

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: April 28, 2015

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A

DATE: April 7, 2015

TO: Public Utility Commission

FROM: Brian Bahr <sup>BB</sup>

THROUGH: Jason Eisdorfer and Marc Hellman <sup>JE</sup> <sup>MA</sup>

SUBJECT: PACIFICORP: (Docket No. UI 316(1)) Requests supplemental order approving amendments to Intercompany Mutual Assistance Agreement.

**STAFF RECOMMENDATION:**

The Public Utility Commission of Oregon (Commission) should approve PacifiCorp's (PacifiCorp or Company) application for a supplemental order approving the amendments to the Intercompany Mutual Assistance Agreement (Agreement), previously approved by the Commission in Order No. 11-400, subject to the following conditions:

1. PacifiCorp shall notify the Commission in advance of any substantive changes to the Agreement, including any material change in price. Any such changes shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
2. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, all transactions entered into under the affiliated interest agreements with NV Energy, Inc. (NVE).

**DISCUSSION:**

Applicable Law

"Affiliated interest," as defined in ORS 757.015(3), includes every corporation five percent or more of whose voting securities are owned by any corporation or person owning five percent of the voting securities of a public utility or in any successive chain of ownership of a public utility. Pursuant to ORS 757.495, the Commission reviews

contracts between a utility and its affiliated companies. The Commission reviews the contract to ensure it is fair and reasonable and not contrary to the public interest. ORS 757.495(3). The Commission customarily applies a no harm standard when addressing whether an agreement or transaction is in the public interest.

PacifiCorp filed this application on March 13, 2015, in accordance with Commission Order No. 11-400, in Docket No. UE 316. That order approved the Intercompany Mutual Assistance Agreement, which allowed certain rate-regulated subsidiaries of Berkshire Hathaway Energy Company (BHE) to provide assistance to each other in emergency situations using protocols from applicable regional mutual assistance agreements. The participants of the Agreement were PacifiCorp, MidAmerican Energy Company (MEC), Kern River Gas Transmission Company (Kern), and Northern Natural Gas Company (NNG), all indirect, wholly-owned subsidiaries of BHE.

The Agreement has been amended to allow for inclusion of other rate-regulated BHE subsidiaries as parties, such as NVE, which was acquired by BHE in December 2013. The Agreement was also amended to remove redundant language relating to limitation of liability and indemnification. MEHC's ownership interest in PacifiCorp and NVE, as well as MEC, Kern, and NNG, creates an affiliated interest.

With this application, PacifiCorp seeks Commission approval of the amendments to the Agreement and authority to dispose of property pursuant to the Agreement.

### Issues

Staff investigated the following issues:

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

### Terms and Conditions of the Agreement

Staff reviewed the amendments to the Agreement and did not observe any unusual terms or conditions. The first amendment to the previous version of the Agreement, approved by the Commission already, is to allow for the inclusion of additional subsidiaries of BHE to participate in the Agreement (Article 18 in the new Agreement). The second amendment removes certain redundant clauses related to limitation on liability and indemnification (Articles 10 and 11 of the original Agreement). These

clauses are duplicative considering they are also contained in the applicable regional mutual aid agreements that fall under the Agreement.

#### Transfer Pricing

The Company seeks approval of the transfer of goods that may occur if providing assistance to Parties of the Agreement. The Agreement is one among a suite of mutual assistance agreements that the Company has in place to be able to enlist assistance in emergency situations. For emergency situations, the Company is typically able to give or receive assistance from other utilities within hours of receiving or issuing a request for assistance.

On the rare occasion that PacifiCorp anticipates providing assistance under the Agreement, the Company would likely provide labor or other services. However, PacifiCorp may also provide goods such as cable, wire, poles, etc., if surplus inventory is available. The market value of such goods typically does not meet the minimum \$25,000 value threshold for required filings for property dispositions, and the Company anticipates providing assistance to the Parties in the form of assets that will trigger the statutory filing requirements for prior approval of disposal of property to be a rare occurrence.

Service charges will be charged directly, and the transfer of goods will be priced at replacement cost. As it is anticipated that such transactions under the Agreement will be rare, no estimates have been made. The Agreement was previously approved by the Commission, and no amendments to the Agreement relate to transfer pricing.

#### Public Interest Compliance

Under the Agreement, PacifiCorp will be able to seek assistance in emergencies, if necessary, from the other parties to the Agreement. This will help ensure customers continue to receive safe and reliable service. The Company has stated it only intends to provide assistance under the Agreement to the extent doing so will only involve surplus resources and will not impair operations. Staff concludes that the Agreement is in the public interest because it does not harm customers.

#### Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that the Commission retains the ability to review all affiliated transactions of the Company through both its annual affiliated interest report and in general rate case filings. Staff's recommended conditions provide for all necessary Commission examination of PacifiCorp's records concerning the Agreement.

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PacifiCorp has reviewed this memo and has not communicated any objections or concerns.

Based on the review of this application, Staff concludes:

1. The application regards an affiliated interest agreement that is fair and reasonable and not contrary to the public interest with inclusion of the proposed conditions; and,
2. Necessary records are available.

**PROPOSED COMMISSION MOTION:**

PacifiCorp's application for a supplemental order approving the amendments to the Intercompany Mutual Assistance Agreement, an agreement with affiliated interests, be approved subject to Staff's recommended conditions.

UI 316(1)