

10-10-2003

Ballot Measure Report Multnomah County Ballot Measures 26-51 & 26-52

City Club of Portland (Portland, Or.)

Let us know how access to this document benefits you.

Follow this and additional works at: http://pdxscholar.library.pdx.edu/oscdl_cityclub



Part of the [Urban Studies Commons](#), and the [Urban Studies and Planning Commons](#)

Recommended Citation

City Club of Portland (Portland, Or.), "Ballot Measure Report Multnomah County Ballot Measures 26-51 & 26-52" (2003). *City Club of Portland*. Paper 519.

http://pdxscholar.library.pdx.edu/oscdl_cityclub/519

This Report is brought to you for free and open access. It has been accepted for inclusion in City Club of Portland by an authorized administrator of PDXScholar. For more information, please contact pdxscholar@pdx.edu.

Published in the
City Club of Portland *Bulletin*
Vol. 85, No. 18
Friday, October 10, 2003



Ballot Measure Report

Multnomah County Ballot Measure 26-51:
Forms Multnomah County People's Utility District
and
Multnomah County Ballot Measure 26-52:
Authorizes Multnomah County People's Utility
District To Impose Special Levy

Your Committee Found:

Ballot Measures 26-51 and 26-52 are citizen initiatives attempting to create a publicly owned electric utility in Multnomah County, where two investor-owned utilities—Portland General Electric (PGE) and Pacific Power—currently serve most of Multnomah County.

Your committee can envision a scenario where a public power system in Multnomah County would be desirable, and given the uncertainty of PGE's future, this could appear to be an opportune time. However, the **majority of your committee** believes that Measures 26-51 and 26-52 are not the appropriate vehicles for achieving this aim. The ballot measures fail to adequately address a number of significant issues, including how the proposed power system would obtain reasonably priced electricity and the actual costs of acquiring power generation and distribution assets. Due to the presence of these and other unresolved issues, the majority of your committee recommends a "no" vote on both measures.

A **minority** of your committee believes that the risks of creating the proposed People's Utility District are outweighed by the risks of leaving the future of PGE in the hands of Enron's creditors and federal regulators. Your minority committee recommends taking a proactive risk by voting "yes" on Measure 26-51. The low cost of the engineering study also leads the minority to recommend a "yes" vote on Measure 26-52. The \$127,000 generated by Measure 26-52 would be sufficient to start a study of the feasibility of forming the proposed People's Utility District.

The City Club membership will vote on this report on Friday, October 10, 2003. Until the membership vote, the City Club of Portland does not have an official position on this report. The outcome of this vote will be reported in the City Club Bulletin dated October 24, 2003.

I. INTRODUCTION

Ballot Measure 26-51 will appear on the ballot as follows:

FORMS MULTNOMAH COUNTY PEOPLE'S UTILITY DISTRICT

QUESTION: Shall Multnomah County People's Utility District be formed?

SUMMARY: Creates Multnomah County People's Utility District (PUD) governed by a 5-member board elected from within the district. If approved, the PUD would include the entire geographic area of Multnomah County except:

- A. Interlachen People's Utility District
- B. Rockwood Water People's Utility District
- C. Townships and portions of townships with fewer electors than required under ORS 261.110(6) for inclusion in a PUD
- D. The area provided utility service by the City of Cascade Locks
- E. The portion of the City of Milwaukie that extends into Multnomah County on the County's southern border.

Ballot Measure 26-52 will appear on the ballot as follows:

AUTHORIZES MULTNOMAH COUNTY PEOPLE'S UTILITY DISTRICT TO IMPOSE SPECIAL LEVY

QUESTION: If formed, shall Multnomah County People's Utility District impose one-year special levy of \$.003 per \$1000 assessed value in 2004?

This measure may cause property taxes to increase more than three percent.

SUMMARY: This measure may be passed only at an election with at least a 50 percent voter turnout.

The measure authorizes the Multnomah County People's Utility District (PUD), if formed, to levy a tax of \$.003 per \$1000 of assessed valuation to finance an engineer's report on revenue bonds for acquisition or construction of the utility system and the cost of an election to authorize revenue bonds, if held.

The one-time levy raises a total of about \$127,000 to pay for the engineer's report. The levy for a house with an assessed value of \$150,000 would be about 45 cents.

