

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

DR 49

In the Matter of

GEORGIA-PACIFIC CONSUMER  
PRODUCTS (CAMAS) LLC and  
CLATSKANIE PEOPLE'S UTILITY  
DISTRICT

ORDER

Application for Declaratory Ruling

DISPOSITION: DECLARATORY RULING ISSUED

**I. SUMMARY**

Georgia-Pacific Consumer Products (Camas) LLC (GP) and Clatskanie People's Utility District (Clatskanie) (collectively referred to as petitioners) seek a declaratory ruling under ORS 756.450 on the legality of Clatskanie's proposed electric service to GP's Camas Mill. Based on the assumed facts presented, we conclude that the proposed service will not infringe on any Oregon allocated service territory nor implicate Oregon's direct access law.

**II. INTRODUCTION**

The Camas Mill, located in Washington State, has long been served from Oregon by PacifiCorp, dba Pacific Power, via customer-owned transmission lines that traverse the Columbia River and interconnect at the utility's Troutdale Substation. PacifiCorp currently provides service under a 20-year bilateral special contract that expires on December 31, 2015. When the contract expires, GP proposes to sell the transmission lines to Clatskanie, which would then use them to provide service to the Camas Mill.

Petitioners seek a declaration that Clatskanie's proposed provision of electric service to the Camas Mill will neither violate the Oregon territorial allocation laws nor implicate Oregon's direct access law. The petitioners contend these laws do not apply because Clatskanie will be providing electricity to its own customer at a point of delivery in Washington.

PacifiCorp opposes the petition, noting that the Camas Mill has been an Oregon customer of the utility for nearly 70 years. PacifiCorp contends that the Camas Mill has been allocated to the utility's Troutdale Substation since at least 1972 and that Clatskanie's proposed service would infringe on its allocated territory. PacifiCorp maintains that

Clatskanie may only serve the Camas Mill as an electric service supplier (ESS) through PacifiCorp's direct access tariffs.

Petitioners, PacifiCorp, Noble Americas Energy Solutions LLC (Noble Solutions), and the Commission Staff filed opening briefs on June 23, 2015, responsive briefs on July 28, 2015, and reply briefs on August 11, 2015. We held oral argument on August 19, 2015.

### III. ASSUMED FACTS

Petitioners present the following assumed facts for purposes of this declaratory ruling:

1. GP owns and operates a manufacturing facility in Camas, Washington (Camas Mill) that produces pulp and consumer paper products. The Camas Mill is physically located outside of Oregon.
2. Even though the Camas Mill is located in Washington, PacifiCorp has served the Camas Mill from Oregon under special contracts or other Oregon rate tariffs since PacifiCorp merged with the Northwestern Electric Company in 1947.
3. The Camas Mill currently takes electric service from PacifiCorp under a bilateral special contract (an arrangement that includes a cogeneration and steam supply agreement), a lease agreement and a transmission agreement (Contract) between the Company and GP's predecessor, James River Paper Company. The Contract has a 20-year term that expires on December 31, 2015. The Commission approved the Contract, filed as Pacific Power & Light Company Advice No. 93-107, at its August 31, 1993 Public Meeting, in which it adopted the Commission Staff's recommendation. The Commission's decision was memorialized in a letter to PacifiCorp, dated September 2, 1993, in which the Commission approved the company's "request to provide service to James River Paper Company's Camas WA mill under the utility's standard large industrial tariff Schedule 48T, effective upon commencement of construction of the new generating unit at the site \* \* \*."
4. Before the Contract, PacifiCorp served the Camas Mill through a special pulp and paper tariff for many years. In return for the discounted rate offered through that tariff, the Camas Mill waived its right to return to PacifiCorp's standard Oregon tariff, absent Commission approval.
5. Under the Contract, PacifiCorp paid for and constructed a steam turbine generator and made other improvements at the Camas Mill, at a cost of approximately \$60 million. PacifiCorp owned and handled major maintenance on the steam turbine generator at the

Camas Mill, while GP operated it and provided minor maintenance. Under the Contract, GP received a royalty for delivery of steam to the generator, from which PacifiCorp's investment costs and an allowance for major maintenance were subtracted. In 2015, PacifiCorp executed agreements to sell the steam turbine generator and a 69 kilovolt (kV) transmission line to GP under the Contract for a total sales price of approximately \$486,000. On May 19, 2015, the Commission approved these sales in Order No. 15-151 in Docket UP 325.

