

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM-1209

In the Matter of	)	BRIEF ON SETTLEMENT OF
	)	THE PACIFIC COAST
MIDAMERICAN ENERGY	)	FEDERATION OF FISHERMEN'S
HOLDINGS COMPANY	)	ASSOCIATIONS ("PCFFA")
	)	
Application for Authorization to Acquire	)	
Pacific Power & Light, dba PacifiCorp and	)	
To Exercise Substantial Influence Over the	)	
Policies and Actions of PacifiCorp	)	

Pursuant to the Bench Request of the Commission in this docket dated January 18, 2006, the Commission requested each party signing the Settlement Agreement and Stipulation to submit a brief identifying the harms discussed in its comments and testimony; the measures in the Stipulated Settlement that eliminate or reduce those harms; the benefits in the Stipulation that are within the Commission's jurisdiction, are not intended to mitigate harms and are not otherwise required by law nor or in the future; and to indicate the magnitude of the benefit and the basis for concluding that the Application meets the public interest standard set out in ORS 757.511.

PCFFA, as a party Intervenor, submits the following comments:

(1) PCFFA, in its comments and testimony, was concerned primarily with the impact of hydropower projects on the natural resource base and economy of the region, the financial ability of PacifiCorp to meet potentially expensive new FERC relicensing requirements in the Klamath Hydroelectric Project, PacifiCorp's ability, under new management, to meet existing settlement and relicensing conditions in others of PacifiCorp's hydroelectric projects in which settlements have been reached, and the

willingness of MEHC, as a new owner of PacifiCorp, to abide by existing FERC licensing settlement agreements.

(2) PCFFA negotiated and achieved two Oregon-specific provisions in the Settlement Agreement to address these issues, as follows:

“O-29. MEHC and PacifiCorp agree that once a FERC license is issued and (a) PacifiCorp either (i) affirmatively accepts the license, or (ii) is deemed to have accepted the license pursuant to the terms of the license and FERC rules and procedures, and (b) the license’s conditions are not subject to further appeals, PacifiCorp shall have the ability to fund implementation of all final license conditions. This provision is generally applicable, but also specifically applies to the following PacifiCorp hydropower projects: Klamath, Lewis River, and Prospect.”

“O-30. MEHC and PacifiCorp renew PacifiCorp’s commitment to implement the Condit (FERC No. 2342, settlement signed Sept. 22, 1999, amended Feb. 28th 2005), Lewis (FERC Nos. 935, 2071, 2111, 2213, settlement signed November 30, 2004) and Powerdale (FERC No. 2659, settlement signed June 26, 2003), settlement agreements. As circumstances evolve, PacifiCorp will continue to approach the agreements in a spirit of cooperation with other stakeholders and to attempt through constructive dialog with the parties to find ways to accomplish the goals identified in the agreements. MEHC and PacifiCorp agree to make reasonable attempts to accomplish the objectives of those agreements even in the face of changing circumstances, to the extent it is consistent with customer interests.”

(3) Oregon Provision O-29 could be characterized as merely restating a commitment that PacifiCorp already has by law, i.e., to meet its legal obligations under reissued FERC licenses for existing hydroelectric projects. However, we believe there is an incremental additional public benefit in MEHC, as a new owner, additionally affirming these prior commitments as well by way of this commitment. In addition, by ordering this provision the PUC clearly retains authority, should it ever become necessary, to inquire more carefully at any time as to just how PacifiCorp is managed so as to assure that it at all times retains the financial ability to fulfill these commitments. This provision thus serves as an additional “backstop” against potential future mismanagement and an additional protection of the public interest.

(4) Oregon Provision O-30 reiterates existing PacifiCorp commitments to ongoing settlements in several hydroelectric projects that are now being implemented. Again,

these commitments might be characterized as merely reiterating existing legal commitments. However, we believe there is an incremental additional public benefit in MEHC, as a new owner, newly affirming these prior commitments as well as affirming its commitment, as a new owner, to work cooperatively through PacifiCorp management to implement these existing commitments in an “adaptive” way under any changing circumstances. We believe that this reaffirmation by both PacifiCorp and MEHC provides an additional increment of public benefit that is significant.

