

ISSUED: October 17, 2005

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1209

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

This memorandum is to set another telephone conference to discuss the evidentiary dispute between Industrial Customers of Northwest Utilities (ICNU) and MidAmerican Energy Holdings Company (MEHC) and Pacific Power & Light, dba PacifiCorp (PacifiCorp). Upon further reflection, I have additional concerns about the timing of the resolution of the conflict and would like to speak with the parties.

On September 21, 2005, a telephone conference was held in this docket. The possibility of the need for additional protection was raised in light of suspected leaks of protected documents in other cases. MEHC and PacifiCorp filed their motion for additional protection three weeks later, on October 12, 2005.

On October 7, 2005, ICNU sent an electronic mail requesting a telephone conference to address “discovery issues.” The conference was held the afternoon of October 14, 2005. At that time, counsel for MEHC stated that it would be able to file an amended motion for additional protection on Monday, October 17, 2005, and recommended that the process should unfold from there. MEHC also stated that the parties should confer before proceeding with a formal motion to compel. Instead, I adopted a more expedited schedule to resolve the conflict, and I remain concerned that even that schedule does not permit intervenors’ witnesses enough time to assemble testimony by November 21, 2005.

In addition, ICNU suggested that the contested documents may be available for copying in other states, but not in Oregon. MEHC and PacifiCorp could not confirm whether that was true. It is unclear why documents would be available in this case in another jurisdiction, but not in Oregon. If the documents are available in another jurisdiction, they should be made available to parties in Oregon.

I appreciate the companies' concerns regarding the heightened confidentiality of certain documents. However, I am concerned with the delays and the possible prejudice to ICNU's ability to file testimony on November 21, 2005. These concerns have prompted the telephone call on Tuesday, October 18, 2005, to reexamine how to expeditiously resolve this dispute. Parties should be prepared to discuss efforts that were made to resolve this dispute prior to my intervention, the progress of their discussions, and suggestions for methods to resolve this dispute promptly.

A notice setting the telephone conference accompanies this memorandum.

Dated at Salem, Oregon, this 17th day of October, 2005.

Christina M. Smith
Administrative Law Judge