



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

April 9, 2018

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-3398

Attn: Filing Center

RE: UP ___ —PacifiCorp's Application for Approval of the Sale of Property

PacifiCorp d/b/a Pacific Power encloses for filing its Application for an Approval of Certain Agreements with Tinium Group, LLC.

As described in the enclosed application, PacifiCorp respectfully requests Commission approval by May 23, 2018, to facilitate full execution of the proposed agreements.

Confidential information in support of this application is provided under OAR 860-001-0070.

PacifiCorp respectfully requests that all data requests regarding this matter be addressed to:

By E-Mail (preferred): datarequest@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah Street, Suite 2000
Portland, Oregon, 97232

Please direct any informal inquiries regarding this filing to me at (503) 813-6583.

Sincerely,

Natasha Siores
Manager, Regulatory Affairs

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UP _____

In the Matter of

PACIFICORP d/b/a PACIFIC POWER

Application for Approval of Certain Agreements
with Tinium Group, LLC

**PACIFICORP’S APPLICATION
FOR APPROVAL**

Under ORS 757.480(1)(a) and in accordance with OAR 860-027-0025, PacifiCorp d/b/a Pacific Power (PacifiCorp) seeks approval from the Public Utility Commission of Oregon (Commission) of its proposed sale of certain coal inventory from time to time (which, in all cases after the initial sale of the coal inventory described below, will be followed by a PacifiCorp buy-back of the same chemically treated coal), and the licensing of a portion of power plant real property, pursuant to the terms and conditions set forth in various agreements between PacifiCorp and Tinium Group, LLC (collectively, together with Tinium’s tax equity investors, special purpose entities, or affiliates, which may execute one or more of the agreements, referred to herein as Tinium), all non-affiliates.

PacifiCorp intends to enter into a Pre-Closing Coal Inventory Purchase Agreement, a Coal Feedstock Purchase Agreement, a Refined Coal Supply Agreement, a Coal Handling and Consulting Agreement (Coal Handling Agreement), and a License and Services Agreement (License Agreement), in each case with Tinium (collectively, the Agreements), all relating to a refined coal production facility qualified to generate tax credits under Section 45 of the U.S. Internal Revenue Code, provided that the refined coal produced meets certain

UP _____—PacifiCorp’s Application for Approval

mercury and nitrogen oxide emissions reduction criteria. The facility will be installed at PacifiCorp's Hunter power plant located in Utah. PacifiCorp and Tinium wish to execute the Agreements as soon as possible to deliver as much benefit to PacifiCorp's customers as possible. As described in detail below, the Agreements as proposed will result in net benefits to PacifiCorp customers through lower fuel expense included in net power costs. PacifiCorp respectfully requests the Commission approve the disposition and licensing transactions no later than May 23, 2018. In support of this Application, PacifiCorp states the following:

I. BACKGROUND

Tinium is an energy technology systems company based in Colorado that provides refined coal technology to enhance coal combustion and reduce mercury and nitrogen oxide emissions from coal-fired electricity generation plants. PacifiCorp owns property near Castle Dale, Utah, which is associated with its three-unit coal-fired Hunter power plant (Hunter). PacifiCorp and Tinium identified an opportunity to install refined coal facilities on the Hunter property. Tinium would install a refined coal treatment facility that would "straddle" approximately 6 feet of the moving incoming coal feedstock conveyor belt at the Hunter plant, so that a treatment can be applied as the coal is transported to the plant on the coal conveyor belt. Tinium would also install a small service building to support the refining equipment, which would also house tanks of the proprietary refined coal chemical treatment.

Under the transaction, PacifiCorp would sell to Tinium an initial amount of coal to establish a refined coal processing "stockpile," under the Pre-Closing Coal Inventory Purchase Agreement. Thereafter, PacifiCorp would sell to Tinium, from time to time, additional feedstock coal to allow Tinium to produce refined coal for the Hunter plant. Title to the feedstock coal would pass from PacifiCorp to Tinium, during which period Tinium

would treat the coal by spraying it with its proprietary refined coal chemical processes as the coal travels on the conveyor belt, and then, after treatment, Tinum would sell the refined coal back to PacifiCorp. The price for the feedstock coal sale to Tinum and refined coal purchase from Tinum will be nearly identical, as described below.