(5) We believe that the net public benefits of Provisions O-29 and O-30, though admittedly small, are significant enough in terms of adding additional assurances to the public that PacifiCorp, under MEHC ownership, will meet its hydropower and FERC settlement obligations that when combined with other benefits identified in other provisions of the Settlement by other parties, this helps contribute toward a “net public benefit” under ORS § 757-511. We believe the Settlement is fair and reasonable as to these provisions, that these commitments help meet our concerns, and that they should be adopted in the Order.

(6) We take no position on other provisions of the Settlement Agreement, other than O-29 and O-30, and defer to the briefs of other parties on the issue of “net public benefit” from those other provisions.

Date: February 6, 2006

/s/ \_\_\_\_\_

Glen H. Spain, for PCFFA

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**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that on February 6, 2006, I filed the attached pleading by electronic mail as well as first class mail, postage prepaid, on all those who have not waived paper service listed on the Service List below, as well as original and requisite copies mailed by the PUC Filing Center for filing.

Date: Feb. 6, 2006

/s/ \_\_\_\_\_  
Glen H. Spain

**SERVICE LIST**

<b>W=Waive Paper service</b>	<b>Q=Confidential</b>	
		BRYAN CONWAY PO BOX 2148 SALEM OR 97309-2148 bryan.conway@state.or.us
<b>W</b>		<b>AF LEGAL &amp; CONSULTING SERVICES</b>  ANN L FISHER ATTORNEY AT LAW 2005 SW 71ST AVE PORTLAND OR 97225-3705 energlaw@aol.com
		<b>ALEXANDER, BERKEY, WILLIAMS &amp; WEATHERS, LLP</b>  CURTIS G BERKEY 2000 CENTER ST - STE 308 BERKELEY CA 94704 cberkey@abwwlaw.com
<b>W</b>		<b>AMERICAN RIVERS</b>  STEVE ROTHERT (Q) 409 SPRING ST - STE D NEVADA CITY CA 95959 srothert@americanrivers.org
		<b>ATER WYNNE LLP</b>  JESSICA GORHAM 222 SW COLUMBIA STE 1800 PORTLAND OR 97201 jac@aterwynne.com
		LISA F RACKNER (Q) ATTORNEY 222 SW COLUMBIA ST STE 1800 PORTLAND OR 97201-6618 lfr@aterwynne.com
		<b>CITIZENS' UTILITY BOARD OF OREGON</b>  LOWREY R BROWN (Q) 610 SW BROADWAY - STE 308 PORTLAND OR 97205 lowrey@oregoncub.org
		JASON EISDORFER (Q) 610 SW BROADWAY STE 308 PORTLAND OR 97205 jason@oregoncub.org

	<b>COMMUNITY ACTION DIRECTORS OF OREGON</b>	
	JIM ABRAHAMSON (Q) COORDINATOR	PO BOX 7964 SALEM OR 97303-0208 jim@cado-oregon.org
	<b>DANIEL W MEEK ATTORNEY AT LAW</b>	
	DANIEL W MEEK ATTORNEY AT LAW	10949 SW 4TH AVE PORTLAND OR 97219 dan@meeek.net
	<b>DAVISON VAN CLEVE PC</b>	
	MELINDA J DAVISON (Q)	333 SW TAYLOR - STE 400 PORTLAND OR 97204 mail@dvclaw.com
	MATTHEW W PERKINS (Q)	333 SW TAYLOR - STE 400 PORTLAND OR 97204 mwp@dvclaw.com
	<b>DEPARTMENT OF JUSTICE</b>	
	JASON W JONES (Q) ASSISTANT ATTORNEY GENERAL	REGULATED UTILITY & BUSINESS SECTION 1162 COURT ST NE SALEM OR 97301-4096 jason.w.jones@state.or.us
	JANET L PREWITT (Q) ASST AG	1162 COURT ST NE SALEM OR 97301-4096 janet.prewitt@doj.state.or.us
	MICHAEL T WEIRICH (Q) ASSISTANT ATTORNEY GENERAL	REGULATED UTILITY & BUSINESS SECTION 1162 COURT ST NE SALEM OR 97301-4096 michael.weirich@state.or.us
	<b>DEPT OF JUSTICE - GENERAL COUNSEL DIVISION</b>	
	D KEVIN CARLSON (Q)	1162 COURT ST NE SALEM OR 97301-4096 d.carlson@doj.state.or.us
	<b>ESLER STEPHENS &amp; BUCKLEY</b>	
	JOHN W STEPHENS (Q)	888 SW FIFTH AVE STE 700 PORTLAND OR 97204-2021 stephens@eslerstephens.com
<b>W</b>	<b>HOOPA VALLEY TRIBE FISHERIES DEPT</b>	
	MICHAEL W ORCUTT	PO BOX 417 HOOPA CA 95546 director@pcweb.net
<b>W</b>	<b>IBEW, LOCAL 125</b>	
	NANCY HARPER	17200 NE SACRAMENTO GRESHAM OR 97230 nancy@ibew125.com
	WILLIAM MILLER (Q) BUSINESS MANAGER	17200 NE SACRAMENTO GRESHAM OR 97230 bill@ibew125.com