The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate.

Report on Ballot Measures 26-51 and 26-52

Measures 26-51 and 26-52 were originally certified as Ballot Measure 26-49. The measure's chief petitioners successfully challenged the title of Measure 26-49 resulting in the two questions being presented as separate ballot measures. Measure 26-52, which would finance an engineering study if the People's Utility District (PUD) were formed, is dependent on the passage of Measure 26-51.

The City Club committee charged with studying Measures 26-51 and 26-52 was comprised of eight members who were screened to ensure that no member had an economic interest in the outcome of the study or had taken a public position on the subjects posed by the measures. Your committee met thirteen times between August 28 and September 12, 2003. During this time, your committee interviewed the measure's primary proponents and opponents, along with individuals knowledgeable about the electric utility industry. Your committee also reviewed existing City Club research, relevant articles, reports and other materials.

II. BACKGROUND

History of Public Power Proposals in Multnomah County

City Club of Portland has studied four previous ballot measures related to the creation of PUDs. A 1976 ballot measure attempted to enable the City of Portland to purchase certain Pacific Power and Light facilities to create a Municipal Power District using revenue bonds. In 1978, a measure was put before voters to simplify the procedures for establishing a PUD. In 1980, a measure similar to the current Measure 26-51 was put before voters to create a PUD in Multnomah County, and in 1998 Measures 26-7 and 26-8 proposed two People's Utility Districts. Voters rejected all of these measures. City Club issued the following recommendations to voters:

Table 1: Summary of Relevant City Club Positions

Election	Ballot Measure Description	City Club Recommendation
Measure 54 November 1976	Ordinance directing the city, following receipt of Bonneville Power service contract commitment, to purchase certain Pacific Power and Light Company electrical and steam heat facilities as a municipal system. The purchase to be financed solely by revenue bonds.	Vote "No"
Measure 4 November 1978	Allows single election authorizing People's Utility District formation, including authority for revenue bond issuance for initial facilities, subject to qualified engineer's certificate that district revenues will be sufficient to repay bonds. Shortens formation, annexation, consolidation procedures, substituting county governing body for State Energy Director. Authorizes PUDs to supply public utility service. Allows exclusion of electric cooperatives, municipalities. Protects some existing benefits for employees of acquired private utilities. General obligation bond issuance requires voter approval.	Vote "Yes"

City Club of Portland

Measure 11 November 1980	Approval of this Measure will form a People's Utility District governed by five elected directors in Multnomah County and authorize a special levy of \$250,000 for an engineer's report on the acquisition or construction of an electric utility system. The District will have the authority to condemn existing electrical utility properties and to issue voter approved bonds.	Vote "No"
Measures 26-7 and 26-8 May 1988	Shall Pioneer People's Utility District #1 (#2) be formed with the authority to impose a special levy of \$50,000 (\$75,000) for engineer's report?	Vote "No"

People's Utility Districts in Oregon

People's Utility Districts (PUDs) are regulated by Oregon law under Oregon Revised Statutes Chapter 261. PUDs are non-profit, public corporations authorized to generate, purchase and sell energy.¹ A board of five directors, elected to alternating four-year terms, governs each PUD; daily operation is the responsibility of a manager selected by the board. To pay start-up expenses, PUDs may levy a property tax not to exceed, in any one year, 1/20th of one percent of the real market value of all taxable property within the district nor the accumulation of one quarter of one percent over a ten-year period. The PUD's operating expenses are financed by proceeds from the sale of electricity, by revenue bonds authorized by voters or by levying limited property taxes in accordance with the state's constitution. Oregon law grants PUDs the power of eminent domain to acquire generation and transmission facilities, with the exception of thermal power plants. Due to their non-profit status, PUDs do not pay income taxes; however, they do pay property taxes.

Directors for the proposed Multnomah County PUD will be elected on the same November 2003 ballot as Measures 26-51 and 26-52. Although popularly elected, the directors must reside in a district where the majority of ballots are cast in favor of the creation of the PUD.

