

May 3, 2018

***VIA ELECTRONIC FILING***

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 Approval of the Sale of Property in Byron, Wyoming.

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 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 the Sale of  
Certain Assets in Byron, Wyoming.

**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, seeks approval from the Public Utility Commission of Oregon (Commission) of the asset sale transaction described in the Purchase and Sale Agreement (PSA) between PacifiCorp and Merit Energy Company (Merit). Under the PSA, PacifiCorp proposes to sell to Merit distribution facilities for a total asset purchase price of \$106,998.<sup>1</sup> The assets proposed to be sold under the PSA are Wyoming situs distribution and are not included in Oregon rates. PacifiCorp files this Application in accordance with Order No.14-254, following the Commission's directive to interpret ORS 757.480 as applying to the total value of an asset disposition rather than the Oregon-allocated value. In support of this Application, PacifiCorp states the following:

**I. Background**

PacifiCorp owns distribution facilities, including poles and transformers, in Byron, Wyoming. Merit wishes to purchase the distribution assets serving their facility in order to connect to their existing infrastructure, be primary metered and be better able to address production and energy needs directly.

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<sup>1</sup> Merit Energy will also pay 6 percent Wyoming sales tax (\$6,420) and legal/transaction costs (\$2,500) for a total transaction price of \$115,918.

The sale price attributed to the distribution assets PacifiCorp proposes to sell to Merit under the PSA is \$106,998. The assets proposed to be sold to Merit are classified Wyoming situs distribution, meaning the Oregon allocation is zero percent and these assets are thus not included in Oregon rates. As more fully explained below, this transaction will not affect PacifiCorp's ability to perform its public duties.

**II. 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, Washington, Idaho, Wyoming and Utah.

**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, Berkshire Hathaway Energy  
825 NE Multnomah Street, Suite 2000  
Portland, OR 97232  
Telephone: (503)813-5029  
Email: [jberb@midamerican.com](mailto:jberb@midamerican.com)

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

In addition, PacifiCorp respectfully requests that all data 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, Suite 2000  
Portland, OR 97232

Informal inquiries may 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 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 financial instruments.

**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 files this Application to obtain Commission approval of the sale of certain Wyoming situs distribution assets, including poles and transformers to Merit Energy. PacifiCorp determined it could sell the distribution assets without affecting its ability to provide reliable and safe electric service. Merit plans to connect the distribution assets to their existing infrastructure to better address their production and energy needs directly. The total transaction price is \$115,918. The company determined the fair market value of the assets to be \$106,998 based on the replacement cost of the assets if built new (\$131,989), less accumulated depreciation (\$24,991). Merit Energy will also pay 6 percent Wyoming sales tax (\$6,420) and legal/transaction costs (\$2,500).

**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**

PacifiCorp will sell 30 wood poles and eight transformers associated with distribution service in Byron, Wyoming. PacifiCorp has determined that selling the assets sought by Merit will not impair PacifiCorp's ability to provide reliable and safe electric service. Merit's energy use will be billed through primary metering already in place. Refer to Attachment A for a listing of the assets.

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

The book value (cost) included in Electric Plant in Service, FERC account 101, of the distribution assets sold is \$107,537 and the Accumulated Provision for Depreciation, FERC account 108, is \$8,381.

**K. Required filings with other state or federal regulatory bodies**

This transaction for the sale of Wyoming distribution property does not require approvals from the Wyoming Public Service Commission or any other state or federal regulatory bodies.

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

ORS 757.480 requires Commission approval for sales of property necessary and useful in the performance of public service with a value in excess of \$100,000. See ORS 757.480(1)(a). OAR 860-027-0025(1)(l) requires that the utility show that such a proposed sale is “consistent with the public interest.” The Commission has previously held that this standard requires only a “no harm” showing.<sup>2</sup>

The proposed transaction will not harm customers. The poles and transformers are currently used to only serve Merit. PacifiCorp does not need to retain ownership of the distribution assets to continue to provide electric service. The assets proposed to be sold to Merit under the PSA are Wyoming situs distribution and are not included in Oregon rates.

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<sup>2</sup> 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 No. UP 165/UP 170, Order No. 99-730, at 7 (Nov. 29, 1999) (regarding the sale of the Centralia generating plant).

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

Please refer to sections I. and L., and the Background Section, above.

**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. This transaction will not affect PacifiCorp's service territory.

