

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 7, 2015

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: April 30, 2015

TO: Public Utility Commission

FROM: Matt Muldoon 

THROUGH:  Jason Eisdorfer and  Marc Hellman

SUBJECT: GEORGIA-PACIFIC AND CLATSKANIE PUD: (Docket No. DR 49)
Petition for Declaratory Ruling.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should substantively consider Georgia-Pacific Consumer Products (Camas) LLC's (Georgia-Pacific or GP) and Clatskanie People's Utility District's (Clatskanie) Petition for Declaratory Ruling (Petition).

DISCUSSION

A. Process for Consideration of a Petition

The Petition was filed on April 10, 2015, pursuant to ORS 757.450 and OAR 860-001-0430. The Commission has 60 days from the date of a petition's filing to decide at a public meeting whether it will substantively consider the request. See OAR 860-001-0430(2).

OAR 860-001-0430(1) sets forth the six procedural requirements for submitting a petition for declaratory ruling. In brief summary, a petition must contain (a) the rule(s) or statute(s) that may apply; (b) a detailed statement of the relevant or assumed facts; (c) all arguments asserted by the petitioner; (d) the questions presented; (e) the specific relief requested; and (f) the petitioner's contact information. The Petition satisfies these procedural requirements. As such, the issue is whether or not the Commission should accept the Petition for substantive consideration.

B. BACKGROUND

The Petition sets forth 11 “assumed facts.” In a declaratory ruling proceeding, facts are assumed, but not established, in applying applicable law to an assumed factual situation. Staff will briefly summarize the most relevant of these facts in order to provide context for its recommendation. It is important to note that, because this Background section is intended to serve only as a broad overview, the inclusion or omission of one or more assumed facts in this summary should not be construed as an indicator of its importance to a final resolution of the legal issues.

GP owns and operates a manufacturing facility that is physically located in Camas, Washington (GP Mill). The GP Mill currently takes electric service from PacifiCorp, d/b/a Pacific Power (PacifiCorp or Company) under a bilateral special contract (Contract) with a 20-year term that expires on December 31, 2015. Under the Contract, PacifiCorp delivers electricity to the GP Mill at the Company’s Troutdale Substation located in Troutdale, Oregon. GP owns two 69 kilovolt (kV) lines that interconnect with PacifiCorp-owned transformation facilities at the Troutdale Substation, and cross the Columbia River to the GP Mill. PacifiCorp and GP have operated under this arrangement under the belief that it results in the GP Mill being properly viewed as a PacifiCorp Oregon customer because GP accepts delivery of the power at the Troutdale Substation.

GP seeks to take electric service for its GP Mill with Clatskanie Public Utility District (Clatskanie) after its Contract with PacifiCorp expires. Specifically, GP proposes to sell its two 69 kV lines to Clatskanie PUD. Under the proposal, Clatskanie, or a third party selling wholesale power to it, would obtain transmission service pursuant to PacifiCorp’s open access transmission tariff (OATT). To this end, Clatskanie and PacifiCorp have recently executed a Long-Term Point-To-Point Transmission Service Agreement for delivery of wholesale power to Clatskanie at the Troutdale Substation. The power will be transmitted over PacifiCorp’s transmission system and delivered to Clatskanie at the Troutdale Substation. Clatskanie will then transmit that power to the GP Mill. GP and Clatskanie believe this new arrangement will result in the GP Mill being considered a customer of Clatskanie taking delivery of electric service in Washington.

GP has requested studies necessary to move the GP Mill load and the cogeneration plant located at the GP Mill from the PacifiCorp balancing authority area to the Bonneville Power Administration balancing authority.

B. Consideration of Substantive Merits of Petition

The Petition requests the Commission address the following specific question(s):

1. Under the assumed facts, does Oregon's direct access law apply to the delivery of electricity in Washington to a Washington customer for use exclusively in Washington?
2. Even if Oregon's direct access law could theoretically apply, would Clatskanie be providing direct access if it provides electricity over its own distribution lines to its own nonresidential customer?
3. Under the assumed facts, would Clatskanie be providing utility service within any exclusive territory allocated to PacifiCorp?

Staff believes the Petition presents important legal questions for the Commission's consideration and resolution. The answers to these questions are of critical importance to both GP and PacifiCorp as GP considers alternatives as to how it will acquire power to serve the GP Mill beginning January 1, 2016. Staff further notes that on April 17, 2015, PacifiCorp filed its Response to the Petition in which the Company requested that the Commission substantively consider the Petition because of the importance of the legal issues involved.

PROPOSED COMMISSION MOTION:

The Commission substantively consider Georgia-Pacific's and Clatskanie PUD's Petition for a Declaratory Ruling.