The initial stockpile sale of coal from PacifiCorp to Tinum is a disposition of utility property under ORS 757.480. The ongoing feedstock sale to Tinum would likely also be deemed a disposition of utility property under ORS 757.480, even though such sales are all followed by nearly immediate re-purchase of the refined coal by PacifiCorp resulting in a near-net zero difference. The site license is arguably not a disposition of utility assets under ORS 757.480 given that it is an access right only, but is mentioned here for completeness.

The entire transaction is structured to qualify for tax credits under Section 45 of the U.S. Internal Revenue Code, which provides a federal tax credit through 2021 to Tinum for the production and sale of refined coal that achieves certain reductions to mercury and nitrogen oxide or sulfur dioxide emissions (as compared to the emissions from unrefined or feeder coal).

PacifiCorp and Tinum have fashioned agreements for the purchase and sale of coal to allow for sufficient coal storage and inventory to be refined, as well as real estate access and license agreements to provide Tinum the ability to install the necessary facilities on PacifiCorp's real estate to refine the coal. PacifiCorp will receive benefits through the Coal Handling Agreement and the License Agreement for hosting Tinum's facilities at Hunter, as described in more detail below.

PacifiCorp is a joint owner of the Hunter plant with Deseret Power Electric Cooperative, Utah Associated Municipal Power Systems, and Utah Municipal Power Agency

(collectively, the Joint Owners). The Joint Owners do not have an ownership interest in the Hunter plant coal inventory, and will not be affected by the Pre-Closing Coal Inventory Purchase, Coal Feedstock Purchase, and Refined Coal Supply Agreements between PacifiCorp and Tinum. Each quarter, as outlined in the License Agreement and Coal Handling Agreement, PacifiCorp will receive a payment from Tinum equal to \$ [REDACTED] per ton of refined coal, and will credit the Joint Owners according to provisions contained in the joint owner agreements. PacifiCorp's ownership share of Hunter plant is 85 percent.

II. AGREEMENTS

The purpose of the Pre-Closing Coal Inventory Purchase Agreement, Coal Feedstock Purchase Agreement, Refined Coal Supply Agreement, Coal Handling Agreement, and the License Agreement is to allow Tinum to install the refined coal processing facility, purchase the initial coal inventory stockpile, refine the coal, sell the refined coal immediately back to PacifiCorp, and compensate PacifiCorp for its Coal Handling services. As described in the Agreements, PacifiCorp will sell feedstock coal at cost to Tinum, and Tinum will sell refined coal to PacifiCorp at its weighted average price per ton for feedstock coal, resulting in a near-zero net difference in price. Further, PacifiCorp will receive \$ [REDACTED] per ton of refined coal from the Coal Handling Agreement (\$ [REDACTED]) and the License Agreement (\$ [REDACTED]). This credit will result in a net reduction in PacifiCorp's cost of fuel. A copy of the Pre-Closing Inventory Purchase Agreement, Coal Feedstock Purchase Agreement, Refined Coal Supply Agreement, Coal Handling Agreement and the License Agreement are included hereto as Confidential Attachment A, Confidential Attachment B, Confidential Attachment C, Confidential Attachment D, and Confidential Attachment E, respectively. The Agreements contain commercially-sensitive information including financial terms, which if

disclosed, could expose PacifiCorp and its customers to harm. Therefore, PacifiCorp submits Confidential Attachments A, B, C, D, and E as confidential in accordance with OAR 860- 001-0070.

Pre-Closing Coal Inventory Purchase Agreement (Confidential Attachment A)

The Pre-Closing Coal Inventory Purchase Agreement provides for the purchase and sale of an initial inventory of feedstock coal (Initial Stockpile) from PacifiCorp to Tinum. The amount of the Initial Stockpile will be determined by the parties prior to closing, but in any event, will not exceed 100,000 tons. Title and risk of loss of the Initial Stockpile will pass from PacifiCorp to Tinum. The purchase price of the Initial Stockpile will be PacifiCorp's book value of the coal as of the close of business on the last day of the calendar month immediately preceding the date of purchase. Tinum will pay PacifiCorp for the Initial Stockpile at the purchase price determined by the book value.

