

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 22, 2016

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A

DATE: March 14, 2016

TO: Public Utility Commission

FROM: Brian Bahr *BB*

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

SUBJECT: PACIFICORP: (Docket No. UI 367) Requests Approval of Affiliated Interest Transaction with Graver Water Systems Inc.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve PacifiCorp's (Company) application for approval of an affiliated interest transaction with Graver Water Systems Inc. (Graver), an affiliated interest, subject to the following conditions:

1. PacifiCorp shall notify the Commission of any substantive changes to the transaction, including any material changes in price or other parameters. 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 with Graver.

ISSUE:

Whether the Commission should approve the Company's application to enter into a transaction with Graver, an affiliated interest, for the purchase of a replacement manway cover door.

APPLICABLE LAW:

An "affiliated interest," as defined in ORS 757.015(3), includes every corporation five percent or more of whose voting securities are owned by a corporation or person that

also owns, or is part of a successive chain of ownership, five percent or more of the voting securities of a public utility. Berkshire Hathaway's ownership interest in both PacifiCorp and Graver qualifies Graver as an affiliated interest of PacifiCorp.

Transactions between affiliated interests must be recorded at the lower of cost or market rate. OAR 860-027-0048(4)(e). OAR 860-027-0040 provides the Commission's application requirements for transactions between affiliated interests. However, these application requirements can potentially be waived if the transaction amount is less than 0.1 percent of the utility's previous calendar year's Oregon operating revenues. OAR 860-027-0043. Further, the Commission may waive any rule for good cause shown. OAR 860-001-000(2).

The Commission reviews affiliated interest transactions to ensure they are fair and reasonable and not contrary to the public interest. ORS 757.495(3).

DISCUSSION AND ANALYSIS:

Background

PacifiCorp filed this application with the Commission on January 6, 2016, pursuant to ORS 757.495(1) and OAR 860-027-0040. PacifiCorp is an indirect, wholly-owned subsidiary of Berkshire Hathaway Energy Company, a subsidiary of Berkshire Hathaway, Inc. (Berkshire Hathaway). Graver is also a subsidiary of Berkshire Hathaway, and therefore, an affiliated interest of PacifiCorp.

Graver designs, manufactures, and markets water and wastewater treatment systems. A tank that was manufactured and supplied by Graver in 1974 is used at PacifiCorp's Jim Bridger generation plant. PacifiCorp asserts that the manway cover door of the tank must be replaced and plans to purchase from Graver a replacement manway cover door and related yoke with bolts for an approximate purchase price of \$667.

Analysis

Staff reviewed the Company's application, including the purchase order for the manway cover door. Staff investigated the following issues:

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

Terms and Conditions of the Transaction

The purchase order for the manway cover door, included with the Company's application, lists the prices of the manway cover door, the yoke and bolts, and the high pressure gasket. Additionally, the purchase order contains standard terms and conditions that address issues such as warranty, insurance, and governing law for the contract. Staff did not identify any unexpected or unusual terms or conditions in the purchase order.

Transfer Pricing

The purchase price of the manway cover door and assembly materials, which include the yoke, bolts, and a high pressure gasket, is \$667. OAR 860-027-0048(e) requires that the utility record the transaction at the lower of the affiliate's cost or market rate. However, in this particular transaction, Staff agrees with the Company that it is both cost-effective and time-effective to purchase the replacement door from Graver, the original manufacturer, rather than contract with other companies that would have to design a replacement door to fit the tank. Therefore, Staff recommends a waiver of the affiliated interest transaction rule pursuant to OAR 860-001-0000(2). Staff also notes that the transaction is significantly less than 0.1 percent of PacifiCorp's 2015 Oregon operating revenues, the effect of the transaction on Oregon customers is minimal, and the price is fair and reasonable. Thus, waiver under OAR 860-027-0043 is also warranted.

Public Interest

The Commission customarily applies a "no harm" standard in determining what is "not contrary to the public interest" in matters involving affiliated interest transactions. See, e.g., *In the Matter of a Legal Standard for Approval of Mergers*, Order No. 01-778 (Docket No. UM 1011). Replacing the manway cover door of the tank at the Company's Jim Bridger generation plant will not cause harm to customers, but instead will allow the Company to continue providing safe and reliable service Oregon customers. Staff finds that this transaction is in the public interest.

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 this transaction.

CONCLUSION:

PacifiCorp has reviewed this memo and has not communicated any objections or concerns. Based on the review of this application, Staff concludes:

1. The purchase order does not appear to contain any unexpected or unusual terms or conditions;
2. The transfer pricing is fair and reasonable;
3. The transaction is not contrary to the public interest; and,
4. Necessary records are available.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's application for approval of an affiliated interest transaction with Graver subject to Staff's recommended conditions.