PUDs are primarily accountable to the voters within their territory, but they also must:

1. Use an accounting system prescribed by the Federal Energy Regulatory Commission;
2. File an annual report with the Director of the Department of Energy and county clerk in the form required by the Federal Energy Regulatory Commission; and
3. File a copy of an annual audit with the county clerk, Secretary of State and director of the Department of Energy.²

Report on Ballot Measures 26-51 and 26-52

Six PUDs currently operate in Oregon, providing approximately nine percent of the state's electricity.³ Two investor-owned electric utilities serve Multnomah County. Average residential rates for 2002 are shown below for these entities.

Table 2: Average Residential Electric Rates

Electric Utility	Average residential rates per kWh*
Tillamook PUD	7.97 cents
Northern Wasco County PUD	7.79 cents
Portland General Electric (PGE)	7.78 cents
Emerald PUD	7.40 cents
Columbia River PUD	6.80 cents
Pacific Power	6.38 cents
Central Lincoln PUD	5.90 cents
Clatskanie PUD	2.65 cents

* Data provided by Pacific Power. Includes Emerald PUD price changes through June 24, 2003. All other prices measured at November 2002 rates. Excludes local taxes and state mandated surcharges.

Investor-Owned Electric Utilities in Multnomah County

With minor exceptions, two privately owned utilities, Portland General Electric and Pacific Power, currently serve all of Multnomah County. Some assets of both companies could be condemned if the proposed PUD is formed. Both providers are subject to oversight from the Oregon Public Utility Commission (PUC), a three-member body appointed by the Governor. The PUC is responsible for regulating customer rates and services of Oregon's investor-owned electric and natural gas companies, certain telephone services and water utilities. The PUC is prohibited from providing these oversight functions to PUDs and municipally owned utilities, both of which are self-regulated by an elected board.

PGE's parent company, Enron, has filed for protection from its creditors under Chapter 11 of the federal bankruptcy code. As part of its efforts to obtain bankruptcy protection, Enron developed the "Enron Plan of Reorganization" (EPOR), which authorizes the company to create a PGE Trust and transfer all of PGE's stock into the trust for the purpose of managing, operating, holding and liquidating the respective assets.⁴

The City of Portland is currently participating in confidential negotiations with Enron's creditors to purchase PGE's assets in order to create a Municipal Power District. Enron's creditors rejected the City's only offer to date, reported to be \$2.2 billion. Independent of these ballot measures, the City of Portland is

³ Oregon People's Utility District Association, www.opuda.org/oregon-puds.html

⁴ Enron Plan of Reorganization 1.144, July 11, 2003

continuing to study methods of acquisition and exploring options with regional jurisdictions for the creation of a public entity to operate PGE. The City has the dominant power of eminent domain, meaning the City of Portland could not only condemn the assets of PGE, but also could condemn the assets of the proposed PUD, should it first acquire utility assets.

III. ARGUMENTS PRO AND CON

A. ARGUMENTS ADVANCED IN FAVOR OF THE MEASURES

Proponents of Measures 26-51 and 26-52 have issued the following arguments in support of the measures:

1. The proposed PUD would protect the assets of PGE from liquidation in bankruptcy and preserve them for the good of local ratepayers.
2. The proposed PUD would establish the foundation for a regional public power authority that could ultimately encompass the entire PGE system (attempts to form other PUDs in the region are underway).
3. The proposed PUD would offer lower rates due to its ability to purchase power from Bonneville Power Administration (BPA) at the Priority Firm Power Rate – the lowest rate available from BPA.
4. The proposed PUD would provide greater accountability than an investor-owned utility, through a locally elected board of directors charged with ensuring that the PUD operates for the benefit of ratepayers.
5. The proposed PUD would have the ability to raise money with lower financing costs than an investor-owned utility through the issuance of tax-exempt bonds for the acquisition of assets.
6. The proposed PUD would have lower operating costs than an investor-owned utility, and lower operating costs would translate into lower rates for customers (PUDs do not pay dividends or “exorbitant” executive salaries).
7. The proposed PUD could make special rate concessions in the public interest, unlike investor-owned utilities whose primary fiduciary responsibility is to shareholders.
8. The proposed PUD would benefit the communities it serves by contributing millions of dollars to the local economy instead of sending profits to out-of-state investors and shareholders.

