

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UI 301

In the Matter of  
PACIFICORP, dba PACIFIC POWER  
Requests approval of an Affiliated Interest  
Agreement with Ferron Canal and Reservoir  
Company.

ORDER

**DISPOSITION: APPLICATION APPROVED WITH CONDITIONS**

On July 16, 2010, PacifiCorp, dba Pacific Power (Pacific Power) filed an application with the Public Utility Commission of Oregon (Commission) pursuant to ORS 757.495, and OAR 860-027-0040 for approval of affiliated interest agreements with Ferron Canal and Reservoir Company. A description of the filing and its procedural history is contained in the Staff Report attached as Appendix A and incorporated by reference.

Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its public meeting on August 24, 2010, the Commission adopted Staff's recommendation.

**OPINION**

**Affiliation**

An affiliated interest relationship exists under ORS 757.015.

**Applicable Law**

ORS 757.495 requires a public utility to seek approval of contracts with affiliated interests within 90 days after execution of the contract.

ORS 757.495(3) requires the Commission to approve the contract if the Commission finds that the contract is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission reserves that issue for a subsequent proceeding.

**CONCLUSIONS**

1. An affiliated interest relationship exists.
2. The agreement is fair, reasonable, and not contrary to the public interest.
3. The application should be approved, with certain conditions.

**ORDER**

IT IS ORDERED that the contract between PacifiCorp, dba Pacific Power, and Ferron Canal and Reservoir Company is approved, subject to the conditions stated in the Staff Report attached as Appendix A.

Made, entered, and effective SEP 02 2010.

BY THE COMMISSION:



Becky L. Beier  
Becky L. Beier  
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

ITEM NO. CA6

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 24, 2010

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

DATE: August 10, 2010

TO: Public Utility Commission

FROM: Dustin Ball <sup>DB</sup>

THROUGH: <sup>li</sup> Lee Sparling, <sup>A</sup> Marc Hellman, and <sup>m</sup> Michael Dougherty

SUBJECT: PACIFIC POWER & LIGHT: (Docket No. UI 301) Requests approval of an Affiliated Interest Agreement with Ferron Canal and Reservoir Company.

**STAFF RECOMMENDATION:**

The Commission should approve PacifiCorp's (PacifiCorp or Company) application for approval of affiliated interest agreements with Ferron Canal and Reservoir Company (Ferron), an affiliated interest, subject to the following conditions:

1. PacifiCorp shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to any transactions involving Ferron.
2. The Commission reserves the right to review, for reasonableness, all financial aspects of these transactions in any rate proceedings or alternative form of regulation.
3. 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.
4. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, all transactions entered into under the affiliated interest agreements with Ferron.

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## DISCUSSION:

PacifiCorp filed this application on July 16, 2010, pursuant to ORS 757.495(1), and OAR 860-027-0040. PacifiCorp currently owns 7,647 shares, or approximately 37 percent, of the shares of Ferron. Ferron is a non-profit company that holds water rights in the Ferron Creek drainage, located in Utah. Additionally, Ferron manages access to certain water supplies on behalf of the Company. PacifiCorp and Ferron are affiliated interests pursuant to ORS 757.015.

PacifiCorp's ownership in Ferron entitles the Company to a certain amount of water per share. The Company uses the water obtained through Ferron as part of the supply to its Hunter Plant located in Utah. PacifiCorp has also entered into a separate agreement with other Ferron shareholders PacifiCorp for the purpose of pooling water rights to essentially guarantee the company a certain amount of water from the Ferron Creek drainage.

The Company's ownership interest in Ferron was established in 1974 under Utah Power & Light Company. PacifiCorp and Utah Power & Light Company subsequently merged in 1989. A recent review of the agreement and Ferron ownership, led to the conclusion that PacifiCorp's relationship with Ferron creates an affiliated interest.

### Issues

Staff investigated the following issues:

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

### Terms and Conditions of the Agreement

Staff did not observe any unusual terms and conditions of the Agreement. The Agreement was negotiated at arm's-length in 1974. Prior to the Agreement, PacifiCorp (Utah Power & Light Company at the time) and Ferron were not affiliated interests. Additionally, it was a condition of the Agreement for the Company to acquire shares in Ferron which entitle PacifiCorp to water rights owned by Ferron.

The terms and conditions of the Agreement do not appear to be contrary to the public interest.

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#### Transfer Pricing

Ferron is a non-profit company which manages water rights which are used as part of the supply to the PacifiCorp's Hunter Plant. PacifiCorp incurs an annual operations and maintenance assessment for its share of water rights, and also incurs costs associated with its participation in the pooling agreement. According to the agreement, signed in 1974, PacifiCorp pays \$210,000 per year for the delivery of 7,000 acre feet of water, which is subject to an annual adjustment based on the wholesale price index for all commodities prepared by the Bureau of Labor Statistics.

The annual amount paid to Ferron varies due to inflation factors as well as changes in the wholesale price index for commodities. The Company paid approximately \$524,000 in 2007, \$616,000 in 2008, and \$789,000 in 2009. Additionally, because of its 37 percent ownership in Ferron, PacifiCorp receives 37 percent of the annual payments made under the agreement.

Because the pricing was developed through an arms-length negotiation and price increases are indexed based on Bureau of Labor Statistics information, the Agreement's pricing meet the Commission fair pricing standard.

#### Public Interest Compliance

PacifiCorp's ownership in Ferron ensures a firm, long-term water supply for the Hunter Plant in an area with limited supply. Staff finds that the terms and conditions to the contract appear to be just and reasonable.

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

Order Conditions Number 1 and Number 4, listed above in the Staff recommendations, afford the necessary Commission examination of PacifiCorp's records concerning the Ferron Agreements.

Based on the review of this application, Staff concludes the following:

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

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**PROPOSED COMMISSION MOTION:**

PacifiCorp's application for approval of affiliated interest agreements with Ferron be approved subject to the four recommended conditions.

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