6. Under the Contract, PacifiCorp delivers electricity to the Camas Mill at the company's Troutdale Substation, located on the west side of NW Sundial Road in Troutdale, Oregon. GP owns two 69 kV lines that interconnect with PacifiCorp-owned transmission facilities at the Troutdale Substation and cross the Columbia River to the Camas Mill. After GP accepts delivery of power at the Troutdale Substation, electricity passes over these lines and across the Oregon-Washington border, where it is consumed at the Camas Mill. Thus, under the current special contract, GP takes delivery of electricity from PacifiCorp in Oregon, and the Camas Mill is considered a PacifiCorp Oregon customer.
7. Under Article 7 of the Contract, GP agreed that during the term of the Contract it would "remain a one-hundred percent (100%) Oregon customer and will not take any action which may have the effect of preventing Pacific Power from treating the service provided to the Mill as an Oregon customer."
8. As an Oregon customer of PacifiCorp, GP is subject to ORS 757.612 and pays a three percent public purpose charge. The Energy Trust of Oregon (ETO) has funded studies and provided incentives to GP Camas for 104 energy efficiency projects since 2004, including five projects installed in late 2014 and early 2015. At its December 16, 2014 Public Meeting, the Commission adopted the Staff recommendation that the ETO "should not provide any more financial incentives to [the Camas Mill] or continue to fund studies for projects not currently committed, given the clear indication that [the Camas Mill] will no longer be a PacifiCorp customer as of January 1, 2016."
9. GP seeks a new arrangement for the delivery of electricity to the Camas Mill after its Contract with PacifiCorp expires. To that end, on September 17, 2014, GP entered into a memorandum of understanding (MOU) with Clatskanie, under which the parties agreed to explore a transaction through which the Camas Mill will take electric service from Clatskanie upon expiration of GP's

Contract with PacifiCorp. Clatskanie is an Oregon peoples' utility district (PUD), which currently has service territory in and around Clatskanie, Oregon, approximately 70 miles from Troutdale, Oregon, and Camas, Washington.

10. Under the proposed transaction, effective January 1, 2016, GP will sell to Clatskanie the 69 kV lines that run from the interconnection with PacifiCorp's facilities at the Troutdale Substation to the Camas Mill in Camas, Washington. The 69 kV lines are depicted on the map attached as Exhibit A. The 69 kV lines will become part of Clatskanie's distribution system. Under the proposed transaction, GP will no longer be interconnected with PacifiCorp or take delivery of electric service from PacifiCorp in Oregon, but instead GP will take delivery of electric service from Clatskanie in Washington over facilities owned by Clatskanie. Under the proposed transaction, there is no change in the physical location of the Camas Mill.
11. In order to provide electric service to the Camas Mill, Clatskanie, or a third-party selling wholesale power to Clatskanie, will obtain transmission service pursuant to PacifiCorp's open access transmission tariff (OATT). The power will be transmitted over the PacifiCorp transmission system and delivered to Clatskanie at Clatskanie's proposed point of interconnection with PacifiCorp at the Troutdale Substation. Clatskanie will then deliver this power, via the 69 kV lines, to GP's customer-owned facilities at the Camas Mill.
12. Clatskanie filed an interconnection request and a transmission service request under PacifiCorp's OATT to accomplish the wholesale interconnection between PacifiCorp and Clatskanie, and the wholesale delivery of power at the Troutdale Substation. On March 31, 2015, Clatskanie and PacifiCorp executed a Long-Term Firm Point-To-Point Transmission Service Agreement for delivery of wholesale power to Clatskanie at the Troutdale Substation, and the remaining studies related to the interconnection request are in process or have successfully been completed by PacifiCorp Transmission.
13. GP has requested the studies necessary to move the Camas Mill load and the cogeneration plant located at the Camas Mill from the PacifiCorp balancing authority area to the Bonneville Power Administration (BPA) balancing authority area, and these studies either are in process or have successfully been completed by PacifiCorp and BPA.

14. Although definitive agreements to implement the transaction have not been completed, the following information about the MOU was reported in *The Chief*, a Columbia County newspaper, on September 26, 2014. The agreement calls for Clatskanie to buy power on the open market and resell that power to GP. “We will be buying power at cost and selling to them at cost,” explained Eric Hiaasen, Director of Energy Resources and Services for the utility. GP would pay a flat fee to CPUD as well as pay all of CPUD’s expenses, he said.”

