



825 NE Multnomah, Suite 2000  
Portland, Oregon 97232

September 12, 2016

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
Salem, OR 97301-1166

Attn: Filing Center

**RE: UI \_\_\_ —PacifiCorp's Application Requesting Approval of an Affiliate Interest Transaction with BNSF Railway Company.**

PacifiCorp d/b/a Pacific Power encloses for filing its Application Requesting Approval of an Affiliate Interest Transaction with BNSF Railway Company.

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

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

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

Please direct informal inquiries with respect to this filing to Natasha Siores at (503) 813-6583.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bryce Dalley".

R. Bryce Dalley  
Vice President, Regulation

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UI \_\_\_\_\_

In the Matter of the Application of,  
PACIFICORP d/b/a Pacific Power,  
Requesting Approval of an Affiliated  
Interest Agreement with BNSF Railway  
Company.

**APPLICATION OF PACIFICORP**

1           In accordance with ORS 757.495(1) and OAR 860-027-0040, PacifiCorp d/b/a  
2 Pacific Power (PacifiCorp or Company) requests approval from the Public Utility  
3 Commission of Oregon (Commission) for the Customer Requested Work Agreement entered  
4 into by and between Burlington North Santa Fe Railway Company (BNSF) and PacifiCorp  
5 (Agreement). The Agreement relates to PacifiCorp’s performance of service line  
6 maintenance at BNSF’s request, including the relocation of certain service and metering to a  
7 new railroad signal crossing cabinet location. A copy of the Agreement is included with this  
8 Application as Attachment A. The Company respectfully requests that the Commission  
9 approve the Agreement as an affiliated interest agreement.

10 **I. Background**

11           PacifiCorp is a wholly-owned indirect subsidiary of Berkshire Hathaway Energy  
12 Company (BHE). BHE is a subsidiary of Berkshire Hathaway, Inc. (Berkshire Hathaway).  
13 BNSF is also a subsidiary of Berkshire Hathaway, Inc. “Affiliated interest,” as defined in  
14 ORS 757.015(3), includes every corporation five percent or more of whose voting securities  
15 are owned by any corporation or person owning five percent of the voting securities of a  
16 public utility or in any successive chain of ownership of a public utility. Berkshire

1 Hathaway’s ownership interest in PacifiCorp through BHE, and ownership interest in BNSF,  
2 qualifies BNSF as an affiliated interest of PacifiCorp.

3 Klamath County, Oregon has made plans to widen a county road that is adjacent to  
4 BNSF’s property. As a result of the road widening project, one of BNSF’s current signal  
5 crossing cabinets must be moved to the other side of the road. BNSF requires Pacific Power  
6 to perform the service line maintenance required to move the signal crossing cabinet.

7 Pacific Power uses standardized pricing for these types of agreements. BNSF will  
8 pay Pacific Power \$2,486 for the work performed under the Agreement. Completing the  
9 service line maintenance as set forth in the Agreement is in the public interest because it  
10 allows Pacific Power to install and maintain facilities necessary to provide electric service  
11 and to meet its obligation to provide safe and reliable electric service. If the service line  
12 maintenance to be performed under the Agreement was not completed, Pacific Power would  
13 not be able to meet its obligation to provide electric service. As the relevant utility, Pacific  
14 Power is the only entity that can provide the required services to BNSF.

15 With this Application, the Company requests Commission authorization to engage in  
16 business transactions with BNSF under the terms and conditions of the Agreement.

17 **II. Compliance with OAR 860-027-0040 Filing Requirements**

18 **A. Address**

19 The Company’s name and address of its principal business office are:

20 PacifiCorp  
21 825 NE Multnomah Street  
22 Portland, OR 97232

1                   **B.       Communications and Notices**

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

3           PacifiCorp Oregon Dockets	Jeffery B. Erb
4           825 NE Multnomah Street, Suite 2000	Assistant General Counsel
5           Portland, OR 97232	Pacific Power
6 <a href="mailto:OregonDockets@pacificorp.com">OregonDockets@pacificorp.com</a>	825 NE Multnomah Street, Suite 1800
7	Portland, OR 97232
8	Tel. (503) 813-5029
9	<a href="mailto:jeff.erb@pacificorp.com">jeff.erb@pacificorp.com</a>

10           In addition, PacifiCorp respectfully requests that all data requests regarding this  
11 matter be addressed to:

12           By e-mail ( <b>preferred</b> )	<a href="mailto:datarequest@pacificorp.com">datarequest@pacificorp.com</a>
13           By regular mail	Data Request Response Center
14	PacifiCorp
15	825 NE Multnomah, Suite 2000
16	Portland, OR 97232

17           Informal inquiries may be directed to Natasha Siores at (503) 813-6583.

18                   **C.       Relationship Between PacifiCorp and Affiliated Interest**

19           PacifiCorp is a wholly-owned, indirect subsidiary of BHE. BHE is a subsidiary of  
20 Berkshire Hathaway. BNSF is also a subsidiary of Berkshire Hathaway. Therefore, BNSF is  
21 an “affiliated interest” of the Company as set forth in ORS 757.015(3).

