

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1670

In the Matter of

COLUMBIA BASIN ELECTRIC
COOPERATIVE, INC.,

Complainant;

vs.

PACIFICORP, dba PACIFIC POWER,
NORTH HURLBURT WIND, LLC,
SOUTH HURLBURT WIND, LLC,
HORSESHOE BEND WIND, LLC,
and CAITHNESS SHEPHERDS
FLAT, LLC,

Defendants.

ORDER

DISPOSITION: MOTIONS FOR SUMMARY JUDGMENT GRANTED
IN PART; FURTHER PROCEEDINGS ORDERED

In this order, we find that the three wind projects that comprise the Shepherds Flat wind complex are separate customers for purposes of the Territory Allocation Law. Based on that finding, we conclude that PacifiCorp, dba Pacific Power, is entitled to provide service to Shepherds Flat North and Shepherds Flat Central, while Columbia Basin Cooperative, Inc. (Columbia Basin) is entitled to serve Shepherds Flat South. We grant portions of the parties' separate motions for summary judgment consistent with this conclusion, and order further proceedings to address future compliance with this order.

I. INTRODUCTION

Columbia Basin filed a complaint alleging that PacifiCorp and three wind projects and their corporate parent, Caithness Shepherds Flat, (Caithness) are illegally providing utility service into, and in, Columbia Basin's exclusive service territory. Columbia Basin requests we find defendants in violation of the Territory Allocation Law.

PacifiCorp and the Caithness defendants deny the allegations and raise numerous affirmative defenses. Oregon Rural Electric Cooperative Association and Umatilla

Electric Cooperative intervened in this docket and were granted party status. On October 6, 2014, the parties filed simultaneous summary judgment motions, followed by replies and response filings.

II. FACTS

A. Shepherds Flat

Caithness and its subsidiaries own three wind energy generation facilities collectively known as Shepherds Flat. Each wind project consists of 106-116 wind turbines, a collector substation, transmission and distribution facilities, and maintenance facilities.

Each wind project is individually owned and operated by a separate corporate affiliate, and holds a separate site certificate issued by the Energy Facility Siting Council (EFSC). North Hurlburt owns and operates the Shepherds Flat North facility. South Hurlburt owns and operates the Shepherds Flat Central facility. Horseshoe Bend owns and operates the Shepherds Flat South facility.

The three wind projects occupy land within both PacifiCorp's and the cooperative's allocated service territory in North Central Oregon.¹ Shepherds Flat North is entirely within PacifiCorp's service territory. Shepherds Flat Central is partially in PacifiCorp's territory and partially in Columbia Basin's territory, with its collector substation in PacifiCorp's service territory. Shepherds Flat South is entirely within Columbia Basin's service territory, including its collector substation and maintenance building.

Prior to the development of the wind projects, there were no facilities in the service territories of either PacifiCorp or Columbia Basin to interconnect the wind farms to the Bonneville Power Administration (BPA) transmission system. Caithness requested and funded BPA's construction of a new substation adjacent to its existing Slatt Switching Station. BPA called this new substation the "Slatt Substation," which contains a new transformer that allows the 230kV electrical output from Shepherds Flat to be stepped up to the 500kV voltage of the BPA transmission system.

The wind projects deliver power to the Slatt Substation through a combination of individually and jointly owned facilities. Each wind project first transmits its output via an individually owned 230kV transmission line that connects its respective collector substation to a three ring bus located adjacent to Shepherds Flat North. Once power is individually delivered to the three ring bus, all three wind projects transmit the power over two 230kV connector lines that extend 4.5 miles to the Slatt Substation. The three wind projects jointly own the three ring bus and the two 230kV collector lines, including

¹ Columbia Basin's exclusive service territory was granted in Docket No. UF 2308, Order No. 38089 (Oct 27, 1961). PacifiCorp's exclusive service territories in Gilliam and Morrow counties were granted in Docket No. UF 2405, Order No. 39812; Docket Nos. UF 2415 and UF 2419, Order No. 39987; Docket No. UF 2658, Order No. 44099; and Docket No. UF 3764, Order No. 82-025.

the land rights for the power lines, the towers, foundations, and access roads. Caithness, the corporate parent, does not have any ownership interests in any electrical facilities.

In 2010, the three wind projects entered into an option agreement with Saddle Butte Wind, LLC, an affiliate of Caithness that could be the fourth wind project to be developed in the Shepherds Flat wind complex. The option agreement gives Saddle Butte an option to purchase an undivided interest in the jointly-owned electrical facilities.