Coal Feedstock Purchase Agreement (Confidential Attachment B)

The Coal Feedstock Purchase Agreement will provide for the ongoing purchase and sale of feedstock coal from PacifiCorp to Tinum. PacifiCorp will sell to Tinum feedstock coal as reasonably requested by Tinum to facilitate the operation and production of refined coal. There is no minimum purchase requirement, and the quantity of feedstock coal sold to Tinum will not exceed PacifiCorp's demand for fuel at the Hunter plant. The price for such feedstock coal is the quality-adjusted price per ton incurred by PacifiCorp for such delivered coal.

Refined Coal Supply Agreement (Confidential Attachment C)

This agreement contains the terms for the purchase of refined coal from Tinum to PacifiCorp, and, in situations where no refined coal is produced, untreated feedstock coal.

PacifiCorp agrees to purchase from Tinum refined coal based on the weighted average cost of the feedstock coal used to produce such refined coal. The Refined Coal Supply Agreement would expire at the end of the federal tax-credit period in late 2021.

The terms for the Coal Feedstock Purchase and Refined Coal Supply Agreements are designed to expire at the end of the federal tax-credit period in late 2021. Based on forecasted estimates, PacifiCorp will sell approximately 13.5 million tons of coal to Tinum at the quality-adjusted price per ton incurred by PacifiCorp over the course of the terms of the Agreements. PacifiCorp will then re-purchase the refined coal from Tinum at Tinum's weighted average price per ton, resulting in an approximate net-zero difference. PacifiCorp intends to net the receivables and payables for the sale and purchase of the feedstock coal and refined coal.

Coal Handling Agreement (Confidential Attachment D)

This agreement requires PacifiCorp to provide coal yard and support services to Tinum. These services include inventory management, preparation and handling services with respect to Tinum's coal in the coal yard. Tinum will pay PacifiCorp a fee of [REDACTED] for each ton of refined coal sold back to PacifiCorp.

License Agreement (Confidential Attachment E)

The License Agreement (License Agreement) provides a non-exclusive site license for Tinum's facilities to sit adjacent to the coal conveyor belts feeding the Hunter plant boilers and minimal space in the coal yard on which Tinum's other facilities will be located. The License Agreement also grants Tinum a license to access their facilities on the site and contains standard provisions related to Tinum's use and maintenance of the property, including specific requirements for the removal of the facilities when the contract term

expires. The License Agreement also contains specific provisions related to the protection and additional liability of working near the Hunter plant. Tinum has agreed to pay PacifiCorp a fee of \$ [REDACTED] per each ton of refined coal sold back to PacifiCorp in consideration of the access license granted. PacifiCorp will credit the Joint Owners according to provisions contained in the joint owner agreements.

The term of the License Agreement is commensurate with the Refined Coal Supply Agreement, with exception for the removal of Tinum's facilities on the property. In accordance with the terms of the License Agreement and Coal Handling Agreement, Tinum will pay to PacifiCorp, in quarterly payments over the term of the contract, \$ [REDACTED] per ton of refined coal. PacifiCorp estimates the transactions will result in an approximate benefit of \$ [REDACTED] million (PacifiCorp share) over the approximate three-and-one-half year term. This benefit is reflected as reduced fuel expense included in PacifiCorp's net power costs.

Hunter is classified as "Steam Production Land" and is system-allocated. The value of the coal refining project to Oregon will be approximately \$ [REDACTED] million over the approximate three-and-one-half year term. As more fully explained below, this transaction will not affect PacifiCorp's ability to provide safe, reliable electric service to its customers.

III. COMPLIANCE WITH OAR 860-027-0025(1) FILING REQUIREMENTS

A. Name and Address

PacifiCorp's exact name and address of its principal business office are:

PacifiCorp
825 NE Multnomah Street
Portland, OR 97232

B. State in which incorporated; date of incorporation; other states in which authorized to transact utility business

PacifiCorp is a corporation organized and existing under and by the laws of the State of Oregon. PacifiCorp’s date of incorporation is August 11, 1987. PacifiCorp is authorized to provide retail electric service in Oregon, California, Idaho, Utah, Washington, and Wyoming.