**III. 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 sale of distribution assets 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 distribution assets 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**

The majority of PacifiCorp's real property is subject to a lien under the Mortgage and Deed of Trust, dated as of January 9, 1989, from PacifiCorp to The Bank of New York

Mellon Trust Company, N.A. (as successor to The Bank of New York Mellon) as Trustee, as amended and supplemented. PacifiCorp will either obtain a partial release of the corporate mortgage obligation against the property or will account for the disposition in the annual reconciliation of assets provided to the mortgagee in accordance with the disposition obligations section of the mortgage agreement.

**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**

This 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**

The PSA is not final but PacifiCorp does not anticipate any material changes in the final executed agreement. Included with this Application as Attachment B is a draft copy of the PSA by and between PacifiCorp and Merit Energy Company.



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

Please see Attachment C to this Application for the proposed journal entries to be used to record this transaction.

**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 for the Commission to base its decision. However, the company is prepared to provide additional information as requested by the Commission.

**IV. Prayer for Relief**

PacifiCorp respectfully requests a Commission order (1) finding that the sale of the distribution assets will not harm PacifiCorp's customers and is consistent with the public interest; and (2) granting other such relief as the Commission deems necessary and proper.

Respectfully submitted this 3<sup>rd</sup> day of May, 2018,

By:



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Jeffery B. Erb  
Chief Corporate Counsel and Corporate Secretary  
Berkshire Hathaway Energy

**ATTACHMENT A**

**List of Distribution Assets**

SEQ #	YR	Description	QTY	SI #	PRU	FP POINT	METER #	CUSTOMER NAME
10	2004	45' 3ph pole	1	1614453	YES	56098 111002		MERIT ENERGY COMPANY, LLC
20	2004	45' 3ph pole	1	1614453	YES	56098 111001		MERIT ENERGY COMPANY, LLC
30	2004	45' 3ph pole	1	1614453	YES	56098 141900		MERIT ENERGY COMPANY, LLC
40	2004	45' 3ph pole	1	1614453	YES	56098 142900		MERIT ENERGY COMPANY, LLC
50	2014	3-75KVA 277/480V TRANS	1	3X4500240	YES	56098 143901		MERIT ENERGY COMPANY, LLC
50	2014	45' 3ph pole	1	1614453	YES	56098 143901		MERIT ENERGY COMPANY, LLC
60	1900	3-15KVA 277/480V TRANS	1	3X4500236	YES	56098 113100	66691052	MERIT ENERGY COMPANY, LLC
60	2004	45' 3ph pole	1	1614453	YES	56098 113100		MERIT ENERGY COMPANY, LLC
70	2004	45' 3ph pole	1	1614453	YES	56098 113101		MERIT ENERGY COMPANY, LLC
80	2004	45' 3ph pole	1	1614453	YES	56098 113000		MERIT ENERGY COMPANY, LLC
90	2004	45' 3ph pole	1	1614453	YES	56098 143904		MERIT ENERGY COMPANY, LLC
100	2006	45' 3ph pole	1	1614453	YES	56098 143902		MERIT ENERGY COMPANY, LLC
110	2004	45' 3ph pole	1	1614453	YES	56098 144900		MERIT ENERGY COMPANY, LLC
120	2004	45' 3ph pole	1	1614453	YES	56098 144901		MERIT ENERGY COMPANY, LLC
130	2011	45' 3ph pole	1	1614453	YES	56098 144802		MERIT ENERGY COMPANY, LLC
140	2011	45' 3ph pole	1	1614453	YES	56098 144803		MERIT ENERGY COMPANY, LLC
150	2004	45' 3ph pole	1	1614453	YES	56098 145904		MERIT ENERGY COMPANY, LLC
160	2004	45' 3ph pole	1	1614453	YES	56098 145903		MERIT ENERGY COMPANY, LLC
170	2004	45' 3ph pole	1	1614453	YES	56098 146804		MERIT ENERGY COMPANY, LLC
180	2004	45' 3ph pole	1	1614453	YES	56098 146803		MERIT ENERGY COMPANY, LLC
180	2004	3-10KVA 277/480V TRANS	1	3X4500235	YES	56098 146803		MERIT ENERGY COMPANY, LLC
190	1900	35' secondary pole	1	1614354	YES	56098 146820		MERIT ENERGY COMPANY, LLC
200	2004	45' 3ph pole	1	1614453	YES	56098 144601		MERIT ENERGY COMPANY, LLC
210	2004	45' 3ph pole	1	1614453	YES	56098 145600		MERIT ENERGY COMPANY, LLC
220	1997	45' 3ph pole	1	1614453	YES	56098 145501		MERIT ENERGY COMPANY, LLC
220	1997	3-10KVA 277/480V TRANS	1	3X4500235	YES	56098 145501	66691100&41050045	MERIT ENERGY COMPANY, LLC
230	1997	45' 3ph pole	1	1614453	YES	56098 145502		MERIT ENERGY COMPANY, LLC
240	1900	40' 3ph pole	1	1614403	YES	56098 146503		MERIT ENERGY COMPANY, LLC
240	2012	3-50KVA 277/480V TRANS	1	3X4500239	YES	56098 146503	66691008/ 74612487	MERIT ENERGY COMPANY, LLC
250	1997	45' 3ph pole	1	1614453	YES	56098 146501		MERIT ENERGY COMPANY, LLC
260	1997	45' 3ph pole	1	1614453	YES	56098 147500		MERIT ENERGY COMPANY, LLC
270	2011	50' 3ph pole	1	1616502	YES	56098 148500		MERIT ENERGY COMPANY, LLC
280	2011	50' 3ph pole	1	1616502	YES	56098 148502		MERIT ENERGY COMPANY, LLC
280	2011	3-75KVA 277/480V TRANS	1	3X4500240	YES	56098 148502	66663920	MERIT ENERGY COMPANY, LLC
290	2011	45' 3ph pole	1	1614453	YES	56098 148501		MERIT ENERGY COMPANY, LLC
290	2011	10KVA 120/240V 1PH TRANS	1	4500229	YES	56098 148501		MERIT ENERGY COMPANY, LLC