B. Description of the Station Service

Each wind project requires station service, which is the power consumed for the operation of cooling systems, control mechanisms, lighting, and emergency equipment within the turbine assemblies. The station service requirement of each of the three wind projects ranges between 0.5 MW and 2.0 MW, with total requirements under 5 MW.

Although the wind projects generally provide their own station service, they rely on external power supplied by third parties to meet their needs when winds are low. Under a service agreement with Caithness, PacifiCorp provides back-up station service to the wind projects at a point of interconnection in the Slatt Substation, which is located in PacifiCorp's service territory. From there, each wind project receives firm power and energy using the same jointly and individually owned transmission facilities used to deliver the wind output to BPA.

PacifiCorp provides this station service to the wind projects under its Schedule 47, and aggregates the energy and capacity demand of all three wind projects as if they are a single load. Each collector substation contains two bi-directional meters that measure incoming backup power provided by PacifiCorp and outgoing project power. Using these bi-directional meters, which are owned by BPA, PacifiCorp adjusts the six metered values for losses to calculate the total station power load delivered. Caithness receives a monthly bill from PacifiCorp and divides it among the wind projects with no mark-up to itself. PacifiCorp began these station power deliveries on August 18, 2011.

Although PacifiCorp provides station service to all three wind projects, Columbia Basin provides retail electric service to the Shepherds Flat South maintenance building.

III. DISCUSSION

A. Introduction

Columbia Basin argues that both PacifiCorp and the Caithness defendants are violating the Territory Allocation Law. Columbia Basin contends that PacifiCorp illegally provides station power to Caithness for use at wind projects located in Columbia Basin's territory. Columbia Basin also contends that Caithness and the three wind projects are acting as a provider of utility services by transferring that station power through shared facilities for use within Columbia Basin's territory.

Pacific Power and the Caithness defendants deny the allegations. PacifiCorp contends it has not unlawfully encroached on Columbia Basin's territory because the station power is delivered at a point in PacifiCorp's territory. The Caithness defendants contend they are exempt from the Territory Allocation Law because they are not providing utility service.

All parties have filed motions for summary judgment. We may grant summary judgment only when a moving party has demonstrated that there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law.² As to the motions for summary judgment filed by Columbia Basin, we must view the record most favorable to the defendants. Conversely, as to the motions filed by PacifiCorp and the Caithness defendants, we must view the record most favorable to Columbia Basin.

B. Analysis

The Territory Allocation Law, codified in ORS 785.400 to 758.475, gives this Commission the authority to create exclusive service territories for electric and gas utilities. These provisions set out a process by which a utility may allocate territory, thus providing that utility with the exclusive right, and obligation, to serve customers in that territory. Once territory is allocated to a particular utility, ORS 758.450(2) prohibits other persons from providing utility service in that territory.

This dispute arises because both Columbia Basin and PacifiCorp have both been granted the exclusive right to serve territory where the three wind projects are located. Shepherds Flat North lies entirely within PacifiCorp's territory, while Shepherds Flat South lies entirely within Columbia Basin's territory. Shepherds Flat Central straddles the territory of both. For varying reasons, both utilities claim the right to serve the entire Shepherds Flat development.

We find that there are no genuine issues of material fact in this case, but there are several questions of policy and law that we must resolve.³ We address the dispute in four parts. First, as a threshold issue, we examine whether the entire Shepherds Flat wind complex should be treated as a unified load, or whether each wind project should be treated as a separate load or customer for purposes of the Territory Allocation Law.

Second, once we have determined whether the wind projects should be treated as a unified load or as separate customers, we apply the Territory Allocation Law to determine which utility is entitled to serve the wind projects. This requires examining how the law should be applied in this case with a customer that straddles adjoining service territories.

² ORCP 47 C.

³ The record for this proceeding includes all submitted filings, declarations and exhibits. Despite defendants' objections, all of the offered exhibits are admissible as relevant evidence under OAR 860-001-0450.

Third, we examine whether PacifiCorp or the Caithness defendants are violating the Territory Allocation Law. We address Columbia Basin's complaint against the two defendants separately.

Finally, we address defenses that both PacifiCorp and the Caithness defendants raise in opposition to Columbia Basin's complaint.

1. Shepherds Flat as an Individual or Integrated Customer

For purposes of this territory allocation dispute, we must decide whether the three wind projects should be treated as a one integrated customer or as three individual customers. North Hurlburt, South Hurlburt, and Horseshoe Bend maintain that they are independently owned and operated. Columbia Basin contends they should be treated as one.

