has committed not to increase certain costs such as insurance and certain affiliate costs. Whether Oregon will benefit from these rate credits will depend on whether the Commission will carefully ensure that these rate credits are actually passed on to ratepayers.

4. Interstate Cost Allocation

A potential harm of the MEHC acquisition of PacifiCorp is the risk that Oregon ratepayers may be required to fund significant new transmission improvements that only benefit the Company's eastern control area. ICNU/300, Wolverton/2-7. The Stipulation does not address this concern and does not mitigate this potential harm. Instead, the Commission will be required to carefully review this and other unresolved interstate cost allocation issues in future PacifiCorp rate cases. Nonetheless, the Commission should review the Stipulation as a whole, and not reject the proposed acquisition on this basis. ICNU believes that, as an entire package, the Stipulation should be approved and is in the public interest.

Dated this 6th day of February, 2006.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

Melinda J. Davison
Irion Sanger
Davison Van Cleve, P.C.
333 SW Taylor, Suite 400
Portland, Oregon 97204
(503) 241-7242 phone
(503) 241-8160 facsimile
mjd@dvclaw.com
Of Attorneys for Industrial Customers
Of Northwest Utilities