

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: MAY 16, 2017

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: May 9, 2017

TO: Public Utility Commission

FROM: Mitchell Moore *in pm*

THROUGH: *E* Jason Eisdorfer and *E for MH* Marc Hellman

SUBJECT: PACIFICORP: (Docket No. UI 381) Requests Approval of Affiliated Interest Transactions with Environment One Corp.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve PacifiCorp's (Company) application for approval of affiliated interest transactions with Environment One Corp (Environment One), an affiliated interest, subject to the following conditions:

1. PacifiCorp shall notify the Commission of any substantive changes to the transactions, including any material changes in price or other parameters. Any such changes shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
2. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, all transactions entered into with Environment One Corp.

ISSUE:

Whether the Commission should approve the Company's application to approve ongoing affiliated interest transactions, for the purchase of various parts, supplies and services used by PacifiCorp's large thermal generation plants.

APPLICABLE LAW:

An "affiliated interest," as defined in ORS 757.015(3), includes every corporation five percent or more of whose voting securities are owned by a corporation or person that

also owns, or is part of a successive chain of ownership, five percent or more of the voting securities of a public utility. Berkshire Hathaway's ownership interest in both PacifiCorp and Environment One qualifies Environment One as an affiliated interest of PacifiCorp.

Transactions between affiliated interests must be recorded at the lower of cost or market rate. OAR 860-027-0048(4)(e). OAR 860-027-0040 provides the Commission's application requirements for transactions between affiliated interests. Further, the Commission may waive any rule for good cause shown. OAR 860-001-000(2).

The Commission reviews affiliated interest transactions to ensure they are fair and reasonable and not contrary to the public interest. ORS 757.495(3).

DISCUSSION:

Background

PacifiCorp filed this application with the Commission on October 24, 2016, pursuant to ORS 757.495(1) and OAR 860-027-0040. PacifiCorp is an indirect, wholly-owned subsidiary of Berkshire Hathaway Energy Company, a subsidiary of Berkshire Hathaway, Inc. (Berkshire Hathaway). Environment One is a wholly-owned indirect subsidiary of Precision Castparts Company, (Precision) which was acquired by Berkshire Hathaway in January of 2016. Therefore Environment One is an affiliated interest of PacifiCorp.

Environment One provides PacifiCorp with certain mechanical parts, supplies, and services used by PacifiCorp's large thermal generation plants, including vacuum pumps, cloud chamber assemblies and collector analysis, and cleaning and repair services. PacifiCorp has purchased these items and services from Environment One for several years before Berkshire Hathaway acquired Precision, the company that wholly owns Environment One. PacifiCorp desires to continue using Environment One as one of its generation parts and services suppliers. These parts and services are purchased via purchase orders, in the same manner as other supplies purchased through PacifiCorp's procurement department.

Analysis

Staff reviewed the Company's application, including the six purchase orders for the purchase of parts and services from Environment One that were submitted with the application, as well as issuing several data requests. Staff investigated the following issues:

1. Terms and Conditions of the Transaction;
2. Transfer Pricing;
3. Public Interest Compliance; and
4. Records Availability, Audit Provisions, and Reporting Requirements.

Terms and Conditions of the Transactions

The purchase orders for services and supplies included with the Company's application lists the items or services purchased, quantity and amounts. The purchase orders also state that Environment One must supply products and services at or below the same price that it sells those products and services to other customers.

Additionally, the purchase order contains standard terms and conditions that address issues such as warranty, insurance, and governing law for the contract. Staff did not identify any unexpected or unusual terms or conditions in the purchase order.

Transfer Pricing

PacifiCorp is purchasing the supplies and services with its standard purchase order. The pricing varies depending on what is being purchased, and PacifiCorp states that it purchases parts and services from Environment One on an as-needed basis, to use in its fleet of generation plants. As such, there is no set dollar amount for these purchases, but PacifiCorp has historically purchased approximately \$110,000 of parts and services on average per year, and anticipates future purchase levels will be similar. On an Oregon-allocated basis, this amount is approximately \$29,300 annually.

OAR 860-027-0048(e) requires that the utility record the transactions at the lower of the affiliate's cost or market rate. The language in the purchase orders state that Environment One must supply products and services at or below the price that it sells similar goods or services to other customers. In response to a data request, the Company states that it has no information about Environment One's cost to provide the parts and services, but that Environment One is the original equipment manufacturer of its generator condition monitoring equipment and is the only company that can provide replacement parts. PacifiCorp is unable to obtain the needed goods and/or services from another potential supplier.

Staff agrees with the Company that it is both cost effective and necessary to continue purchasing replacement parts and services from Environment One. Therefore, Staff recommends a waiver of the affiliated interest transaction rule pursuant to OAR 860-001-0000(2).

Public Interest

The Commission customarily applies a “no harm” standard in determining what is “not contrary to the public interest” in matters involving affiliated interest transactions. See, e.g., *In the Matter of a Legal Standard for Approval of Mergers*, Order No. 01-778 (Docket No. UM 1011). The Company continuing to purchase certain parts and services from Environment One under a standard purchase order, and in the same manner as it has done historically will not cause harm to customers, but instead will allow the Company to continue providing safe and reliable service Oregon customers. Staff finds that these transactions are in the public interest.

Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that the Commission retains the ability to review all affiliated transactions of the Company through both its annual affiliated interest report and in general rate case filings. Staff’s recommended conditions provide for all necessary Commission examination of PacifiCorp’s records concerning this transaction.

CONCLUSION:

Based on the review of this application, Staff concludes:

1. The purchase order does not appear to contain any unexpected or unusual terms or conditions;
2. The transfer pricing is fair and reasonable;
3. The transaction is not contrary to the public interest; and,
4. Necessary records are available and will reported annually.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp’s application for approval of ongoing affiliated interest transactions with Environment One subject to Staff’s recommended conditions.