Report on Ballot Measures 26-51 and 26-52

B. ARGUMENTS ADVANCED AGAINST THE MEASURES

Opponents of Measures 26-51 and 26-52 offer the following arguments against the measures:

1. The proponents have failed to provide credible business and operating plans that demonstrate the financial and operational feasibility of the proposed PUD.
2. The claim that the proposed PUD would result in lower rates or more reliable service is unsubstantiated.
3. The proposed PUD could face a potential shortage of wholesale electricity at reasonable rates.
4. Condemnation poses considerable legal and financial risks.
5. Fragmenting the existing utility system would present significant technical problems.
6. Performance records of PUDs in Oregon are mixed.
7. Formation of a PUD of this size and complexity has never been attempted in Oregon.
8. Multnomah County would gain an anti-business reputation if investor-owned utility assets are condemned.

IV. DISCUSSION

Following is an overview of what your committee understands to be the primary issues associated with the proposed PUD.

Public vs. Private Power

Proponents of Measures 26-51 and 26-52 claim that the proposed PUD would provide local control of local utilities, create more management accountability and result in decisions that benefit primarily ratepayers. Investor-owned companies also have boards of directors, though their board members are not required to reside in the area where the utility operates and may lack connections to the local community. Investor-owned companies are primarily responsible to their shareholders while PUDs are responsible to their customers.

City Club of Portland

Citizens Against the Government Takeover, the lead campaign opposing both ballot measures, states that PGE has been a "model corporate citizen," as evidenced by its donations of \$1.7 million per year to local charities and \$1.4 million for energy conservation programs in local schools. Opponents also note PGE's commitment to allocating approximately \$14.4 million annually to the Public Purpose Charge.^{5 6} The proposed PUD would have no obligation to continue supporting such programs. The opponents also state that PGE and Pacific Power support local communities through tax revenue that would cease if a PUD-operated utility were created.

Proponents counter by saying that a PUD would be required to pay property taxes as do investor-owned utilities. A report issued in June 2002 by the American Public Power Association showed that publicly owned utilities in the Pacific Northwest paid higher taxes and fees to local and state government than investor-owned utilities.⁷ The report showed that PUDs paid a median of 5.7% of their operating budget to local and state government, compared with investor-owned utilities, which paid a median 2.9%.

Proponents of the proposed PUD claim that public ownership of utilities keeps the revenue generated from the sale of energy within local communities. Profits would be returned to ratepayers as savings on their utility bills or used to fund free or reduced-cost services, renewable energy programs or other public services.

Opponents argue that approving the measures would send a strong message that Multnomah County is an unfriendly place to do business. Both PGE and Pacific Power have threatened to move their headquarters out of Multnomah County if Measures 26-51 and 26-52 pass. Opponents of the proposed PUD state that the loss of PGE's and Pacific Power's corporate presence following the loss of other corporate headquarters in recent years would be significant. Proponents claim the anti-business argument is not legitimate because investor-owned utilities are regulated monopolies, thus this is not a struggle between government and competitive private enterprise. Proponents further argue that the proposed PUD would be good for business because the lower rates promised by PUD supporters would benefit residents and businesses alike.

Opponents also state that a lack of utility management experience within the public sector is a major risk to the formation of a PUD. Proponents of the measures argue that management would not be a problem because many people currently working for PGE and Pacific Power could be recruited to operate the PUD. Proponents also mentioned that this is not the first time a PUD has been formed and that many resources are available to assist start-up PUDs.

⁵ Energy Trust of Oregon, Margie Harris, July 28, 2003

⁶ The Public Purpose Charge is a state-mandated charge of three percent of revenues collected from all retail customers of electric companies. Funds used for energy conservation, new market transformation efforts, above-market costs of renewable resources, and low-income weatherization.

⁷ Payments and Contributions by Public Power Distribution Systems to State and Local Governments (2000 data), June 2002, www.appanet.org

Report on Ballot Measures 26-51 and 26-52

Fragmentation of Services

PGE and Pacific Power currently serve a five-county region that includes Multnomah County. Opponents of the proposed PUD argue that creating a PUD in Multnomah County would create a "hole" in the five-county region that would be expensive and difficult to serve. Opponents, including recently retired chair of the Oregon Public Utility Commission, Roy Hemmingway, stated that serving this area would require either the installation of expensive metering equipment along the PUD borders or the termination of power lines extending across the borders.⁸ The opposition further notes that Oregon law requires a majority of voters in a municipality or separate parcel of territory to vote in favor of the PUD in order for that municipality or separate parcel of territory to be included in the PUD. For example, if Measure 26-51 passes overall in Multnomah County, but fails in Gresham, the city of Gresham would not be included in the PUD. The result of this legal requirement could be a highly fragmented system or "Swiss cheese effect," according to Multnomah County Commissioner Lisa Naito, who opposes the measures.