C. Communications and notices

All notices and communications with respect to this application should be addressed to:

Jeffery B. Erb
Chief Corporate Counsel and Corporate Secretary
PacifiCorp
825 NE Multnomah Street, Suite 1800
Portland, OR 97232
Telephone: (503) 813-5029
Email: jeff.erb@pacificorp.com

PacifiCorp Oregon Dockets
825 NE Multnomah Street, Suite 2000
Portland, OR 97232
Email:
OregonDockets@pacificorp.com

Additionally, PacifiCorp respectfully requests that all data requests regarding this matter be addressed to:

By e-mail (**preferred**) datarequest@pacificorp.com

By regular mail
Data Request Response Center
PacifiCorp
825 NE Multnomah St., Suite 2000
Portland, OR 97232

Informal inquiries should also be directed to Natasha Siores, Manager, Regulatory Affairs at (503) 813-6583.

D. Principal officers

| NAME | TITLE |
|--------------------|---|
| William H. Fehrman | Chairman of the Board & Chief Executive Officer of PacifiCorp |
| Cindy A. Crane | President & Chief Executive Officer, Rocky Mountain Power |

| | |
|------------------|---|
| Stefan Bird | President & Chief Executive Officer, Pacific Power |
| Nikki L. Kobliha | Vice President, Chief Financial Officer & Treasurer |

E. Description of business; designation of territories served

PacifiCorp engages in the generation, purchase, transmission, distribution, and sale of electric energy in Benton, Clackamas, Clatsop, Coos, Crook, Deschutes, Douglas, Gilliam, Hood River, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wallowa, Wasco, and Washington Counties in Oregon. PacifiCorp also engages in the generation, purchase, transmission, distribution, and sale of electric energy in the states of California, Idaho, Utah, Washington, and Wyoming.

F. Statement showing for each class and series of capital stock: brief description; amount authorized; amount outstanding; amount held as required securities; amount pledged; amount owned by affiliated interests; amount held in any fund

Not applicable. This transaction does not involve the sale of financial instruments or PacifiCorp capital stock.

G. Statement showing for each class and series of long-term debt and notes: brief description of amount authorized; amount outstanding; amount held as required securities; amount pledged; amount held by affiliated interests; amount in sinking and other funds

Not applicable. This transaction does not involve the sale of long-term debt or notes.

H. Purpose of application; description of consideration and method of arriving at amount thereof

The purpose of this application is to satisfy ORS 757.480 and OAR 860-027-0025. PacifiCorp intends to sell coal inventory and feedstock coal, purchase refined coal, and grant access to Tinum to install facilities at the Hunter plant. The Coal Feedstock Agreement and the Refined Coal Supply Agreement set forth terms by which PacifiCorp will sell coal inventory to Tinum at quality-adjusted price per ton incurred by PacifiCorp for such

delivered coal, and then purchase refined coal from Tinum at Tinum's weighted average price per ton. PacifiCorp will net the receivables and payables for the sale and purchase of the feedstock and refined coal. The price of Tinum's coal inventory will be included in Tinum's weighted average cost, potentially creating a minimal difference in the monthly price per ton for the sale and purchase of feedstock coal and refined coal under these agreements.

Under the License Agreement, Tinum agrees to pay PacifiCorp \$ [REDACTED] per refined ton of coal for the opportunity to construct facilities and access the site to refine the coal and under the Coal Handling Agreement Tinum agrees to pay \$ [REDACTED] per refined ton of coal to provide inventory management, preparation and handling services. The terms of the License Agreement protect PacifiCorp's right to access and use the property in its provision of reliable electric service to its customers. PacifiCorp reviewed the market value of the property in conjunction with other refined coal deals, and based on refined coal industry observations, determined that the \$ [REDACTED] per refined ton of coal price was higher than average compensation for similar activities.

PacifiCorp files this application to obtain Commission approval of the utility asset dispositions described in this application.