300	2011	45' 3ph pole	1	1614453	YES	56098	149500		MERIT ENERGY COMPANY, LLC
300	2011	3-100KVA 277/480V TRANS	1	3X4500241	YES	56098	149500	66656833	MERIT ENERGY COMPANY, LLC

**ATTACHMENT B**

**Purchase and Sale Agreement**

**ASSET PURCHASE AGREEMENT  
BETWEEN  
ROCKY MOUNTAIN POWER  
AND  
MERIT ENERGY COMPANY**

This Asset Purchase Agreement (the "Agreement"), dated this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ is between Merit Energy Company, ("Buyer"); and PacifiCorp, an Oregon corporation doing business in Wyoming as Rocky Mountain Power ("Rocky Mountain Power"). Rocky Mountain Power and Buyer are sometimes referred to collectively as "Parties" and individually as "Party."

WHEREAS, Rocky Mountain Power owns certain Assets located in Byron, WY; and

WHEREAS, Buyer has agreed to purchase the Assets from Rocky Mountain Power and Rocky Mountain Power hereby agrees to sell the Assets to Buyer in accordance with and subject to all of the terms and conditions of sale as expressed herein; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants and conditions set forth in this Agreement, the sufficiency of which is hereby mutually acknowledged and accepted, the Parties hereto agree as follows:

1. Definitions.

For purposes of this Agreement, the following terms used herein but not otherwise defined herein shall have the following meaning when used with initial capitalization, whether singular or plural:

1.1 "Assets" means those assets owned by Rocky Mountain Power, as set forth in Exhibit A. A map showing the location of the Assets is attached as Exhibit B.

1.2 "Commission" means the Wyoming Public Service Commission.

1.3 "Disconnect Costs" means Rocky Mountain Power's charges for disconnecting the assets from the Rocky Mountain Power distribution feeder, and any additional related work requested by Buyer.

1.4 "Purchase Price" means the price Buyer will pay to Rocky Mountain Power in exchange for the Assets, pursuant to Section 2 herein.

1.5 "Transfer Date" means the date upon which Rocky Mountain Power conveys to Buyer the bill of sale for the Assets.

2. Sale and Purchase of Assets.

2.1 Assets to Be Sold. Subject to all of the terms and conditions of this Agreement, Rocky Mountain Power agrees to sell and Buyer agrees to buy all of Rocky Mountain Power's right, title and interest in the Assets.

2.2 Purchase Price. The Purchase Price for the Assets shall be ONE HUNDRED FIFTEEN THOUSAND NINE HUNDRED EIGHTEEN AND NO/100 DOLLARS (\$115,918).