Your committee heard from opponents that a fragmented district would be costly and difficult to implement. In 1988, a ballot measure similar to the proposed PUD (Multnomah County Ballot Measures 26-7 and 26-8) prompted the City Club to state, "Creation of one or two PUDs would mean as many as four different providers of electricity within the city with potentially different rates and policies in each."⁹

Supporters state that the challenges of forming PUDs have been overcome previously. Emerald PUD, a rural district in Lane County serving fewer customers than Multnomah County, was required to work around other utility districts when it was formed. This was not a major problem with the formation of the district, according to Emerald PUD's general manager, Frank Lambe. While it did require a significant initial investment, in the end, it was economically viable, according to Lambe.

Condemnation vs. Open Market Purchase

ORS 261 gives a PUD the use of eminent domain to acquire "facilities for the distribution of energy within an affected territory."¹⁰ Proponents argue that condemnation is an important negotiation tool for acquisition of necessary power assets; however, power generation assets have never been successfully condemned in Oregon, and no record of a successful condemnation of transmission assets in Oregon was found either. The proposed Multnomah County PUD would share generation and transmission assets with other utility customers of BPA, thereby increasing the demand for low-cost BPA power and the likelihood that the PUD would need to buy more-expensive energy on the open market.

⁸ This is the opinion of Roy Hemmingway, not the official position of the PUC.

⁹ City Club of Portland Bulletin. Vol. 68, No. 50. p.306

¹⁰ ORS 261.327

City Club of Portland

■ Costs of Condemnation and Acquisition

If a legal ruling authorizes condemnation of PGE's and Pacific Power's assets by the proposed PUD, the entities being condemned are entitled to compensation based on the fair market value plus appropriate damages such as those resulting from the diminished value of the remaining assets. However, condemnation of an electric utility in Oregon typically has been settled out of court, but at considerable expense. Lambe stated that years of litigation made condemnation costly. Furthermore, if the condemnation is struck down, or if the entity being condemned receives a jury verdict higher than the pre-trial offer of the condemner, the condemner is responsible for the attorney and expert witness fees of the entity being condemned. According to material provided by the ballot measures' primary opponents, "recent Oregon condemnations involving distribution of assets have settled in a range of 1.5 to 2 times book value (assets less depreciation)."¹¹ Lambe claimed that Emerald PUD paid roughly two times book value in its acquisition. According to Brian Gard, a spokesperson for the opposition, the cost of acquiring only the distribution assets (lines and poles) would be at least \$1 billion.

■ Paying for Acquisition

The proposed PUD would likely fund acquisition of distribution assets by issuing municipal bonds.¹² According to Hemmingway, the Public Utility Commission can determine which acquisition costs an investor-owned utility can recover from its ratepayers.¹³ In contrast, the PUD would not be restricted from recovering all of the acquisition costs from ratepayers. If the condemnation process occurred under a court's guidance, the PUD could not take possession of the assets until the final judgment awarded in a jury trial had been paid.¹⁴ Although predicting the length of the delay is impossible, voters should not assume that a PUD could immediately take ownership of utility assets.

Availability and Cost of BPA Power

BPA is required by federal law to offer the Priority Firm Power Rate – the lowest rate available from BPA – to all publicly owned utilities. When BPA does not have sufficient hydroelectric power available to meet demand, it purchases the additional power on the open market and restructures rates for all customers – including the rates available to publicly owned utilities. PGE currently purchases a small portion of its power from BPA, and for this portion, generally pays higher prices than PUDs.

A key argument advanced by the proponents of Measures 26-51 and 26-52 is that the proposed PUD could purchase a major part of its power requirements from BPA at the Priority Firm Power Rate. Opponents are concerned that the PUD will face a shortage of wholesale electricity at reasonable rates. Proponents argue that BPA's power reserves are sufficient to meet the demands of the district included in the proposed PUD.