The facts presented in the motions for summary judgment establish that each wind farm is an independent operation that should be treated as individual customers. Each wind project is independently owned by separate entities—North Hurlburt, South Hurlburt, and Horseshoe Bend. These entities are the sole owners of the property on which their respective projects lie. Each transmits its output using individually-owned collector stations and transmission lines. Each wind project has a maintenance building that receives low voltage electric service under separate retail service agreements (PacifiCorp serves Shepherds Flat North and Shepherds Flat Central, Columbia Basin serves Shepherds Flat South).⁴

The major regulatory documents in the record also present the projects as separate entities. For example, each wind project holds its own EFSC site certificate that comprehensively governs all aspects of the design, construction, operation, and ultimate decommissioning of their wind projects. The Oregon Strategic Investment Program Agreements states, that “in order to develop a very large renewable resource, Caithness will divide that resource into four separate renewable energy facilities, each to be separately owned, financed, constructed and operated * * *.”⁵ Each has a separate Large Generator Interconnection Agreement (LGIA) with BPA, specifying the terms and conditions of each project's interconnection at the Slatt Substation. Each wind project filed a separate notice of self-certification as an exempt wholesale generator with FERC.⁶ Similarly, in the FERC order approving the shared facilities and granting waivers from open access transmission requirements, the “[a]pplicants state that they are individually developing separate phases of an 845 MW wind generating facility * * *.”⁷ The wind projects sell their output to Southern California Edison Company under three separate 20-

⁴ Caithness Defendants Motion for Summary Judgment, Delgado Declaration at 12, 14, and 16 (Oct 6, 2014).

⁵ Columbia Basin Response, Kindley Declaration Exhibit N (Oct 21, 2014) (this document listed four wind projects, listing a fourth entity as Shepherds Flat Common Facilities, LLC).

⁶ Caithness Defendants Motion for Summary Judgment, Delgado Declaration Exhibit 1 (Oct 6, 2014).

⁷ *Horseshoe Bend Wind, LLC*, 135 FERC ¶ 61,251 (June 27, 2011).

year power purchase agreements.⁸ Finally, the stand-alone nature of each wind farm is further confirmed by the fact that an option agreement exists with Saddle Butte Wind, LLC, an affiliate of Caithness, that could add a fourth independent wind project in the Shepherds Flat wind complex.⁹

We acknowledge that some evidence suggests that the wind projects should be viewed as one integrated operation. All three wind projects share the same corporate parent, Caithness, who retains management authority over the wind projects and purchases the station power from PacifiCorp to provide to the three wind projects. Moreover, the Shepherds Flat wind complex was initially permitted as one generation project, and the three wind projects jointly own certain transmission facilities and maintenance equipment. However, ultimately, Caithness contends that the three wind projects are operated independently, and Columbia Basin does not disagree.¹⁰

Upon review of the record, we do not believe these factors suggesting an integrated customer outweigh the factors supporting individual treatment of the wind projects. We have found that a single entity may develop separate facilities and share infrastructure.¹¹ Moreover, the aggregated station power contract between Caithness and PacifiCorp was negotiated between the parties and is not binding on our analysis. Finally, regardless of how the Shepherds Flat wind complex was originally proposed, the complex was ultimately permitted and constructed as three separate and independent facilities.

There is nothing to suggest that the wind projects' operations are so integrated that service from two utilities would be impossible or impractical. Thus, we treat each wind project as a separate customer for this proceeding.

2. *Application of the Territory Allocation Law*

Having determined that all three wind projects are separate customers, we now apply the Territory Allocation Law to determine which utility has the right to serve them. This determination is straight-forward with respect to two of the wind projects. When an entire load is located within the service territory of a single utility, that utility has the right and obligation to serve that load. Because Shepherds Flat North lies exclusively within PacifiCorp's territory, we conclude that PacifiCorp has the right to serve Shepherds Flat North. Similarly, because Shepherds Flat South lies exclusively in Columbia Basin's territory, we conclude that Columbia Basin has the right to serve Shepherds Flat South.

⁸ Columbia Basin Complaint, Kindley Declaration Exhibit 2 at 4 (Mar 26, 2014).

⁹ *Id.*

¹⁰ Columbia Basin Motion for Summary Judgment at 12 (concluding that the three wind projects are separate legal entities and "they are supposedly operating independently" except for the jointly owned facilities) (Oct 6, 2014).