2.3 Payment. The Purchase Price shall be paid to Rocky Mountain Power by Buyer within fifteen (15) days of the date this Agreement is executed by both Parties; such payment shall be by check.

2.4 Instruments of Conveyance and Transfer. Subject to the satisfaction of the conditions precedent set forth in Section 8 below, and pursuant to all of the terms and conditions of this Agreement, Rocky Mountain Power shall execute and deliver to Buyer a bill of sale to vest in Buyer good and marketable title to the Assets, subject to no security interests, liens or encumbrances, and substantially in the form of the unexecuted bill of sale attached hereto as Exhibit C.

2.5 Proration of Personal Property Taxes. Personal property taxes shall be prorated between Rocky Mountain Power and Buyer as of the Transfer Date based upon days of ownership in the tax year in which the Transfer Date occurs. If for such year, Rocky Mountain Power has not previously paid such personal property taxes, Buyer shall pay such property taxes when due, and Buyer shall be solely liable for any penalty or interest owing as a result of an untimely property tax payment by Buyer, and Rocky Mountain Power shall pay to Buyer Rocky Mountain Power's pro rata share of property taxes paid by Buyer. If for such year, Rocky Mountain Power has previously paid such personal property taxes, Buyer shall pay to Rocky Mountain Power Buyer's pro rata share of property taxes paid by Rocky Mountain Power.

2.6 Sales, Transfer and Other Taxes. Any sales, excise, transfer, purchase, use, or similar tax which may be payable by reason of the sale of all or a portion of the Assets shall be borne and paid by Buyer.

### 3. Ownership; Disconnect Costs; Operation and Maintenance; Risk of Loss

3.1 Ownership. Rocky Mountain Power shall own the Assets until the Transfer Date.

3.2 Operation and Maintenance; Risk of Loss. After the Transfer Date, Buyer shall own and be solely responsible for the operation and maintenance of the Assets and risk of loss of the Assets. Prior to the transfer date, Rocky Mountain Power shall be responsible for the operation and maintenance of the Assets. For the life of the Assets, Buyer shall at all times operate and maintain the Assets in accordance with prudent utility practice.

3.3 Disconnect Costs. Buyer shall pay Rocky Mountain Power all Disconnect Costs, including materials, labor, and applicable overheads, for the installation, operation, and maintenance, of all facilities that Rocky Mountain Power determines are reasonably necessary to separate the connection between the Assets and Rocky Mountain Power's distribution system. Buyer shall coordinate operations with Rocky Mountain Power to this end. Buyer may request that Rocky Mountain Power perform additional work necessary to reconnect the Assets to Buyer's own distribution feeder, and any such work performed shall be as specifically agreed by the Parties in a separate written agreement, and the charges for such work shall be deemed Disconnect Costs for purposes of this Agreement only.

4. Representations and Warranties of Rocky Mountain Power.

Rocky Mountain Power represents and warrants as follows:

4.1 Organization and Powers of Rocky Mountain Power. Rocky Mountain Power is an Oregon corporation, duly organized and validly existing under the laws of the State of Oregon, and is duly qualified to do business in the State of Wyoming. Rocky Mountain Power has all requisite power and authority to own the Assets.

4.2 Authority Relative to Agreement; Governmental Authorization. Rocky Mountain Power has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly authorized and constitutes the valid and binding obligation of Rocky Mountain Power enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and except that the availability of the equitable remedies of specific performance and injunctive relief are subject to the discretion of the court before which any proceeding may be brought. No declaration, filing or registration with, or notice to, or authorization, consent or approval of, any governmental or regulatory body or authority is necessary for the execution and delivery of this Agreement by Rocky Mountain Power or the consummation by Rocky Mountain Power of the transactions contemplated by this Agreement, provided that Rocky Mountain Power makes no representation or warranty with respect to approvals which may be required from the Wyoming Public Service Commission or the Federal Energy Regulatory Commission.

4.3 Non-Contravention; Approvals. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not violate, conflict with or result in a breach of any provision of, or constitute a default under, or result in the termination of any note, bond, mortgage, indenture, deed of trust, contract, lease or other instrument, obligation or agreement of any kind to which Rocky Mountain Power is now a Party or by which any of its assets may be bound or affected.

4.4 Title to the Assets. Rocky Mountain Power has good and marketable title to the Assets free and clear of all liens, mortgages, pledges, claims, charges, security interests or other encumbrances.