¹¹ This is the opinion of Roy Hemmingway, not the official position of the PUC.

¹² Furman, Don, Testimony of Pacific Power: Multnomah County PUD Feasibility Issues, April 7, 2003

¹³ Ibid.

¹⁴ Mowe, supra at note 10

Report on Ballot Measures 26-51 and 26-52

Liquidation of PGE Assets

On July 11, 2003 Enron submitted a bankruptcy plan known as Enron's Plan of Reorganization (EPOR) to the United States Bankruptcy Court, Southern District of New York. Article 1.143 of the plan calls for the creation of a PGE Trust "...to hold the Existing PGE Common Stock or the PGE Common Stock in lieu thereof." Article 1.144 of the Plan states that "...the PGE Trustee shall manage, administer, operate and liquidate the assets contained in the PGE Trust and distribute the proceeds thereof or the Existing PGE Common Stock or the PGE Common Stock, as the case may be." EPOR is contingent upon the approval of the U.S. Bankruptcy Court and the Creditors' Committee. In essence, EPOR lays out the various options by which Enron could dispose of PGE's assets.

Though the Enron bankruptcy plan allows for the break-up and sale of PGE's assets, and none of the witnesses interviewed by your committee contested the notion that PGE's assets *could* be sold separately, opponents of the proposed PUD deny that PGE's assets are *likely* to be sold separately as a result of the bankruptcy settlement. Dan Meek, representing the proponents, testified before your committee that the break-up and piecemeal liquidation of PGE assets is likely because it would yield the greatest financial return to the Enron's creditors. In fact, EPOR allows for alternate remedies, such as the distribution of PGE stock or the sale of all PGE assets to a single buyer, including a public entity.

Engineer's Report

If Measures 26-51 and 26-52 are approved by voters, the PUD's board of directors must hire a qualified engineering firm to prepare a report. Under ORS 261, a newly-formed PUD must obtain certification from a qualified engineer stating that district revenues will sufficiently cover the costs needed to acquire assets and operate the PUD. Based on the results of the engineer's report, the PUD's board would evaluate the merits of seeking voter approval for the issuance of bonds. ORS 261 does not set forth criteria or requirements for the engineer's report.

Measure 26-52 requests an assessment of .003% of the value of property, or about 45 cents per \$150,000 of value, to yield revenue of approximately \$127,000 to fund the engineer's report. All witnesses interviewed by your committee acknowledged that \$127,000 was insufficient to fully determine the feasibility of acquiring power distribution assets through condemnation. Proponents assert that an interested engineering firm would donate the additional services necessary to create an adequate engineer's report. Opponents suggest that the PUD board would be required to come back to voters for another tax levy to complete the report. Both sides agree the board would have the authority to put such a measure on the ballot.

V. MAJORITY CONCLUSIONS

Although the proponents have presented compelling arguments for the desirability of a publicly owned power system, the vehicles presented in Measures 26-51 and 26-52 contain serious flaws that the majority members of your committee believe would likely fail to produce the desired results. Your committee was specifically concerned with the following:

- Lack of specificity in the proposal: the petitioners have not developed their plan beyond the request for a ballot measure.
- Insufficient funding for the vital engineering report: the amount that would be generated by Measure 26-52 — \$127,000— is clearly inadequate and the petitioners' expectation of pro bono work from engineering firms was not supported with evidence.
- Consequences of fragmenting the existing system: the petitioners' intent to prevent Enron's creditors from fragmenting the PGE system is muted by the fact that the proposed PUD could fragment both PGE and Pacific Power systems. In doing so, the PUD could create a costly and inefficient electrical system for Multnomah County and create unnecessary problems for PGE and Pacific Power customers outside the PUD.

Current law restricts the type and capacity of generating assets that a PUD can acquire through condemnation, along with the expenses related to acquisition. This led your committee to further question the proposed PUD's reliance on inexpensive, readily available power sources— sources that may in fact not be inexpensive or readily available.