¹¹ *In the Matter of Staff's Investigation Relating to Electric Utility Purchases from Qualifying Facilities*, Docket No. UM 1129, Order No. 06-586 at Exhibit A (Oct 19, 2006).

The more difficult question is which utility has the right to serve Shepherds Flat Central. The Territory Allocation Law is unclear as to which utility has the right to serve a customer that straddles adjoining service territories. ORS 758.410 allows adjoining utilities to enter into a contract to transfer territory, customers, and facilities. The statute is silent, however, as to the legality of service to that customer where the utilities are not able to reach a negotiated resolution.

Although the matter has not been expressly addressed in Oregon, other jurisdictions have adopted one of three tests to determine which utility may properly provide service to a customer with property located in adjoining territories. We find these tests thoughtfully developed. The Colorado Supreme Court explains them as follows:

The point of service test focuses on the point at which electricity is delivered rather than on the point at which it is consumed. If a utility provides electricity to a customer within its certificated territory, the sale is proper, even if the customer transports the electricity into the certificated territory of another utility for the customer's use.

The geographic load center test is defined as a theoretical point determined by giving consideration to the location of the permanent electric loads which have been or which will be installed within a reasonable time as part of existing plans. In effect, this test permits the utility which serves a majority of a customer's load to serve the entire load, regardless of the territorial boundaries of a service area.

The point of use test requires that only the utility authorized to serve within a certificated territory may provide power to a facility within that territory. Thus, this test strictly enforces the territorial boundaries of regulated utilities in the provision of their electric service.¹²

PacifiCorp appears to rely on the point of service test when it contends that it has not unlawfully encroached on Columbia Basin's service territory because it delivers the station service to an interconnection point at the Slatt Substation—located in PacifiCorp's service territory. Although PacifiCorp makes this argument in the context of serving the three wind projects collectively, the point could be also used to assert the right to serve Shepherds Flat Central individually.

We reject the basis of PacifiCorp's assertion—that all “utility service” occurs at the point of delivery. Such a premise, if adopted, would effectively render meaningless all allocated service territories, as a customer could choose its own utility service provider simply by constructing its own transmission line to an adjoining service territory.

¹² *Public Service Commission of Colorado v. Public Utility Commission of Colorado*, 765 P2d 1015 (Colo. 1988) (internal citations omitted).

Instead, as a matter of policy to resolve the circumstances presented here, we apply the geographic load center test because it best furthers the purpose of the Territory Allocation Law for two reasons.¹³ First, the geographic load center test helps best ensure the integrity of the allocated territories by focusing on the nature of the service to be provided. The test precludes a customer from manipulating delivery points and running transmission lines across boundaries to obtain service from a neighboring utility. Second, the geographic load center helps avoid the duplication of facilities by accepting the reality that a customer's facilities may cross a service area boundary and allowing the predominate utility to serve the customer's entire load.

To apply the geographic load center test here we consider the location of the permanent loads (turbines and collector substations) relative to the service territory boundaries. The record indicates that a majority of the Shepherds Flat Central turbines and the collector substation are in PacifiCorp's territory.¹⁴ We determine that this constitutes a majority of the load, and thus find that PacifiCorp may serve all of Shepherds Flat Central.

3. *Violations of the Territory Allocation Law*

As noted, Columbia Basin contends that both PacifiCorp and the Caithness defendants are violating the Territory Allocation Law. We address the allegations against each defendant separately.

a. PacifiCorp

Columbia Basin contends PacifiCorp is illegally providing station power to the Shepherds Flat wind complex. Based on our finding that PacifiCorp is entitled to serve both the Shepherds Flat North and Shepherds Flat Central wind projects, we grant PacifiCorp's motion for summary judgment as it relates to those two wind projects. Given our finding that Columbia Basin is entitled to serve the Shepherds Flat South wind project, we grant Columbia Basin's motion for summary judgment as it relates to that wind project.

We are not persuaded by PacifiCorp's arguments that it has not violated the Territory Allocation Law by providing station service because it is not providing "utility service" as that term is defined in ORS 758.400(3). In that argument, PacifiCorp contends that a utility only encroaches on the territory of another utility if it is providing a "similar utility service," and argues that Columbia Basin does not provide power at 230 kV anywhere in its claimed territory. The statutory definition of "utility service" is broadly inclusive as

¹³ See ORS 758.405 (Stating the purpose of the Territory Allocation Law is to eliminate and prevent the duplication of utility facilities in order to promote efficient and economic use and development of utility facilities).