4.5 Condition of Assets. The Assets will be sold to Buyer "AS IS, WHERE IS." Rocky Mountain Power hereby disclaims and excludes herefrom, (a) any express or implied representation or warranty as to the value, condition, design, operation, or quality of the materials or workmanship in, or any defects in, the Assets, (b) any express or implied warranty of merchantability or fitness for use or for a particular purpose, or (c) any express or implied representation, guarantee, obligation, liability or warranty of Rocky Mountain Power, express or implied, of any kind, arising by law or from course of performance, course of dealing, or usage of trade.

5. Representations and Warranties of Buyer.

Buyer represents and warrants as follows:

5.1 Organization and Powers of Buyer. Buyer is duly qualified to do business in the State of Wyoming. Buyer has all requisite power and authority to own the Assets.



5.2 Authority Relative to Agreement: Governmental Authorization. Buyer has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly authorized and constitutes the valid and binding obligation of Buyer enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and except that the availability of the equitable remedies of specific performance and injunctive relief are subject to the discretion of the court before which any proceeding may be brought. No declaration, filing or registration with, or notice to, or authorization, consent or approval of, any governmental or regulatory body or authority is necessary for the execution and delivery of this Agreement by Buyer or the consummation by Buyer of the transactions contemplated by this Agreement, provided that Buyer makes no representation or warranty with respect to approvals which may be required from the Wyoming Public Service Commission or the Federal Energy Regulatory Commission.

5.3 Non-Contravention; Approvals. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not violate, conflict with or result in a breach of any provision of, or constitute a default under, or result in the termination of any note, bond, mortgage, indenture, deed of trust, contract, lease or other instrument, obligation or agreement of any kind to which Buyer is now a Party or by which any of its assets may be bound or affected.

5.4 Condition of Assets. The Assets will be purchased by Buyer "AS IS, WHERE IS." Buyer acknowledges that Rocky Mountain Power disclaims and excludes herefrom, (a) any express or implied representation or warranty as to the value, condition, design, operation, or quality of the materials or workmanship in, or any defects in, the Assets, (b) any express or implied warranty of merchantability or fitness for use or for a particular purpose, or (c) any express or implied representation, guarantee, obligation, liability or warranty of Rocky Mountain Power, express or implied, of any kind, arising by law or from course of performance, course of dealing, or usage of trade.

## 6. Covenants of Rocky Mountain Power.

Rocky Mountain Power covenants and agrees as follows:

6.1 Conduct of Business. Rocky Mountain Power shall own and operate the Assets for the time periods set forth in Section 3 herein in accordance with its past practices and shall engage in no material transactions relating to the Assets out of the ordinary course of business, including entering into any contract or financing arrangement that limits Rocky Mountain Power's ability to sell the Assets to Buyer.

6.2 Insurance. Until the Transfer Date, Rocky Mountain Power shall continue to self-insure or carry insurance currently in effect related to the Assets, adequate to insure the Assets against loss or damage by fire and other risks, and public liability consistent with and in accordance with its past practices.

6.3 Reasonable Efforts. Subject to the terms of this Agreement and fiduciary obligations under applicable law, Rocky Mountain Power shall use commercially reasonable efforts to effectuate the transactions contemplated by this Agreement and to fulfill all of the conditions of the Parties' obligations under this Agreement and shall do all such acts and things as reasonably may be required to carry out Rocky Mountain Power's obligations hereunder and to complete the transaction contemplated by this Agreement.

6.4 Notification. Rocky Mountain Power will give Buyer prompt written notice of any event, condition or fact arising prior to the Transfer Date that would cause any of its representations and warranties in this Agreement to be untrue in any material respect.

6.5 Access to Assets. Until the Transfer Date, Rocky Mountain Power shall allow Buyer and its authorized agents and representatives reasonable access to the Assets.

## 7. Covenants of Buyer.

Buyer covenants and agrees as follows:

7.1 Conduct of Business. Prior to the Transfer Date, Buyer shall operate the Assets for the time periods set forth in Section 3 herein in accordance with Rocky Mountain Power's instructions, if any, and Rocky Mountain Power's past practices. Prior to the Transfer Date, Buyer shall engage in no material transactions relating to the sale or disposition of the Assets in whole or in part.

7.2 Insurance. After the Transfer Date, Buyer shall carry insurance adequate to insure the Assets against loss or damage by fire and other risks, and public liability consistent with and in accordance with its past practices for like assets.