I. Statement of facilities to be disposed of; description of present use and proposed use; inclusion of all operating facilities of parties to the transaction

The coal inventory proposed to be sold and re-purchased is on site at Hunter, in Emery County, Utah. Coal will be sold to Tinum and re-purchased after the coal has been refined. The License Agreement allows Tinum to place facilities on the Hunter property to refine the purchased coal. The facilities include an office trailer, electrical room, feed skid, mixing building, maintenance building and two spray skirts over the coal conveyor belt. The

facilities will occupy approximately 0.40 acres, and will not interfere with the operation of the Hunter plant. Executing these Agreements will not interfere with PacifiCorp's ability to provide reliable service to its customers.

J. Statement by primary account of cost of the facilities and applicable depreciation reserve

The applicable book value of the 0.40 acres of the Hunter plant licensed to Tinuum is less than \$200.00 and is included in FERC Account 310 (Land and Land Rights).

The applicable book value of the coal inventory being sold to Tinuum is variable and will fluctuate through the term of the Agreements. PacifiCorp estimates it will sell approximately 13.5 million tons of coal to Tinuum. Using the average weighted price per ton of coal at February close (\$32.298) and the approximate tons sold (13.5 million), PacifiCorp estimates the total value of the coal sale to be \$436 million over the approximate three-and-one-half year term and is included in FERC Account 151.112 (Coal Inventory).

K. Required filings with other state or federal regulatory bodies

PacifiCorp conducted a review of state and federal regulations and found no required applications at this time to any other federal or state regulatory body with respect to this transaction.

L. Facts relied upon by applicant to show transaction is in the public interest

ORS 757.480 requires Commission pre-approval for sales of property necessary and useful in the performance of a utility's duties to the public with a value in excess of \$100,000. OAR 860-027-0025(1)(l) requires PacifiCorp to show that such a proposed sale is "consistent with the public interest." The Commission has previously held that this standard

requires a “no harm” showing.¹ Under the Agreements, Tinnuum can construct and maintain facilities on the property to refine the coal, while providing additional cash revenue to PacifiCorp for “hosting” the coal refinement. The terms of the Agreements protect PacifiCorp’s assets and right to access and use the Hunter plant in its provision of reliable electric service to its customers. Entering into the Agreements will not harm customers. As described above, the Agreements as proposed will result in net benefits to PacifiCorp customers through lower fuel expense included in net power costs.

M. Reasons relied upon for entering into the proposed transaction; benefits to customers

Please refer to sections H. and L. above, as well as the Background section.

N. Amount of stock, bonds, or other securities, now owned, held or controlled by applicant, of the utility from which stock or bonds are proposed to be acquired

Not applicable. This transaction does not involve the sale of stock or other financial instruments.

O. Statement of franchises held; date of expiration; facilities of transferees

Not applicable. The transaction will not affect PacifiCorp’s Oregon service territory in any way.

¹ See, e.g., *In the Matter of a Legal Standard for Approval of Mergers*, Docket No. UM 1011, Order No. 01-778 (Sept. 4, 2001) (“The remainder of the statutory scheme, those statutes governing transfer, sale, affiliated interest transactions, and contracts, either expresses no standard (for instance, ORS 757.480, .485) and has been read to require a no harm standard, or contains a ‘not contrary to the public interest’ standard (ORS 757.490, .495.)”) (emphasis added); *In the Matter of the Application of PacifiCorp*, Docket No. UP 168, Order No. 00-112, at 6 (Feb. 29, 2000) (regarding the sale of the Centralia generating plant); *In the Matter of Portland General Electric*, Docket No. UP 158, Order No. 00-111, at 2 (Feb. 29, 2000) (regarding the sale of the Colstrip generating units); *In the Matter of the Application of Portland General Electric*, Docket Nos. UP 165/UP 170, Order No. 99-730, at 7 (Nov. 29, 1999) (regarding the sale of the Centralia generating plant).

IV. COMPLIANCE WITH OAR 860-027-0025(2) FILING REQUIREMENTS

A. Exhibit A—Articles of Incorporation

Not applicable. Review of the Articles of Incorporation would not advance the Commission’s analysis of this Application because the subject transaction involves the conveyance of utility property and does not affect PacifiCorp’s corporate structure or governance.

B. Exhibit B—Bylaws

Not applicable. Review of PacifiCorp’s bylaws would not advance the Commission’s analysis of this application because the subject transaction involves the conveyance of utility property and does not affect the company’s corporate structure or governance.

