

**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: ISSUES LIST ESTABLISHED

On October 14, 2005, several parties in this docket submitted comments, including Industrial Customers of Northwest Utilities (ICNU), Citizens’ Utility Board of Oregon (CUB), Renewable Northwest Project (RNP), Natural Resources Defense Council (NRDC), Trout Unlimited and American Rivers, the Karuk Tribe,¹ the Hoopa Valley Tribe, the Public Power Council (PPC), the City of Portland, and Commission Staff (Staff). Supplemental testimony was submitted by Pacific Power & Light, dba PacifiCorp (PacifiCorp) on October 20, 2005. Additionally, oral comments were provided on October 25, 2005, by the following parties: CUB, ICNU, Community Action Directors of Oregon/ Oregon Energy Coordinators Association, Sherman County, RNP, NRDC, Trout Unlimited, Pacific Coast Federation of Fishermen’s Associations, the Karuk Tribe, PPC, Staff, PacifiCorp, and MidAmerican Energy Holdings Company (MEHC).

During the October 25 presentation of comments, the Commissioners expressed an interest in development of the factual record to support asserted benefits and harms of the Application and the contrasting comparator case. The Commission has acknowledged in the past that it is difficult to create a factual record about the future, but that it may “draw rational inferences of possible or actual harms that could affect [a utility] and its customers,” from a factual record, particularly about a company’s past performance. Order No. 05-114 at 21. Development of the factual record is essential in light of the legal obligation that the Commission establish a rational relationship between findings of fact and legal conclusions of whether the Application meets the requirements of ORS 757.511. *See id.* at 14. Argument by blunt assertion, without supporting facts,

¹ The comments of the Karuk Tribe were received by the Commission on October 17, due to a technical error with electronic filing. The comments were accepted and made part of the record.

cannot be used to support legal conclusions. For these reasons, in structuring their arguments, parties should plainly specify the topic, the argument, and the factual support for that argument, in three clearly identifiable pieces. This will facilitate decision making at the end of the case.

Based on parties' comments and supplemental testimony, the following issues have been preliminarily identified as subjects of concern in this docket:

1. Infrastructure and Resource Investments
 - a. Transmission and Resource Investments
 - i. Effect on Oregon ratepayers.
 - ii. Proposed annual four percent rate increases.
 - iii. Relationship with public power entities.
 - b. Renewable Resources and Energy Efficiency
 - i. Commitment to renewable resources.
 - ii. Effect on emissions.
 - iii. Community renewable energy projects.
 - iv. Proposed Demand Side Management study.
2. Financial Stability
 - a. Effect of MEHC ownership on credit ratings and cost of debt.
 - b. Acknowledgement and ability to pay possible liabilities pursuant to FERC relicensing of hydroelectric projects owned by PacifiCorp.
 - c. Effect of MEHC proposal on corporate overhead charges.
3. Customer Service
 - a. Service Quality Measures.
 - b. Other customer guarantees.
 - c. Assistance to low-income customers.
 - d. Public purpose funding under SB 1149.
4. Holding Company
 - a. Access to information in Oregon, especially in light of PUHCA repeal.
 - b. Effect of debt or acquisition premium on PacifiCorp finances.
 - c. Ability of OPUC to regulate Oregon portion of a multi-state utility.
5. Other Effects of the Proposed MEHC Transaction
 - a. Relocation of headquarters or personnel.
 - b. Effect of Berkshire Hathaway's influence on PacifiCorp.
 - c. Effect of MEHC and related companies' business models on PacifiCorp.
 - d. Management of hydroelectric resources.

This framework should be used by the parties to organize subsequent testimony and briefing. The subject headings are designed to be inclusive and not exclude any other related topics at this point in the proceeding. Ultimately, the Commission will consider only those issues that are relevant to the transaction, that are within the Commission's jurisdiction, and that pertain to whether the Application meets the legal standard under ORS 757.511.

The statutory legal standard requires “The applicant shall bear the burden of showing that granting the application is in the public interest.” ORS 757.511(3). That standard necessitates that “in addition to finding a net benefit to the utility’s customers, we must also find that the proposed transaction will not impose a detriment on Oregon citizens as a whole.” *See* Order No. 01-778 at 11. This requirement stands separately from the effects on the transaction on PacifiCorp’s system throughout six states. The comments made to date, raise concerns about the Application’s effect on PacifiCorp’s Oregon ratepayers and Oregonians in general, particularly in light of recent Commission cases. However, the record in this case is not yet fully developed, and the Commission must address each case on its own merits. The Commission looks forward to a more complete record on whether this Application benefits Oregon ratepayers and causes no harm to Oregonians as a whole.

Dated at Salem, Oregon, this 1st day of November, 2005.

Christina M. Smith
Administrative Law Judge