7.3 Reasonable Efforts. Subject to the terms of this Agreement and fiduciary obligations under applicable law, Buyer shall use commercially reasonable efforts to effectuate the transactions contemplated by this Agreement and to fulfill all of the conditions of the Parties' obligations under this Agreement and shall do all such acts and things as reasonably may be required to carry out Buyer's obligations hereunder and to complete the transaction contemplated by this Agreement.

7.4 Notification. Buyer will give Rocky Mountain Power prompt written notice of any event, condition or fact arising prior to the Transfer Date that would cause any of its representations and warranties in this Agreement to be untrue in any material respect.

7.5 Access to Assets. Until the Transfer Date, Buyer shall allow Rocky Mountain Power and its authorized agents and representatives reasonable access to the Assets.

7.6 Indemnity. Buyer shall defend, indemnify, and hold harmless Rocky Mountain Power, its officers, directors, employees, and agents, from and against any and all liability, loss, damage, claims, suit or cause of action arising out of or relating to Buyer's ownership, operation or maintenance of the Assets. This obligation shall survive the termination of this Agreement and completion of the transactions contemplated by this Agreement.

7.7 Rights-of-way. Prior to the Transfer Date, Buyer shall independently obtain at Buyer's own expense, all easements or other real property rights, licenses or permissions, ("rights-of-way") necessary for Buyer to lawfully operate and maintain the Assets as they presently exist, and upon request, Buyer shall provide reasonably satisfactory evidence of having done so to Rocky Mountain Power.

7.8 Operation, Maintenance, Repair, or Replacement of the Assets. Buyer has or will arrange for qualified personnel to operate, maintain, and repair the Assets, and will in no way rely on Rocky Mountain Power for such services. Buyer has or is prepared to locate and procure on its own

behalf, replacement components, including transformers, in the event of failure of any or all of the Assets at any time. Buyer takes full responsibility for the installation of such replacement components.

8. Conditions Precedent; Bill of Sale.

All of the obligations of Rocky Mountain Power under this Agreement are subject to the fulfillment, prior to and upon the Transfer Date, of each of the following conditions:

8.1 Representations, Warranties and Covenants of Buyer. All representations and warranties made in this Agreement by Buyer shall be true and correct in all material respects as of the Transfer Date as fully as though such representations and warranties had been made on and as of the Transfer Date, and as of the Transfer Date, Buyer shall have complied in all material respects with all covenants made by it in this Agreement.

8.2 Litigation. At the Transfer Date, there shall not be in effect any order, decree, or injunction of a court of competent jurisdiction restraining, enjoining, or prohibiting the consummation of the transactions contemplated by this Agreement (each Party hereby agreeing to use its reasonable efforts, including reasonable appeals to higher courts, to have any such order, decree or injunction set aside or lifted), and no action shall have been taken, and no statute, rule, or regulation shall have been enacted, by any state or federal government or governmental agency in the United States which would prevent the consummation of such transactions.

Additionally, Rocky Mountain Power's obligation to transfer title to the Assets to Buyer by providing Buyer with the bill of sale contemplated herein shall be contingent upon the following:

8.3 Payment of Purchase Price. Buyer shall have paid to Rocky Mountain Power the Purchase Price.

8.4 Rights-of-way. Buyer shall have provided to Rocky Mountain Power the evidence of necessary rights-of-way provided for in Section 7.07 above.

8.5 Disconnect Costs. Buyer shall have paid to Rocky Mountain Power all of the Disconnect Costs in accord with this Agreement and the terms of a separate agreement between the Parties.

No later than thirty (30) days after the date upon which all of the conditions in Sections 8.03 through 8.05 have been satisfied, Rocky Mountain Power shall convey to Buyer the bill of sale for the Assets.

9. Survival of Representations and Warranties.

All representations and warranties of the Parties, and all liability therefor, shall survive for a period of one year past the Transfer Date, at which time the obligations under this agreement shall cease and expire. Notwithstanding the forgoing, obligations under Section 7.06 shall continue indefinitely.