Three times in the last 30 years similar proposals have been put before voters and all have been rejected. In 2003, however, the unknown outcome of Enron's bankruptcy proceedings adds a new dimension to the debate about publicly owned power. The majority of your committee is concerned that Enron and its creditors may not act in the best interest of PGE ratepayers and has weighed these concerns against the risks presented by the creation of the proposed PUD. The continuing attempts by the City of Portland to acquire PGE was also a factor your committee considered, believing that the outcome of these measures will affect the City's negotiations. In fact, if the measures pass and a PUD is formed, the City could exercise its dominant power of eminent domain and condemn the assets of the PUD.

The majority believes that under the right circumstances, a publicly owned power system could provide stable and competitively priced electricity. Yet, designing a system that guarantees reliable and affordable power and is also politically and financially viable is difficult to achieve. The majority of your committee concluded that the system proposed in Measures 26-51 and 26-52 does not meet these criteria.

Report on Ballot Measures 26-51 and 26-52

VI. MAJORITY RECOMMENDATIONS

The majority of your committee recommends a "no" vote on Measure 26-51 and Measure 26-52. Recognizing the potential value and desirability of a publicly owned power system in the Portland metropolitan area, your committee also recommends that City Club form a committee to further explore public and private power options and make recommendations that would lead to stable and affordable power.

Respectfully submitted by your majority committee,

Robert Geary
Edward Gronke
Jonathan Hutchison
Morgan O'Toole-Smith
Alec Schreck
Alexander Stange
Jonathan Hart, *chair*

VII. MINORITY CONCLUSIONS

■ Measure 26-51

A minority of your committee recommends a "yes" vote on Measure 26-51. The primary reason for voting "yes" is that formation of the PUD would safeguard PGE's assets from liquidation in bankruptcy. Creating a public power entity now would help secure the long-term stability of power in Multnomah County by ensuring that future utility bankruptcies and price manipulation scandals do not occur locally. Furthermore, the formation of this PUD could create the basis for a regional power authority that may ultimately encompass the entire PGE system. The proposed PUD would be managed by a locally elected board of directors bringing a level of local accountability that cannot be attained with investor-owned utilities whose primary responsibility is to shareholders. In addition, the PUD would contribute millions of dollars to the local economy instead of sending these profits to out-of-state investors and shareholders, as is currently done by PGE and Pacific Power.

The minority does not dispute the many risks inherent with the creation of a PUD; however, significant risks must also be considered if the PUD is not formed. It is the minority opinion that the risks incurred by doing nothing outweigh those incurred by forming the PUD. While the formation of a PUD could create a fragmented system by splitting existing service territories from surrounding counties, a similar risk of Multnomah County being left with a dysfunctional system would exist if the PUD were not formed. Should Enron's creditors choose to liquidate PGE's assets to repay creditors, a piecemeal sell-off of assets including generation and servicing equipment could result.

City Club of Portland

While there is also a risk that the formation of a PUD could send an anti-business message to existing and prospective businesses in Multnomah County, voters must make the distinction between competitive businesses and regulated utilities such as PGE and Pacific Power, which are monopolies in their service territories. Businesses have already been harmed by power industry scandals, and they could be further harmed if PGE's assets are liquidated. Businesses have as much to gain as residents from the long-term stability and local ownership that would be possible with the proposed PUD.

Opponents have pointed to significant legal and financial risks that could occur should a PUD try to acquire the assets of PGE through condemnation. While this risk is real, the many pending lawsuits against PGE and Enron—and the potential of others if liquidation is used to repay creditors—present serious financial and legal risks if the PUD is not formed. Either way, legal costs will be passed on to ratepayers.

Opponents also claim considerable operational risk in creating a PUD due to the PUD's presumed lack of utility management experience. This risk is mitigated by the fact that hundreds of PUDs operate successfully across the country, including the Northwest where PUDs serve one-third of the state of Washington and six PUDs operate in Oregon.

Voters should ask themselves what type of risk they are willing to take – reactive or proactive. The minority opinion of this committee is that voters should be proactive, take matters into their own hands, and vote to form the proposed Multnomah County PUD. Similar PUD proposals have been on the ballot in Multnomah County three times in the past 30 years. Your committee heard testimony from witnesses opposed to the proposed PUD that said this would have been a good idea if we had done it 70 years ago. What is the likelihood that 70 years from now, when even more people live in Multnomah County, we will be saying the same thing? Power is a commodity that government must ensure. Your minority committee recommends taking a long-term vision and voting "yes" on Measure 26-51.

