

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 22, 2018

REGULAR CONSENT EFFECTIVE DATE _____ N/A

DATE: May 9, 2018

TO: Public Utility Commission

FROM: Scott Gibbens *SG*

THROUGH: Jason Eisdorfer *JE* and John Crider *JC*

SUBJECT: PACIFIC POWER: (Docket No. UI 396) Requests Approval of an Affiliated Interest Agreement with Ferron Canal and Reservoir Company.

STAFF RECOMMENDATION:

The Commission should approve PacifiCorp's (PacifiCorp or Company) Application Requesting Approval of an Affiliate Interest Transaction with Ferron Canal and Reservoir Company (FCRC), subject to the following conditions:

1. The Company shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to any transactions with FCRC.
2. The Commission reserves the right to review, for reasonableness, all financial aspects of this transaction in any rate proceeding or alternative form of regulation.
3. PacifiCorp shall notify the Commission in advance of any substantive changes to the contract, including any material change in price. Any such change shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's Application Requesting Approval of an Affiliate Interest Transaction with FCRC (Application), related to the provision of water supply to the Hunter Power Plant.

Applicable Rule

"Affiliated interest," as defined in ORS 757.015, includes every corporation five percent or more of whose voting securities are owned by any corporation or person owning at least five percent of the voting securities of a public utility or by any person or corporation in any chain of successive ownership of at least five percent of voting securities of the utility. See ORS 757.015(3). ORS 757.495 requires a public utility to seek approval of contracts with affiliated interests within 90 days after execution of the contract. The required process for submitting an agreement for review by the Commission is set forth in ORS 757.015(2) and OAR 860-027-0040.

ORS 757.495(3) provides that the Commission may approve an affiliated interest agreement if the agreement is fair and reasonable and not contrary to the public interest. Under OAR 860-027-0048(4)(e), for cost allocation purposes, "[w]hen services or supplies (except for generation) are sold to an energy utility by an affiliate sales shall be recorded in the energy utility's accounts at the approved rate if an applicable rate is on file with the Commission or with FERC. If services or supplies (except for generation) are not sold pursuant to an approved rate, sales shall be recorded in the energy utility's accounts at the affiliate's cost or the market rate, whichever is lower." The Commission need not determine the reasonableness of all financial aspects of the contract for ratemaking purposes, but, rather, may reserve that issue for subsequent proceedings. See Commission Order No. 11-071.

Analysis

PacifiCorp owns 37 percent of the outstanding water stock in FCRC. FCRC holds water rights in the Ferron Creek drainage, of which PacifiCorp is entitled to a proportionate amount of FCRC's water right entitlements. PacifiCorp does not hold a typical equity interest in the entity, but made this filing out of an abundance of caution as its ownership in FCRC may be deemed an affiliated interest as defined in ORS 757.015.

FCRC is a non-profit mutual irrigation company, which is a privately owned water stock company. PacifiCorp and FCRC have had an agreement in place beginning in

November of 1974 (Agreement). The third amendment will extend the term of the Agreement through November of 2058 with provisions to end the arrangement earlier should PacifiCorp close operations at the Hunter plant. The water supply provided by the Agreement has been utilized to operate the Hunter plant since it began operations in the early 1970s.

In addition to reviewing the Company's Application, including attachments, Staff investigated the following issues in considering whether the Agreement is fair, reasonable, and not contrary to the public interest:

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

Terms and Conditions of the Agreement

Staff reviewed the Agreement, dated November 1974, between Ferron Canal and Reservoir Company and PacifiCorp, as well as the recent amendment, and has no issues or concerns with the terms and conditions of the Agreement, as amended. Staff found the terms to be common and commensurate with other agreements.

Transfer Pricing

Staff reviews the pricing in order to verify the "lower of cost or market" standard as set forth in OAR 860-027-0048(4)(e). Staff notes that the price of the water right remains indexed to the wholesale price index for all commodities prepared by the Bureau of Labor Statistics. As such, the price has not changed since the inception of the Agreement in 1974 except for inflationary reasons. Staff finds that the price agreed to between the non-profit FCRC and PacifiCorp to be fair and reasonable.

Public Interest Compliance

Water supply is a vital part of power generation at coal plants. PacifiCorp states that the Ferron Creek drainage is the only viable option to provide water supply in the area. Without the Agreement, PacifiCorp would not be able to effectively operate the plant in order to provide safe and reliable power to customers.

This Agreement serves the public interest by ensuring PacifiCorp obtains necessary supplies for its coal-fired base load generation plants.

Records Availability, Audit Provisions and Reporting Requirements

Order Condition Number 1, listed above in the Staff recommendation, affords the necessary Commission examination of PacifiCorp's records concerning this Application.

Conclusion

Based on the review of the Application, Staff concludes:

1. The Application concerns an affiliated interest agreement that Staff concludes is fair and reasonable and not contrary to the public interest with inclusion of the proposed ordering conditions; and
2. Necessary records are available.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's Application for Approval of an Affiliated Interest Agreement with FCRC, subject to the conditions recommended by Staff.