## 10. Termination.

10.1 Termination. This Agreement may be terminated and abandoned at any time prior to the Transfer Date if:

(a) The Parties agree in writing to terminate this Agreement by mutual consent; or

(b) Buyer delivers a written notice to Rocky Mountain Power to the effect that Rocky Mountain Power has defaulted in a material respect under one or more of its covenants and agreements contained herein (which shall be specified in detail in such notice), and such condition or conditions have not been satisfied or such default or defaults have not been remedied (or waived by Buyer) within thirty (30) days after the date such notice is delivered by Buyer to Rocky Mountain Power; or

(c) Rocky Mountain Power delivers a written notice to Buyer to the effect that Buyer has defaulted in a material respect under one or more of its covenants and agreements contained herein (which shall be specified in detail in such notice), and such condition or conditions have not been satisfied or such default or defaults have not been remedied (or waived by Rocky Mountain Power) within thirty (30) days after the date such notice is delivered by Rocky Mountain Power to Buyer; or

(d) The Transfer Date shall not have occurred on or before November 27, 2017, or such later date to which the term of this Agreement may be extended pursuant to mutual agreement of the Parties, provided that one of the Parties gives notice to the other so terminating this Agreement and that the Party seeking such termination has not defaulted in a manner responsible for delaying the Transfer Date past February 28, 2018.

10.2 Effect of Termination. Except where specific terms and conditions of this Agreement provide that such terms and conditions survive termination of this Agreement, any termination pursuant to this Section 10 shall relieve both Parties hereto of their obligations set forth herein, and any such termination constitutes a failure of the conditions to the obligations of the Parties to implement this Agreement, except that nothing herein will relieve any Party from liability for any breach of this Agreement. Provided further, except in the case of termination by Buyer on account of default by Rocky Mountain Power, Buyer shall pay all Disconnect Costs incurred by Rocky Mountain Power, or irrevocably committed to, on or before the date of any such termination.

## 11. Assignment.

Neither Party may assign its rights under this Agreement to any third party without the written consent of the other Party.

## 12. Jurisdiction of Regulatory Authorities.

In the event that the Commission or any other state, federal, or municipal authority determines that any provision of this Agreement conflicts with or is in violation of applicable law, or issues any rules, regulations, or orders which require Rocky Mountain Power to alter or amend any of the provisions of this Agreement or to terminate this Agreement, or that otherwise preclude or materially interfere with or rescind the transfer of assets contemplated herein, this Agreement automatically shall be amended to comply with such determination, amendment, rule, regulation or order; or, if so ordered, this Agreement shall terminate without effecting transfer of the Assets to

Buyer, or the Assets and the purchase price shall be returned if transfer has already occurred; and in any of the foregoing events, Rocky Mountain Power shall not be liable to Buyer for damages or losses of any kind whatsoever, including consequential damages, which Buyer may sustain as a result of such determination, amendment, rule, regulation, or order, or modification or termination of this transaction, and Buyer shall pay all Disconnect Costs incurred by Rocky Mountain Power, or irrevocably committed to, on or before the date of any such regulatory action.

13. Miscellaneous.

13.1 Amendment. This Agreement may be amended only by an instrument in writing executed by the Parties which expressly refers to this Agreement and states that it is an amendment hereto.

13.2 Section and Paragraph Headings. The Section and Subsection headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

13.3 Waiver. Any of the terms or conditions of this Agreement may be waived at any time and from time to time, in writing, by the Party entitled to the benefit of such terms or conditions.

13.4 Notices. All notices, requests, demands, and other communications given by Buyer or Rocky Mountain Power shall be in writing and shall be deemed to have been duly given when telecopied, when delivered personally in writing or when deposited into the United States mail, to the following addresses:

If to Rocky Mountain Power:                      Rocky Mountain Power  
Attn: Brent Dewsnup  
Regional Business Manager  
1569 West North Temple  
Salt Lake City, UT 84116

With a copy to:                                      Rocky Mountain Power  
Attn: Jim Hermann  
Customer & Regulatory Liaison  
825 NE Multnomah, Suite 800  
Portland, OR 97232

If to Buyer:

or to such other address as Buyer or Rocky Mountain Power may designate in writing.

13.5 Integrated Agreement. This Agreement, when executed, constitutes the entire agreement between the Parties hereto, and supersedes and negates all prior line extension agreements and understandings, oral and written, between the Parties hereto with respect to the Assets.

13.6 Counterparts. This Agreement may be executed in two counterparts, each of which shall for all purposes be deemed to be an original and both of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the date first above written.