#### IV. QUESTIONS PRESENTED

Petitioners have identified two issues for our declaration:

1. Under the Assumed Facts, does Oregon’s direct access law apply to Clatskanie’s delivery of electric service to GP under the terms of the proposed transaction?
2. Under the Assumed Facts, does Clatskanie’s delivery of electric service to GP under the terms of the proposed transaction violate Oregon’s territorial allocation laws?

We first address the application of Oregon’s territorial allocation laws. For reasons explained below, we find the resolution of this question to be informative for both inquiries.

#### V. ANALYSIS

##### A. Oregon’s Territorial Allocation Laws

As Staff notes, the scope of a territorial allocation is “properly viewed as a legal question which is determined by the relevant Commission orders.”<sup>1</sup> Accordingly, we begin with a discussion about Oregon’s territorial allocation laws and the history of the Commission’s allocation of territory in the area around the Troutdale Substation.

##### *1. Applicable Law*

Oregon’s territorial allocation laws, first enacted in 1961 and presently codified in ORS 758.400 to 758.475, authorize the Commission to allocate service territories for electric and gas utilities. The purpose of the law, set out in ORS 758.405, is to prevent the duplication of utility facilities and to promote efficient, economic, and safe utility service.

These provisions set out two processes by which a utility may allocate territory, thus giving that utility the exclusive right, and obligation, to serve customers in that territory.

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<sup>1</sup> Staff Response Brief at 4 (Jul 28, 2015).

First, in areas already served by multiple providers, ORS 758.410 allows the providers to allocate territory and customers between themselves by means of a contract submitted for Commission approval. Second, in areas unserved or exclusively served by only one provider, ORS 758.435 allows that provider to file an application with the Commission for an allocation of that territory. Once territory is allocated to a particular utility, ORS 758.450(2) prohibits other persons from providing utility service in that territory.

## 2. *Allocation of Territory around the Troutdale Substation*

The allocation of service territory in and around Portland has a long and complex history. Traditionally, electric utilities, including both PacifiCorp and Portland General Electric Company (PGE), competed for customers in Portland and constructed facilities throughout the city without regard to each other's systems. As a result, PacifiCorp and PGE both served customers in certain areas, which were often characterized by duplicate and entwined transmission and distribution facilities. One such area served by both utilities was north Portland, where the Troutdale Substation is located.

The City of Portland favored competition among utilities and, following the passage of the Oregon territorial allocation laws, opposed efforts to allocate territory within the city. For example, in 1962, PGE asked this Commission to allocate all of its then current service territory, including areas within Portland. The city opposed the request, and PGE modified its application to exclude the areas Portland did not want allocated.<sup>2</sup> The Commission granted the modified application, which created an unallocated "Portland Exclusion Area." This unallocated area included north Portland, and extended to the east side of Sundial Road, thus encompassing the Troutdale Substation.<sup>3</sup>

In subsequent years, PacifiCorp and PGE undertook a series of negotiations to disentangle their systems and eliminate the duplication of facilities within the city. In one agreement, the utilities agreed to sell and exchange certain electric facilities in Multnomah County, but did not seek the allocation of any territory.<sup>4</sup> The Commission approved the agreement in 1970, but did not describe in detail the facilities exchanged. In a subsequent rate order, the Commission stated that the area in which the property exchanged was "exclusively-served" by PacifiCorp, and included "[t]he area between North Portland city limits and the Columbia River, extending eastward to Sundial Road \* \* \*."<sup>5</sup>

<sup>2</sup> *In the Matter of the Application of Portland General Electric Company for Allocation of Utility Service Areas*, Docket No. UF 2342, Order No. 39026 (Jan 21, 1963).

<sup>3</sup> *Id.* at 25.

<sup>4</sup> *In the Matter of the Application of Pacific Power & Light Company and Portland General Electric Company for an Order Authorizing the Sale of Certain Electric Distribution Facilities in Multnomah County*, Docket No. UF 2797, Order No. 70-219 at 3 (Mar 12, 1970).

<sup>5</sup> *In the Matter of the Suspension of Revised Tariff Schedules applicable to Electric Service in the State of Oregon by Pacific Power & Light Company*, Docket No. UF 2782, Order No. 70-664 at 22 (Oct 5, 1970).