¹⁴ Columbia Basin Motion for Summary Judgment, Kindley Declaration Exhibit G (noting that the Shepherds Flat Central turbines are 1/3 Columbia Basin and 2/3 PacifiCorp); Exhibit L (indicating a majority of the entire Shepherds Flat station service load is in PacifiCorp's territory – 55 percent of the entire Shepherds Flat facility) (Oct 6, 2014). It is undisputed that the Shepherds Flat collector substation is in PacifiCorp's territory.

service provided by “any equipment” without distinction among voltage levels. Moreover, PacifiCorp’s argument, if adopted, would contravene the purpose of the Territory Allocation Law by potentially allowing several utilities to serve the same customer with varying facilities at the same location.

b. Caithness Defendants

Columbia Basin contends that Caithness and the three wind projects are acting as a provider of utility services by transferring station power through shared facilities for use within Columbia Basin’s territory. The Caithness defendants deny the allegations on various grounds.

Before turning to Columbia Basin’s claims, we address our jurisdiction over the Caithness defendants. The Caithness defendants contend that they are not proper parties to this complaint because they are not a “public utility” subject to our regulation; and because, they are exempt from the Territory Allocation Law as a wind resource.

The Caithness defendants misunderstand the scope of our complaint authority. ORS 756.500(1) broadly permits complaints “against any person whose business or activities are regulated by some one or more statutes, jurisdiction for the enforcement of which is conferred upon the commission.” As the agency charged with administering the Territory Allocation Law, we have jurisdiction to determine whether the actions of the Caithness defendants are consistent with Columbia Basin’s exclusive right to serve its allocated territory.

Next, the Caithness defendants contend they are not subject to the Territory Allocation Law under ORS 758.450(4)(c), which exempts any person “providing heat, light, or power * * * [f]rom solar or wind resources to any number of customers.” They contend this exemption broadly shields all their activities involving their production of wind power, including those related to the provision of station power at issue here.

The Caithness defendants misinterpret ORS 758.450(4)(c). The exemption applies to any person when “*providing*” wind power. In other words, the exemption shields a wind generator from the Territory Allocation Law when providing its own wind power to customers. The exemption does not encompass every activity of a wind generator, and does not apply to the Caithness defendants’ receipt and distribution of electricity supplied by PacifiCorp.

This interpretation is confirmed by legislative history. The 1985 Oregon Legislature enacted the exemption as part of an effort to close loopholes in the Territory Allocation Law. In response to concerns that some of the changes might inadvertently harm renewable energy development, the legislature added the exemption in ORS 758.450(4)(c) to ensure “that developers of wind and solar are totally unrestricted in

their sales.”¹⁵ Thus, the exemption was designed to protect the sale of renewable energy, and was not intended to exempt other activities of renewable generators.

Turning to the substance of the complaint, Columbia Basin argues that Caithness defendants created an “association” under the Territory Allocation Law and are providing “utility service” by jointly distributing power to the three end users. Columbia Basin relies on *Northwest Natural Gas Co. v. PUC*, 195 Or App 547 (2004), in which the court examined whether joint owners of a condominium bypass pipeline were violating NW Natural’s exclusive right to serve the area involved. The joint owners were industrial customers of natural gas. Rather than individually and directly connecting to the interstate pipeline, these customers jointly developed a bypass pipeline with a single connection to the interstate pipeline. The customers would then use individually-owned lateral pipelines, connected to the bypass pipeline, to receive natural gas through the same direct connection to the interstate pipeline.

The court rejected arguments that the customers were merely serving themselves and not providing utility service subject to the Territory Allocation Law. The court reasoned that the joint owners had created an association—an entity separate from the individual users who use the bypass pipeline. Thus, the court concluded that the joint users were not serving themselves, but rather were providing utility service in an area that had been exclusively allocated to NW Natural.

We dismiss the Territory Allocation claims against the Caithness defendants. Unlike the bypass pipeline arrangement discussed in *NW Natural v PUC*, the Caithness defendants are not providing utility service in Columbia Basin’s territory. All jointly-owned facilities used to deliver station service are located in PacifiCorp’s territory. The facility located in Columbia Basin’s territory is an individually owned transmission line owned by Shepherds Flat South to serve itself. Thus, Caithness defendants do not “jointly operate a system as a separate entity” in Columbia Basin’s territory.¹⁶ Although we have concluded that PacifiCorp has violated the Territory Allocation Law by providing service to Shepherds Flat South via this privately-owned transmission line, the Caithness defendants have committed no violation.