**BUYER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ROCKY MOUNTAIN POWER**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**DESCRIPTION OF ASSETS**

**Property Valuation**  
**Sale in Place - Distribution Facilities**  
**For: Merit Energy - Byron, Wyoming**  
**Asset Valuation**  
**Material List**

<u>Asset Description</u>	<u>FERC ACCOUNT</u>	<u>Vintage</u>	<u>QUANTITY</u>	<u>Sales Price</u>
35' secondary pole	364	1954	1	292
40' 3ph pole	364	1954	1	421
45' 3ph pole	364	1997	1	2,527
45' 3ph pole	364	1997	1	2,527
45' 3ph pole	364	1997	1	2,527
45' 3ph pole	364	1997	1	2,527
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2004	1	2,864
45' 3ph pole	364	2006	1	2,962
45' 3ph pole	364	2011	1	3,212
45' 3ph pole	364	2011	1	3,212
50' 3ph pole	364	2011	1	5,365
50' 3ph pole	364	2011	1	5,365
45' 3ph pole	364	2011	1	3,212
45' 3ph pole	364	2011	1	3,212
45' 3ph pole	364	2014	1	3,366
3-15KVA 277/480V TRANS	368	1925	1	0
3-10KVA 277/480V TRANS	368	1997	1	951
3-10KVA 277/480V TRANS	368	2004	1	1,575
3-75KVA 277/480V TRANS	368	2011	1	4,347
10KVA 120/240V 1PH TRANS	368	2011	1	2,573
3-100KVA 277/480V TRANS	368	2011	1	3,866
3-50KVA 277/480V TRANS	368	2012	1	3,159
3-75KVA 277/480V TRANS	368	2014	1	3,978
Total				106,998

**Rocky Mountain Power**  
**Proposed Sale in Place, Merit Energy - Byron, Wyoming**  
**Value of Inventory**

<u>Description</u>	<u>Sales Price</u>
<u>Plant In Service</u>	
364      Poles, Towers and Fixtures	\$86,548
368      Line Transformers	\$20,450
Plant In Service	\$106,998
Income Taxes	\$0
<b>Sale Price - Existing Assets</b>	<hr/> \$106,998
Expenses	
Separation Costs	\$0
Estimated Sales Tax @ 6.00%	\$6,420
Legal/Transaction Costs	\$2,500
<b>Total Expenses</b>	<hr/> \$8,920
<b>Total Sale Price</b>	<hr/> <hr/> \$115,918



**EXHIBIT B**  
**(Map of Facilities)**



**EXHIBIT C**

**BILL OF SALE**

SELLER: ROCKY MOUNTAIN POWER

BUYER: MERIT ENERGY COMPANY

FOR VALUABLE CONSIDERATION totaling ONE HUNDRED FIFTEEN THOUSAND NINE HUNDRED EIGHTEEN AND NO/100 DOLLARS (\$115,918), the receipt of which is hereby acknowledged, Rocky Mountain Power ("Seller"), hereby grants, bargains, sells and delivers to Merit Energy Company ("Buyer"), pursuant to an Asset Purchase Agreement dated as of \_\_\_\_\_ all of its right, title, and interest in and to all of the Assets listed on Exhibit A, attached to said Asset Purchase Agreement, and presently in the possession of Seller.

THE ASSETS ARE SOLD AND DELIVERED TO BUYER "AS IS, WHERE IS."

ROCKY MOUNTAIN POWER HEREBY DISCLAIMS AND EXCLUDES HEREFROM, (A) ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY AS TO THE VALUE, CONDITION, DESIGN, OPERATION, OR QUALITY OF THE MATERIALS OR WORKMANSHIP IN, OR ANY DEFECTS IN, THE ASSETS, (B) ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR USE OR FOR A PARTICULAR PURPOSE, OR (C) ANY EXPRESS OR IMPLIED REPRESENTATION, GUARANTEE, OBLIGATION, LIABILITY OR WARRANTY OF SELLER, EXPRESS OR IMPLIED, OF ANY KIND, ARISING BY LAW OR FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

ROCKY MOUNTAIN POWER

By: \_\_\_\_\_

Name: Jeffrey Kalberer

Title: Manager Distribution

**ATTACHMENT C**

**Proposed Journal Entries**

**Estimated Journal Entries for the Sale of Distribution Assets to Merit Energy**

<b>FERC Acct</b>	<b>FERC Account Description</b>	<b>Debit</b>	<b>Credit</b>
131	Cash	115,918.00	
101	Electric plant in service - distribution		107,537.00
108	Accumulated provision for depreciation of electric utility plant		8,381.00
		115,918.00	115,918.00