22                   **D.       Voting Securities**

23           The Company and BNSF do not own voting securities in each other.

24                   **E.       Common Officers and Directors**

25           The Company and BNSF do not share any officers or directors.

26                   **F.       Pecuniary Interest**

27           No officer or director of either the Company or BNSF is a party to or has a pecuniary  
28 interest in the contemplated business transactions between the Company and BNSF.

1                   **G.     Description of Goods and Services Provided; Cost(s) Incurred;**  
2                   **Market Value; Pricing Methods**

3                   Klamath County, Oregon has made plans to widen a county road that is adjacent to  
4 BNSF’s property. As a result of the road widening project, one of BNSF’s current signal  
5 crossing cabinets must be moved to the other side of the road. BNSF requires Pacific Power  
6 to perform the service line maintenance required to move the signal crossing cabinet, under  
7 the terms of the Agreement.

8                   Pacific Power uses standardized pricing for these types of agreements. BNSF will  
9 pay Pacific Power \$2,486 for the work performed under the Agreement. Completing the  
10 service line maintenance as set forth in the Agreement is in the public interest because it  
11 allows the Pacific Power to install and maintain facilities necessary to provide electric  
12 service and to meet its obligation to provide safe and reliable electric service. If the service  
13 line maintenance to be performed under the Agreement was not completed, Pacific Power  
14 would not be able to meet its obligation to provide electric service. As the relevant utility,  
15 Pacific Power is the only entity that can provide the required services to BNSF.

16                   **H.     Estimate of Amount PacifiCorp will Pay Annually for Services**

17                   PacifiCorp will receive payment from BNSF as noted above, and does not anticipate  
18 making any payments to BNSF under the Agreement.

19                   **I.    Reasons Relied Upon for Procuring the Proposed Services, and Benefits**  
20                   **to the Public**

21                   Fulfilling the utility duties under the Agreement is in the public interest because the  
22 Company is the serving utility and is the only entity that can provide the electric service  
23 relocation work. This allows the Company to install and maintain facilities necessary to  
24 provide electric service and to meet its obligation to provide safe and reliable electric service.

1           **J.       Description of the Procurement Process**

2           As noted above, the Company is providing required electric equipment relocation  
3 services. BNSF uses standardized agreements for these types of services, as reflected by the  
4 Agreement that is the subject of this Application.

5           **K.       Relationship of Cost of Provision of Services and Market Value**

6           PacifiCorp charges standard rates and fees for these types of equipment relocation  
7 services.

8           **L.       Contracts Between Affiliated Interest and PacifiCorp**

9           A copy of the Agreement is included with this Application as Attachment A.

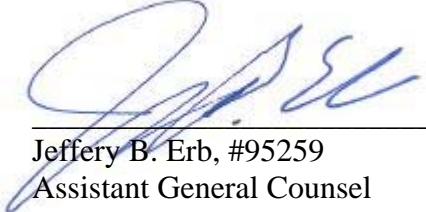
10          **M.       Copy of Board Resolutions**

11          The Agreement did not require a resolution from PacifiCorp’s Board of Directors.

12          WHEREFORE, for the reasons set forth above, PacifiCorp respectfully requests that  
13 the Commission issue an order authorizing PacifiCorp to conduct business with BNSF under  
14 the Agreement, under the provisions of ORS 757.495 and OAR 860-027-0040.

15          DATED: September 12<sup>th</sup>, 2016.

Respectfully submitted,

  
\_\_\_\_\_  
Jeffery B. Erb, #95259  
Assistant General Counsel  
Pacific Power

# **ATTACHMENT A**

## **Customer Requested Work Agreement**

### PACIFIC POWER, a division of PACIFICORP CUSTOMER REQUESTED WORK AGREEMENT

This Customer Requested Work Agreement (this "Agreement"), dated May 19, 2016 ("Agreement Date"), is between Pacific Power, a division of PacifiCorp ("Company"), and **BNSF RAILWAY**, ("Customer"), for work to be performed by Company for Customer at or near **2943 Laverne Ave** in **Klamath County**, State of Oregon.

**Description:**

**Relocate service and meter to new signal crossing cabinet location.**

The Customer will provide, all necessary trenching and backfilling, and will furnish and install all distribution transformer pads, conduit and duct required by the Company. Company may abandon in place any underground cables installed under this Contract that are no longer useful to Company.

Customer also agrees to:

- a) Establish final grade for routing of circuits, placement of transformer pads, vaults, junction boxes and other underground facilities as required by Company.
- b) Install and maintain property lines and survey stakes; and,
- c) Make no permanent surface improvements, except curb and gutters, before Company completes installation of its facilities.
- d) Provide legal rights-of-way to Company, at no cost to the Company, using Company standard forms.

If any change in grade, or property lines, or any surface improvements require Company to change its facilities, or causes additional cost to Company, Customer agrees to reimburse Company for such change or cost.