4. Other Defenses

In their motions for summary judgment, PacifiCorp and the Caithness defendants raise other defenses to challenge Columbia Basin’s complaint. We address each individually.

a. Untimely – Barred by Laches

Caithness defendants and PacifiCorp assert that Columbia Basin’s claims are untimely because Columbia Basin did not bring its complaint until almost two and a half years

¹⁵ Statement of Representative Verner Anderson “Clarification of the intent of HB 2022,” Exhibit E House Environment and Energy Committee (Mar 4, 1985).

¹⁶ *NW Natural*, 195 Or App at 559.

after Caithness entered into the PacifiCorp contract. Caithness asserts that the complaint is barred by laches because Columbia Basin delayed asserting its claim for an unreasonable length of time when it had full knowledge of all relevant facts, and this delay has substantially prejudiced the defendants.¹⁷ Caithness states that the delay has been unreasonable and prejudicial because it assumed the issue of station power was resolved, but has now been faced with much more costly proceedings and the loss of control over confidential usage and financial data from the three wind projects. Caithness estimates that service from Columbia Basin would increase their costs by as much as \$100,000 per year, or \$3 million over the economic lives of the wind projects.

The defendants have not met their burden to establish laches because they have not shown that Columbia Basin delayed asserting its claim from an unreasonable amount of time. In July of 2012, Caithness made a “renewed request” for station service from Columbia Basin, and discussions continued with BPA regarding the arrangement until July of 2013.¹⁸ Columbia Basin filed its complaint one month later, in August of 2013. This cannot be construed as an unreasonable delay.

b. Attack on EFSC Jurisdiction

Caithness defendants and PacifiCorp state that Columbia Basin’s complaint is an impermissible collateral attack on EFSC jurisdiction. The wind projects were built in accordance with the requirements of the EFSC site certificates.

Our finding that the three wind projects are separate customers is consistent with the three individual EFSC certificates. Our conclusion that Columbia Basin has the right and obligation to serve Shepherds Flat South does not necessarily require any new construction that would conflict with the wind projects’ EFSC certificates, as explained below.

c. Duplication of Facilities

PacifiCorp and Caithness contend that, because Columbia Basin lacks facilities to provide station service, this complaint could require additional utility facilities to be built, which would be in conflict with the statutory purpose of the Territory Allocation Law. Columbia Basin responds that it could serve the wind projects in various ways. Options range from requesting delivery from BPA at Slatt Substation and transmission service from the wind projects, to using Columbia Basin’s existing low voltage facilities. Columbia Basin also notes that it could serve the wind projects by dividing the loads with PacifiCorp, pursuant to an agreement with PacifiCorp and a Commission decision. Columbia Basin states that, as a last resort, it could build the necessary transmission facilities.

¹⁷ Caithness Defendants Motion for Summary Judgment at 29 (citing *Rise v. Steckel*, 59 Or App 675, 684 (1982)).

¹⁸ Columbia Basin Motion for Summary Judgement, Kindley Declaration Exhibit L and M (a letter from Caithness dated July 31, 2012, and an email from BPA dated July 24, 2013).

Despite the defendants' assertions, the record indicates that Columbia Basin can serve Shepherds Flat South without necessarily duplicating facilities. For example, Columbia Basin may designate Slatt Substation as a new point of delivery under its existing BPA transmission agreement.¹⁹ Since Caithness takes the power using its own equipment, and the meters are owned by BPA, duplication seems unlikely.

IV. CONCLUSION

We conclude that Columbia Basin has the right and obligation to serve Shepherds Flat South. We do not specifically prescribe how the parties should implement that conclusion, and order further proceedings to resolve this issue. Pending resolution, we authorize PacifiCorp to continue to provide service to Shepherds Flat South.

V. ORDER

IT IS ORDERED that:

1. PacifiCorp's motion for summary judgment is granted with respect to PacifiCorp's right and obligation to serve Shepherds Flat North and Shepherds Flat Central.
2. Columbia Basin's complaint and motion for summary judgment is granted with respect to Columbia Basin's right and obligation to serve Shepherds Flat South.
3. This docket is to remain open and the ALJ is to schedule a conference to discuss how the parties will arrange for Columbia Basin to serve Shepherds Flat South.

Made, entered, and effective APR 10 2015

COMMISSIONER ACKERMAN WAS
UNAVAILABLE FOR SIGNATURE

Susan K. Ackerman



John Savage
John Savage
Commissioner

Stephen M. Bloom
Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

¹⁹ Columbia Basin Response at 7 (Oct 21, 2014).