In 1972, the Commission approved a comprehensive agreement between PacifiCorp and PGE for the sale and transfer of facilities within Portland.<sup>6</sup> As part of the agreement, PacifiCorp agreed to transfer to PGE all distribution facilities within a designated “Parcel B,” which is essentially identical to the unallocated “Portland Exclusion Area.”<sup>7</sup> Although the area where facilities were transferred to PGE included the Troutdale Substation, an exhibit to the agreement shows that PacifiCorp retained ownership of the facility: Exhibit F, which is a map showing the ownership of 69 kV transmission facilities after the exchange, identifies the Troutdale Substation as a PacifiCorp-owned facility.<sup>8</sup>

The effect of the Commission’s 1972 order subsequently became the focus of a lengthy federal antitrust proceeding in *Columbia Steel Casting Co. Inc. v. Portland General Elec. Co.*, 111 F3d 1427 (1997). In that case, Columbia Steel, a Portland customer of PGE, sought to switch service to PacifiCorp, which had lower rates. After initially declining, PacifiCorp agreed to provide service to the plant. PGE objected, claiming that the 1972 order gave it the sole right to serve the territory where Columbia Steel was located. Columbia Steel then filed an antitrust action against PGE, which countered that the 1972 order provided PGE immunity from the claim.

The basic question before the court was whether the Commission’s 1972 order had created allocated service territory in Portland. The court recognized that PacifiCorp and PGE had stopped competing with each other for customers in Portland after the 1972 order, but held that the 1972 order did not allocate territories. The court noted that neither the 1972 agreement nor the Commission’s order said anything about creating allocated territories in Portland. The court also noted the ordinance passed by the Portland City Council earlier in 1972 denied the utilities’ attempt to allocate service territories. For those reasons, and because the Commission’s decision only cited general statutory provisions governing the transfer of utility facilities, the court concluded that the Commission had only approved a one-time exchange of property and customer accounts without the allocation of service territories.

In response to the federal court proceeding, PacifiCorp and PGE entered into an agreement to explicitly allocate service territory and customers in and around Portland. The Commission approved that agreement in 1992. The agreement did not reference the Troutdale Substation, but allocated the area that included the facility—an area now identified as “Parcel C”—to PGE.<sup>9</sup> The Commission also addressed the court’s characterization of the 1972 order. The Commission noted that, despite any alleged

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<sup>6</sup> *In the Matter of the Joint Application of Pacific Power & Light Company and Portland General Electric Company for an Order (1) Approving and Authorizing the Exchange of Electric Utility Facilities located in Multnomah and Columbia Counties; and (2) Approving the Assignment to Portland General Electric Company of certain service territory in Columbia County, Oregon, previously allocated to Pacific Power & Light Company*, Docket No. UF 2947, Order No. 72-870 (Dec 15, 1972).

<sup>7</sup> *Id.* Appendix A at 2.

<sup>8</sup> PacifiCorp Opening Brief, Exhibit A (Jun 23, 2015).

<sup>9</sup> *In the Matter of the Applications of Portland General Electric Company and Pacific Power & Light Company for an Order Allocating Exclusively Served Territory*, Docket No. UA 37 and Docket No. UA 41, Order No. 92-557, Appendix A at 2 (Apr 16, 1992).

deficiencies in the 1972 order, the utilities and the Commission had behaved as though the order had allocated service territories in Portland. Thus, in the 1992 order, the Commission amended the 1972 order *nunc pro tunc* to reflect that the Commission had previously intended to create allocated service territories within Portland.<sup>10</sup>

### 3. Discussion

#### a. Position of the Parties

Petitioners and Noble Solutions contend that the proposed transaction will not implicate Oregon's territorial allocation laws because no utility service will be provided in Oregon. They emphasize that, under the proposed transaction, Clatskanie will own the 69 kV transmission lines that interconnect the Camas Mill to the Troutdale Substation. Thus, they explain, electricity will not be delivered to the Camas Mill until after it passes over these lines and reaches a point of delivery in Washington State, where the electricity will be consumed.

PacifiCorp and Staff disagree. They criticize Petitioners for focusing solely on the end result of the proposed transaction and overlooking the fact that PacifiCorp has the sole right to serve the Camas Mill. They first maintain that two Commission orders allocated the Troutdale Substation to PacifiCorp: (1) the 1970 order approving a facilities exchange agreement between PacifiCorp and PGE; and (2) the 1972 order that reallocated the surrounding area to PGE but carved-out and retained the Troutdale Substation as PacifiCorp's allocated territory. They next argue that, because the company delivers electricity to the Camas Mill at the Troutdale Substation, the Camas Mill is, for purposes of the territorial allocation laws, located within the Troutdale Substation and, therefore, allocated to PacifiCorp. Thus, PacifiCorp and Staff conclude that the Camas Mill may not unilaterally decide to switch to another Oregon provider to receive its utility service.