**Third-Party Relocation Costs:** This work does not include any third-party relocation costs. Customer shall be solely responsible for obtaining cost estimates from any third-parties attached to the existing facilities, and Customer shall be solely responsible for making all necessary arrangements to transfer third-party facilities to the replacement facilities, or any alternative arrangements to accommodate all such third-parties.

**Payment to Company:** In consideration of the work to be performed by Company, Customer agrees to pay the estimated costs of the work in advance, with the understanding that there will be no other charges or refunds for the above specified work. Customer has previously paid for design, permitting or other work in the amount of \$0.00. The total advance for this work is \$2486.00, with a **balance due of \$2486.00. Estimated cost is valid for 90 days from the Agreement Date.**


Any correspondence regarding this work shall be directed to the appropriate party as shown below:

**BNSF RAILWAY**  
Greg Van De Graff  
P.O. Box 2440  
Spokane, WA 99210  
Phone (509) 840-0200

**Pacific Power**  
Kirk Daniels  
1950 Mallard Ln  
Klamath Falls, OR 97601  
Phone (541) 883-7828

This Agreement, upon execution by both Company and Customer, shall be a binding agreement for work performed by Company to accommodate Customer at the Customer's expense. The provisions of Appendix A, General Terms and Conditions, are an integral part of this Agreement.

**BNSF RAILWAY**

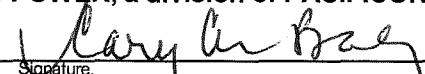
By   
Signature

Title agent

Greg Van De Graff  
Print name of Signing Officer

6-29-16  
Date

**PACIFIC POWER, a division of PACIFICORP**

By   
Signature

Title Manager

Cary Ann Bailey  
Print name of Signing Manager/Officer

7/1/16  
Date



**Appendix A**  
**GENERAL TERMS AND CONDITIONS**

**LIABILITY AND INDEMNIFICATION**

The Customer shall indemnify, defend and hold harmless the Company to this Agreement and the Company's officers, directors, agents, employees, successors and assigns from any and all claims, demands, suits, losses, costs, and damages of any nature whatsoever, including attorney's fees and other costs of litigation brought or made against or incurred by the Company and resulting from, arising out of, or in any way connected with any act, omission, fault or negligence of the Customer, its employees or any officer, director, or employee or agent of the same and related to the subject matter of this Agreement. The indemnity obligation shall include, but not be limited to, loss of or damage to property, bodily or personal injury to, or the death of any person. The Customer's obligation under this provision of the Agreement shall not extend to liability caused by the sole negligence of the Company.

**WAIVER OF JURY TRIAL**

To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

**WORK COMPLETION**

Company agrees to use commercially reasonable efforts to begin performance of the work on the dates date(s) specified above. In those instances where by reason of unanticipated events or emergencies which cause power outages or threaten the Company's ability to continuously provide electric service as it is required to do by law or by contract, then the Company personnel assigned to perform the work may be withdrawn from the work until such time as the unanticipated event or emergency is concluded. In the event that the Company personnel are removed from the work in response to such an event or emergency, then the time for completion of the work shall be extended by a period of time equal to that period from the time the personnel are removed from the work until they are available to complete the work plus 48 hours.

It is expressly agreed that the Company and those persons employed by the Company in connection with the work described herein are not employed by or employees of the Customer.

Company warrants that its work shall be consistent with prudent utility practices. COMPANY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, AND SIMILAR WARRANTIES. Company's liability for any action arising out of its activities relating to this Agreement shall be limited to repair or replacement of any non-operating or defective portion of the work. Under no circumstances shall Company be liable for economic losses, costs or damages, including but not limited to special, indirect, incidental, punitive, exemplary or consequential damages.

The Customer may, at reasonable times and by written agreement with the Company, request additional work within the general scope of the work as described in this Agreement or request the omission of or variation in the work, provided, however, that the Customer and Company agree to increase or decrease the amount the Customer is to pay the Company and such changes in scope are reasonably acceptable to the Company. Any such change to the scope of the work and the associated adjustment of costs shall be in writing and shall be submitted when obtained as an addendum to this agreement after being signed by both parties.

## GENERAL

**PAYMENTS:** All bills or amounts due hereunder shall be payable to Company as set forth herein or on the 25th day following the postmarked date of the invoice is not otherwise specified. In the event that all or a portion of Customer's bill is disputed by Customer, Customer shall pay the total bill and shall designate that portion disputed. If it is later determined that Customer is entitled to a refund of all or any portion of the disputed amount, Company shall refund that portion of the amount of which Customer is found to be entitled. All billing statements shall show the amount due for the work performed.

**COLLECTION:** Customer shall pay all costs of collection, including court costs and reasonable attorney's fees upon default of customer, in addition to interest at a rate of 1.5 percent per month on any amounts not paid within thirty (30) day of invoice.

**ASSIGNMENT:** Customer shall not assign this Agreement to any successor without the written consent of Company, which consent shall not be unreasonably withheld. If properly assigned, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the party making the assignment.