C. Exhibit C—Resolution of directors authorizing transaction

Not applicable. This transaction did not require approval from PacifiCorp’s board of directors.

D. Exhibit D—Mortgages, trust, deeds or indentures securing obligation of each party

Not applicable.

E. Exhibit E—Balance sheet showing booked amounts, adjustments to record the proposed transaction and pro forma, with supporting fixed capital or plant schedules in conformity with the forms in the annual report

Not applicable. The transaction will not materially affect the company’s balance sheet.

F. Exhibit F—Known contingent liabilities

There are no known contingent liabilities associated with this transaction.

G. Exhibit G—Comparative income statements showing recorded results of operations, adjustments to record the proposed transaction and pro forma, in conformity with the form in the annual report

Not applicable. The transaction will not materially affect the company's income statement.

H. Exhibit H—Analysis of surplus for the period covered by income statements referred to in G

Not applicable. The transaction will not materially affect the company's income statement.

I. Exhibit I—Copy of contract for transaction and other written instruments

A copy of each of the Agreements is included with this application as Confidential Attachment A, Confidential Attachment B, Confidential Attachment C, Confidential Attachment D, and Confidential Attachment E, respectively.

J. Exhibit J—Copy of each proposed journal entry to be used to record the transaction

At the time of the sale of coal inventory to Tinum, PacifiCorp will debit the Account Receivable Other account (FERC account 143.6 A/R Other) for the appropriate sale amount, and credit the Coal Inventory account (FERC account 151.112 Coal Inventory) the same amount. Upon re-purchase of refined coal from Tinum, PacifiCorp will debit the Coal Inventory account (FERC account 151.112 Coal Inventory) for the coal purchase amount, and credit Account Receivable Other account (FERC account 143.6 A/R Other) the same amount. Also upon re-purchase of refined coal from Tinum, PacifiCorp will debit the Accounts Receivable Other account (FERC account 143.6 A/R Other) for the license and coal handling amount, and credit the Coal Consumed account (FERC account 501 Coal Consumed) the same amount.

K. Exhibit K—Copy of each supporting schedule showing the benefits, if any, which each applicant relies upon to support the facts required by (1)(l) of this rule and reasons as required by (1)(m)

This application and attachments contain the necessary information to demonstrate the benefits of this transaction and upon which the Commission can base its decision. However, the company is prepared to provide additional information as requested by the Commission.

V. PRAYER FOR RELIEF

PacifiCorp respectfully requests a Commission order (1) finding that the utility asset dispositions described herein and governed by the proposed Agreements, as described herein, will not harm PacifiCorp's customers and are consistent with the public interest; and (2) granting such other relief as the Commission deems necessary and proper. Approval of this transaction is respectfully requested by May 23, 2018 to facilitate full execution of the Agreements.

Respectfully submitted this 9th day of April, 2018,

By:



Jeffery B. Erb
Chief Corporate Counsel and Corporate Secretary

CONFIDENTIAL ATTACHMENT A
PRE-CLOSING INVENTORY PURCHASE AGREEMENT

**THIS ATTACHMENT IS CONFIDENTIAL
IN ITS ENTIRETY AND IS PROVIDED
UNDER SEPARATE COVER**

CONFIDENTIAL ATTACHMENT B
COAL FEEDSTOCK PURCHASE AGREEMENT

**THIS ATTACHMENT IS CONFIDENTIAL
IN ITS ENTIRETY AND IS PROVIDED
UNDER SEPARATE COVER**

CONFIDENTIAL ATTACHMENT C
REFINED COAL SUPPLY AGREEMENT

**THIS ATTACHMENT IS CONFIDENTIAL
IN ITS ENTIRETY AND IS PROVIDED
UNDER SEPARATE COVER**

CONFIDENTIAL ATTACHMENT D
COAL HANDLING AGREEMENT

**THIS ATTACHMENT IS CONFIDENTIAL
IN ITS ENTIRETY AND IS PROVIDED
UNDER SEPARATE COVER**

CONFIDENTIAL ATTACHMENT E
LICENSE AGREEMENT

**THIS ATTACHMENT IS CONFIDENTIAL
IN ITS ENTIRETY AND IS PROVIDED
UNDER SEPARATE COVER**