PacifiCorp and Staff also contend that the proposed transaction fails to consider the history of the Camas Mill receiving electric service from PacifiCorp as an Oregon customer, and is contrary to the purpose of the territorial allocation laws. They essentially contend that, under the totality of the unique circumstances presented, we should conclude that PacifiCorp retains the right to serve the Camas Mill.

#### b. Resolution

We conclude that no Commission order allocates the Troutdale Substation to the company as its allocated service territory, or the Camas Mill as its allocated customer. Accordingly, we conclude that Clatskanie's proposed service to the Camas Mill will not infringe on any Oregon allocated service territory.

Contrary to PacifiCorp's assertions, the Commission did not allocate the Troutdale Substation as PacifiCorp's territory in either the 1970 or 1972 order. The 1970 order simply approved an exchange of electric facilities between PacifiCorp and PGE. The

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<sup>10</sup> *Id.* at 21.



parties did not seek, and the Commission did not authorize, an allocation of territory. We acknowledge that the Commission subsequently described the area subject to the 1970 order as being “exclusively-served” by PacifiCorp. Given the lack of an express allocation of territory in the 1970 order, however, that language merely recognizes that, following approval of the facilities exchange, PacifiCorp and PGE did not compete for customers in that area and that PacifiCorp was the “exclusive” utility providing service. In other words, the Commission used the term “exclusive” in its general sense, meaning that PacifiCorp was the sole utility providing service in that area—but that does not mean that PacifiCorp was allocated that territory.<sup>11</sup>

Similarly, the Commission did not allocate the Troutdale Substation to PacifiCorp in the 1972 order. Although that order did, as clarified by the 1992 order, include an allocation of territory, the area surrounding and including the Troutdale Substation was allocated to PGE. Moreover, there is no evidence that, as part of that allocation, the Commission carved out the Troutdale Substation itself as PacifiCorp’s allocated territory. The allocation of territory requires some form of physical description of the property and explicit Commission action. Here, neither the 1972 nor the 1992 order mentions the Troutdale Substation. In fact, the only reference to the substation is a point on a map contained as an appendix to the agreement approved by the 1972 order showing that PacifiCorp retained ownership of the Troutdale Substation.

The fact that PacifiCorp retained ownership of the Troutdale Substation following the allocation of the area to PGE did not, as the company claims, constitute an allocation of that facility, because ownership of a facility does not constitute allocation of territory. Moreover, there is no purpose under the territorial allocation laws to allocate PacifiCorp the right to serve its own substation, which is solely comprised of electrical facilities.

Even if it could be argued that the Commission previously allocated the Troutdale Substation to PacifiCorp, there is no evidence that such allocation provided the company the sole right to serve the Camas Mill. Indeed, as Petitioners note, no Commission order ever mentions the allocation of the Camas Mill. This is not surprising, given the fact that the mill is located in Washington. We agree with Petitioners that principles of state sovereignty cast doubt on our ability to assign a customer in another state as an allocated customer of an Oregon utility.

We reject PacifiCorp’s notion that, for purposes of territorial allocation, all customers served by a substation have a virtual presence within that facility. While such a concept may be used to establish that the Camas Mill was eligible for service as an Oregon customer,<sup>12</sup> it cannot be used to serve as an allocation of a customer, which requires a description of the customer and an explicit indication of the right to serve. For example, when PGE transferred allocated territory to another utility but wanted to retain service to a particular mill, the parties’ agreement included express language indicating that PGE reserved ownership of all the facilities necessary to serve the mill, as well as the sole

<sup>11</sup> See ORS 758.435(1) (allowing any person providing utility service in a territory that is not served by another person to file an application with the Commission for an allocation of that territory).

<sup>12</sup> We note that a customer may be an Oregon customer without being allocated to a particular utility.

right to provide electricity to the mill.<sup>13</sup> With no such language here, we find no basis to conclude that the Camas Mill has been allocated to PacifiCorp.

This conclusion is supported by the past two service agreements between PacifiCorp and GP, which reflect that the Camas Mill remained an unallocated customer. First, for many years, PacifiCorp served the Camas Mill through a special pulp and paper tariff. In exchange for the discounted rate offered under that tariff, the Camas Mill waived its right to return to PacifiCorp's standard Oregon tariff, absent Commission approval.<sup>14</sup> Had the Camas Mill been an allocated customer, PacifiCorp could not have refused to provide service to the mill under its standard tariffs at the conclusion of the special tariff. Second, the current service contract obligates the Camas Mill to remain an Oregon customer of PacifiCorp. That provision would not have been necessary if the Camas Mill was, in fact, an allocated customer of the company.