▪ **Measure 26-52**

Your minority committee recommends a "yes" vote on Measure 26-52 to fund a \$127,000 engineering study. While some critics say this amount is too little to adequately determine the feasibility of a PUD in Multnomah County, your minority committee recognizes that this is a starting point and that enough information will be gathered to take the next steps. The formation of a PUD is a long process. The Columbia River PUD took 20 years after it was formed to begin operations. This initial engineering study is an important first step, and the cost to taxpayers for the initial study is minimal. The assessed tax on a house valued at \$150,000 is a mere 45 cents – a small price to pay to begin creating a stable, accountable, locally owned and affordable source of public power.

Report on Ballot Measures 26-51 and 26-52

VIII. MINORITY RECOMMENDATIONS

Your minority recommends a "yes" vote on Measures 26-51 and 26-52. The minority joins the majority in recommending that City Club further study public and private power options.

Respectfully submitted by your minority committee,

Pete Jacobs

For the full committee:

Kirstin Greene, *Research Advisor*

B.J. Seymour, *Research Advisor*

Wade Fickler, *Research Director*

IV. ACKNOWLEDGEMENTS

Your committee expresses a great deal of gratitude to Wade Fickler, research director, and B.J. Seymour and Kirstin Greene, research advisors, for their steady and patient guidance through this intense process.

X. APPENDICES

■ WITNESS LIST

Steve Johnson, Executive Director, Washington Public Utility District Association

Frank Lambe, General Manager, Emerald People's Utility District

Brian Gard, President/CEO, Gard and Gerber, representing Citizens Against the Government Takeover

Jim Hulden, Senior Account Manager, Gard and Gerber, representing Citizens Against the Government Takeover

Roy Hemmingway, Chair of the Oregon Public Utilities Commission (retired September 2003)

Dan Meek, Attorney, representing Oregon Public Power Coalition

Erik Sten, Portland City Commissioner

Lisa Naito, Multnomah County Commissioner

Agnes Sowle, Multnomah County Attorney

Steve Oliver, Vice President of Bulk Power Marketing, Bonneville Power Administration

Robin Freeman, Executive Director, Oregon People's Utility District Association

City Club of Portland

■ RESOURCE MATERIALS

Report on Ballot Measure 54: City Purchase, Certain Pacific Power Facilities, City Club of Portland Bulletin, Vol. 57, No. 21, October 22, 1976.

Report on Ballot Measure 4: Shortens Formation Procedures on People's Utility Districts, City Club of Portland Bulletin, Vol. 59, No. 23, October 27, 1978.

Report on Ballot Measure 11: Formation of a People's Utility District in Multnomah County, City Club of Portland Bulletin, Vol. 61, No. 21, October 22, 1980.

Report on Ballot Measures 26-7 and 26-8: Formation of a People's Utility Districts No.1 and No. 2, City Club of Portland Bulletin, Vol. 68 No. 50, May 17, 1988.

Oregon Electric Rates - 2002, Oregon Public Power Coalition.

Federal Court Says Bankruptcy allows Sale of Utility Assets out from under State Regulation, Press Release, Oregon Public Power Coalition, November 30, 2001.

Enron's Bankruptcy 'Plan' For PGE: Keep It at Least Until 2005, Or Maybe Sell the Assets, Press Release, Utility Reform Project, July 11, 2003.

Report on the Proposed Multnomah County People's Utility District, Oregon Office of Energy, April 18, 2003.

"Plan A (Acquisition by Public) v. Plan B (Bankruptcy Path)," Dan Meek, July 22, 2003.

Letter to Senator Kate Brown, Margie Harris, Energy Trust of Oregon, Inc., July 28, 2003.

Oregon Revised Statutes Chapter 261—People's Utility Districts.

Mowe, Gregory R., Stoel Rives LLP, testimony before the Oregon Office of Energy April 7, 2003.

Furman, Don, Senior Vice President of Regulation & External Affairs, Pacific Power testimony before the Oregon Office of Energy, April 7th, 2003.

Enron Corp, et. al, Chapter 11, Case No. 01-16034 (AJG), United States Bankruptcy Court, Southern District of New York, July 11, 2003.

Various articles, *The Oregonian* and *Portland Tribune*.