

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 13, 2015

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

DATE: January 6, 2015

TO: Public Utility Commission

FROM: Linnea Wittekind *W*

THROUGH: *I* Jason Eisdorfer and Marc Hellman *MH*

SUBJECT: PACIFICORP: (Docket No. UI 352) Requests Approval of Affiliated Interest Transaction with Forney Corporation.

**STAFF RECOMMENDATION:**

The Public Utility Commission of Oregon (Commission) should approve PacifiCorp's (PacifiCorp or Company) application for approval of an affiliated transaction between PacifiCorp and Forney Corporation, an affiliated interest, subject to the following conditions:

1. PacifiCorp shall notify the Commission in advance of any substantive changes to the contracts, 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 Forney Corporation.

**DISCUSSION:**

PacifiCorp filed this application with the Commission on November 18, 2014, pursuant to ORS 757.495(1) and OAR 860-027-0040. PacifiCorp is an indirect, wholly-owned subsidiary of Berkshire Hathaway Energy Company (BHE). BHE is a subsidiary of Berkshire Hathaway, Inc. (Berkshire). Forney Corporation (Forney) is wholly owned by Graham Holdings Company. Berkshire Hathaway holds approximately percent interest in Graham Holdings Company voting stock.

"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. Berkshire's ownership interest in PacifiCorp and Graham Holdings Company qualifies as an affiliated interest.

Forney manufactures equipment that monitors and controls the combustion of coal, natural gas, and other materials. PacifiCorp uses gas head detectors, unfiltered flame detector assemblies, pipe spacer guides and other miscellaneous fiber optic materials purchased from Forney and now needs to purchase replacement fiber optic cable and fiber optic lens for the existing equipment. PacifiCorp purchased or will be purchasing several items from Forney to replenish stock for the Dave Johnson plant.

The Company notes that this transaction may qualify for a waiver of OAR 860-027-0040 filing requirements based on the amount spent for the three transactions. OAR 860-027-0043 allows for the waiver of the rules governing affiliate interest transactions upon petition by a utility and approval by the Commission, including transactions valued at less than 0.1 percent of the utility's Oregon operating revenues for the previous calendar year.

#### Issues

Staff investigated the following issues:

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

#### Terms and Conditions of the Agreement

Staff did not observe any unusual terms or conditions in the contract; it appears to have been negotiated at arm's-length. PacifiCorp contacted several potential vendors for a quote for the needed parts, only Forney returned a quote. Forney is the manufacturer of the original parts. According to the Company, to the best of its knowledge only Forney manufactures the required replacement parts.

### Transfer Pricing

PacifiCorp may need to make periodic purchases from Forney, but does not anticipate annual spending on the purchases described in this application. In this application the Company is requesting approval of three purchases totaling \$48,868. The breakout is as follows:

- \$6,896 – Fiber Optic Cable & Lens
- \$34,132 – Ignitor Parts
- \$7,840 – Ignitor Assembly

Staff believes the transaction is fair and reasonable. PacifiCorp attempted to purchase parts in the market, but is limited due to Forney being the only manufacturer of replacement parts.

According to OAR 860-027-0043, the Commission may, for good cause, waive the affiliated interest transaction requirements of OAR 860-027-0040. The rule provides:

*Upon petition by a utility and approval by the Commission for good cause, the requirements of OARs 860-027-0040 and 860-027-0041 may be waived for individual transactions or classes of transactions. As a general guideline, in the absence of showing that the transaction is fair and reasonable and not contrary to the public interest, transactions exceeding 0.1 percent of the previous calendar year's Oregon utility operating revenues will not qualify for waiver.*

As part of MEHC's acquisition of PacifiCorp, however, the Company agreed to file affiliated interest applications for all transactions between MEHC affiliates, regardless of the monetary amount involved.

### Public Interest

The purchase of the parts is in the public interest. PacifiCorp must operate and maintain its generation facilities to ensure safe and reliable electric service to its customers. According to the Company, these parts are necessary at its Dave Johnson Plant for operation and proper maintenance.

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

Order Conditions numbers 1 and 2, listed above in the Staff recommendations afford the necessary Commission examination of PacifiCorp's records concerning the transaction with Forney Corporation.

Based on the review of this application, Staff concludes:

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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 ordering conditions; and
2. Necessary records are available.

**PROPOSED COMMISSION MOTION:**

PacifiCorp's application for approval of affiliated interest transaction with Forney Corporation be approved subject to the two recommended conditions.

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