<b>W</b>	<b>IDAHO POWER COMPANY</b>	
	MAGGIE BRILZ PRICING AND REGULATORY SERVICES	PO BOX 70 BOISE ID 83707-0070 mbrilz@idahopower.com
	JOANNE M BUTLER	PO BOX 70 BOISE ID 83707-0070 jbutler@idahopower.com
	JOHN R GALE VICE PRESIDENT, REGULATORY AFFAIRS	PO BOX 70 BOISE ID 83707-0070 rgale@idahopower.com
	BARTON L KLINE (Q) SENIOR ATTORNEY	PO BOX 70 BOISE ID 83707-0070 bkline@idahopower.com
	GREGORY W SAID DIRECTOR, REVENUE REQUIREMENT	PO BOX 70 BOISE ID 83707 gsaid@idahopower.com
	<b>INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES</b>	
	MICHAEL EARLY EXECUTIVE DIRECTOR	333 SW TAYLOR STE 400 PORTLAND OR 97204 mearly@icnu.org
<b>W</b>	<b>KAFOURY &amp; MCDOUGAL</b>	
	LINDA K WILLIAMS ATTORNEY AT LAW	10266 SW LANCASTER RD PORTLAND OR 97219-6305 linda@lindawilliams.net
	<b>KARUK TRIBE DEPT OF NATURAL RESOURCES</b>	
	SANDI R TRIPP (Q)	PO BOX 1016 HAPPY CAMP CA 95546 stripp@karuk.us
	<b>KARUK TRIBE OF CALIFORNIA</b>	
	BARBARA LEE NORMAN (Q) ATTORNEY	PO BOX 657 YREKA CA 96097 bnorman@karuk.us
	<b>KLAMATH OFF-PROJECT WATER USERS INC</b>	
	EDWARD BARTELL	30474 SPRAGUE RIVER ROAD SPRAGUE RIVER OR 97639
	<b>LEAGUE OF OREGON CITIES</b>	
	ANDREA FOGUE SENIOR STAFF ASSOCIATE	PO BOX 928 1201 COURT ST NE STE 200 SALEM OR 97308 afogue@orcities.org
	CHRISTY MONSON	1201 COURT ST NE - STE 200 SALEM OR 97301 cmonson@orcities.org
<b>W</b>	<b>MCKANNA BISHOP JOFFE &amp; SULLIVAN LLP</b>	
	ADAM S ARMS (Q)	1635 NW JOHNSON ST