PacifiCorp's and Staff's arguments that the proposed transaction will undermine the territorial allocation laws by "manipulating delivery points" are unfounded. To begin, such arguments are based on the erroneous assumption that the Camas Mill is an allocated customer of PacifiCorp. In addition, GP has exercised its right under the terms the current service agreement with PacifiCorp and purchased the transmission lines that interconnect the Camas Mill with the Troutdale Substation. We have no authority to prevent GP from selling its private property to Clatskanie to consolidate the point of delivery of the electricity with its point of use.

Finally, in reaching this decision, we recognize that PacifiCorp has served the Camas Mill as an Oregon customer for almost 70 years, and that PacifiCorp made investments to serve the mill during that time. The Camas Mill's status as a PacifiCorp customer, however, has been defined by a series of bilateral and voluntary contracts—not by allocation under the territorial allocation laws. Because the current contract with PacifiCorp expires at the end of the year, the Camas Mill is not obligated to remain a PacifiCorp customer and may seek to obtain electric service from another provider. Likewise, because that the Camas Mill is not a PacifiCorp customer by virtue of territorial allocation, PacifiCorp is under no obligation to serve the Camas Mill upon expiration of the current contract. Questions related to whether PacifiCorp will incur stranded costs as a result of the proposed transaction are beyond the scope of this declaratory proceeding.

## **B. Oregon Direct Access Law**

### ***1. Applicable Law***

Oregon's direct access law, codified in ORS 757.600 to 757.689, is intended to promote competition by allowing larger customers the opportunity to receive electric service from a provider other than their allocated utility. Electric utilities like PacifiCorp must offer

<sup>13</sup> *In the Matter of the Petition of Portland General Electric Company for a Declaratory Ruling pursuant to ORS 756.450*, Docket No. DR 22, Order No. 99-748 (Dec 12, 1999).

<sup>14</sup> See Assumed Fact 4.

direct access programs, under which their customers may receive service from a certified ESS. The Commission must approve all direct access programs to ensure they do not cause unwarranted shifting of costs to other customers that remain on the utility's system.<sup>15</sup>

Consumer-owned utilities, like Clatskanie, may also offer direct access programs, but they are not required to do so.<sup>16</sup> A consumer-owned utility does, however, become subject to the direct access law if it sells electricity to a customer of another utility.<sup>17</sup>

## **2. *Positions of the Parties***

Petitioners and Noble Solutions contend that Oregon's direct access law is not implicated by the proposed transaction for two reasons. First, they contend the law does not apply because Clatskanie will be serving the Camas Mill outside of Oregon. Second, they contend that, even if direct access law regulates the sale of electricity in another state, the law does not apply here because Clatskanie will be providing service to its own customer.

PacifiCorp and Staff counter that the direct access law does apply to the proposed transaction. From the premise that the Camas Mill is an allocated customer of PacifiCorp, they maintain that Clatskanie may only sell electricity to the Camas Mill as an ESS under PacifiCorp's direct access program.

## **3. *Resolution***

We conclude that Oregon's direct access law does not apply to Clatskanie's delivery of electric service to the Camas Mill under the terms of the proposed transaction. Our decision is informed by our decision above.

The proposed transaction does not implicate ORS 757.672(2), which requires a consumer-owned utility to be certified as an ESS if it sells electricity to a customer of another utility. As discussed above, the Camas Mill is not an allocated customer of PacifiCorp. Thus, Clatskanie will be selling electricity to its own customer and not that of another utility. Moreover, Clatskanie will serve the Camas Mill using its own distribution facilities. PacifiCorp's role under the proposed transaction is limited to providing FERC-regulated transmission to Clatskanie under its OATT.

Moreover, under the assumed facts, Clatskanie will deliver electricity directly to the Camas Mill in Washington using transmission facilities that GP owns. Thus, the Camas Mill will be a retail electric customer of Clatskanie located in Washington State. Oregon's direct access law does not regulate the provision of electric service in another state.

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<sup>15</sup> ORS 757.607.


<sup>16</sup> ORS 757.676.

<sup>17</sup> ORS 757.672(2).

**VI. ORDER**


IT IS ORDERED that the petition for declaratory ruling, filed by Georgia-Pacific Consumers Product (Camas) LLC and Clatskanie People's Utility District, is granted.

Made, entered, and effective SEP 29 2015.

  
**Susan K. Ackerman**  
Chair



  
**John Savage**  
Commissioner

  
**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.