		PORTLAND OR 97209 aarms@mbjlaw.com
	<b>MIDAMERICAN ENERGY HOLDINGS CO</b>	
	DOUGLAS L ANDERSON SENIOR VICE PRESIDENT	302 S 36 ST - STE 400 OMAHA NE 68131 danderson@midamerican.com
	<b>MIDAMERICAN ENERGY HOLDINGS COMPANY</b>	
	MARK C MOENCH SENIOR VICE PRESIDENT--LAW	201 S MAIN ST - STE 2300 SALT LAKE CITY UT 84111 mcmoench@midamerican.com
<b>W</b>	<b>MORISSET, SCHLOSSER, JOZWAIAK &amp; MCGAW</b>	
	THANE SOMERVILLE (Q)	801 SECOND AVE - STE 1115 SEATTLE WA 98104-1509 t.somerville@msaj.com
<b>W</b>	<b>MORISSET, SCHLOSSER, JOZWIAK &amp; MCGAW</b>	
	THOMAS P SCHLOSSER (Q)	801 SECOND AVE - STE 1115 SEATTLE WA 98104-1509 t.schlosser@msaj.com
	ROB ROY SMITH (Q)	1115 NORTON BUILDING 801 SECOND AVENUE SEATTLE WA 98104-1509 r.smith@msaj.com
<b>W</b>	<b>MULTNOMAH COUNTY</b>	
	CHRIS CREAN (Q) ASSISTANT COUNTY ATTORNEY	501 SE HAWTHORNE - STE 500 PORTLAND OR 97214 christopher.d.crean@co.multnomah.or.us
	<b>MUNGER, TOLLES &amp; OLSEN, LLP</b>	
	ROBERT DENHAM	355 SOUTH GRAND AVE 35TH FLOOR LOS ANGELES CA 90071 robert.denham@mto.com
	<b>NATURAL RESOURCES DEFENSE COUNCIL</b>	
	RALPH CAVANAGH (Q) SENIOR ATTORNEY	111 SUTTER ST FL 20 SAN FRANCISCO CA 94104 rcavanagh@nrdc.org
<b>W</b>	<b>NORRIS &amp; STEVENS</b>	
	DAVID E HAMILTON	621 SW MORRISON ST STE 800 PORTLAND OR 97205-3825 davidh@norrstev.com
<b>W</b>	<b>NORTHWEST ENERGY COALITION</b>	
	STEVEN WEISS SR POLICY ASSOCIATE	4422 OREGON TRAIL CT NE SALEM OR 97305 steve@nwenergy.org
<b>W</b>	<b>NW ENERGY COALITION</b>	

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

**OREGON DEPARTMENT OF ENERGY**

PHIL CARVER (Q)

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

**OREGON ENERGY COORDINATORS ASSOCIATION**

JOAN COTE (Q)

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

**PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOC**

GLEN H SPAIN (Q)

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

**PACIFICORP**

ANDREA L KELLY

825 NE MULTNOMAH ST STE 800  
PORTLAND OR 97232  
andrea.kelly@pacificorp.com

W

**PORTLAND CITY OF - OFFICE OF CITY ATTORNEY**

BENJAMIN WALTERS (Q)

1221 SW 4TH AVE - RM 430  
PORTLAND OR 97204  
bwalters@ci.portland.or.us

W

**PORTLAND CITY OF - OFFICE OF SUSTAINABLE DEV**

SUSAN ANDERSON

721 NW 9TH AVE -- SUITE 350  
PORTLAND OR 97209-3447  
susananderson@ci.portland.or.us

**PORTLAND GENERAL ELECTRIC**

RATES & REGULATORY AFFAIRS

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

DOUGLAS C TINGEY

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

**PUBLIC POWER COUNCIL**

MARK THOMPSON

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

**RENEWABLE NORTHWEST PROJECT**

ANN ENGLISH GRAVATT (Q)

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

	<b>RICHARDSON &amp; O'LEARY</b>	
	PETER J RICHARDSON	PO BOX 7218 BOISE ID 83707 peter@richardsonandoleary.com
	<b>STOEL RIVES LLP</b>	
	KATHERINE A MCDOWELL (Q)	900 SW FIFTH AVE STE 1600 PORTLAND OR 97204-1268 kamcdowell@stoel.com
<b>W</b>	<b>TROUT UNLIMITED</b>	
	CHARLTON H BONHAM	828 SAN PABLO AVE SUITE 208 ALBANY CA 94706 cbonham@tu.org
	BRIAN JOHNSON (Q)	825 SAN PABLO AVE SUITE 208 ALBANY CA 94706 bjohnson@tu.org
	KAITLIN LOVELL (Q)	213 SW ASH ST - STE 205 PORTLAND OR 97204 klovell@tu.org
	<b>UTILITY WORKERS UNION OF AMERICA</b>	
		PO BOX 37 SAN CLEMENTE CA 92674-0037 uwua@redhabanero.com
	BERNARDO R GARCIA	215 AVENDIA DEL MAR - STE M SAN CLEMENTE CA 92672 uwua@redhabanero.com
	<b>WESTERN WIND POWER</b>	
	PAUL WOODIN	282 LARGENT LN GOLDENDALE WA 98620-3519 pwoodin@gorge.net
	<b>YUROK TRIBE</b>	
	JOHN CORBETT	PO BOX 1027 KLAMATH CA 95548 jcorbett@yuroktribe.nsn.us