

ORDER NO. 18 255

ENTERED JUL 03 2018

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UP 370

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Approval of the Sale of  
Certain Assets in Byron, Wyoming.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on July 3, 2018, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.



BY THE COMMISSION:

A handwritten signature in blue ink, appearing to read "mll nt", is written over a horizontal line.

Michael Grant  
Chief Administrative Law Judge

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 Circuit Court for Marion County in compliance with ORS 183.484.

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ITEM NO. CA4

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT

PUBLIC MEETING DATE: July 03, 2018

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

DATE: June 04, 2018

TO: Public Utility Commission

FROM: Kathy Zarate KZ  
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THROUGH: Jason Eisdorfer and John Crider

SUBJECT: PACIFICORP: (Docket No. UP 370) Requests Approval of the Sale of property between PacifiCorp and Merit Energy Company in Byron, Wyoming.

**STAFF RECOMMENDATION:**

The Public Utility Commission of Oregon (Commission) should approve PacifiCorp's (or Company) Application for Approval of the Sale of property in Byron, Wyoming subject to the following conditions:

1. PacifiCorp shall notify the Commission in advance of any substantive change to this Agreement, including any material changes in price. Any changes to the Agreement terms that alter the intent and extent of activities under the Agreement from those approved herein, shall be submitted for approval in an application for a supplemental order (or other appropriate form) in this docket.
2. The Commission reserves the right to review, for reasonableness, financial aspects of this arrangement in any rate proceeding.
3. The final journal entries recording the transaction shall be submitted to the Commission within 60 days after the transaction closes.

**DISCUSSION:**

Issue

Whether the Commission should approve PacifiCorp's Application for Approval of the Purchase and Sale Agreement between PacifiCorp and Merit Energy Company.

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#### Applicable Rule or Law

ORS 757.480(1) requires public utilities doing business in Oregon to seek Commission approval prior to the sale, lease, assignment or disposal of property valued in excess of \$100,000 that is necessary or useful in the performance of its duties to the public.

OAR 860-027-0025 sets forth the information required to support a request for the approval of sale, lease, assignment or disposal of utility property.

OAR 860-027-0025(1)(l) requires that the applicant show that the proposed transaction is consistent with the public interest. The Commission has interpreted the phrase "consistent with the public interest" as used in this rule to require a showing of "no harm to the public." See, e.g., *In re PacifiCorp*, OPUC Docket No. UP 168, Order No. 00-112 at 6 (Feb. 20, 2000); *In re Portland General Electric*, OPUC Docket No. UP 165, Order No. 99-730 at 7 (Nov. 29, 1999).

Finally, the Commission's authority, broadly speaking, is to obtain adequate service for customers at fair and reasonable rates while at the same time balancing the interests of the utility's investors. See ORS 756.040.

#### Analysis

PacifiCorp filed this application on May 3, 2018, requesting approval from the Commission for an asset sale transaction between PacifiCorp and Merit Energy Company (Merit). Specifically, PacifiCorp proposes to sell to Merit distribution facilities located in Byron, Wyoming, for a total asset purchase price of \$106,998. The assets proposed to be sold to Merit are classified Wyoming situs distribution, meaning that the assets are not included in Oregon's rates and that the sale is not allocated to Oregon for ratemaking purposes.

Merit wishes to purchase the distribution assets serving its facility in order to connect to its existing infrastructure, be primary metered, and be better able to address production and energy needs directly.

This transaction will not impair PacifiCorp's ability to continue the provision of reliable electric service to its customers.

In review of the Company's application, Staff did not request information as long as the distribution plant in Wyoming is not included in Oregon rates.

Staff investigated the following issues:

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

*Terms and Conditions of the Agreement*

Staff's review of the Agreement did not identify any unusual or restrictive terms or conditions. The Agreement will not be executed until the Company receives approval for it from the Commission.

*Transfer Pricing*

The total transaction price is \$115,918. The Company determined the fair market value of the assets to be \$106,998, based on the replacement cost of the assets (if built new \$131,989, less accumulated depreciation of \$24,991). Merit Energy will also pay 6 percent Wyoming sales tax of \$6,420, and legal/transaction costs of \$2,500.

*Public Interest Compliance*

The Agreement between PacifiCorp and Merit will not harm customers, and will not impede the Company's ability to provide safe and reliable service in the area.

*Records Availability, Audit Provisions, and Reporting Requirements*

The book value (cost) included in Electric Plant in Service, FERC account 101, of the distribution assets sold is \$107,537, and the Accumulated Provision for Depreciation, FERC account 108, is \$8,381.

Staff further notes that the Commission retains the ability to review all property sales and lease agreements entered by the Company through general rate case filings. Staff's recommendation affords the Commission the ability to exam PacifiCorp's books and records concerning the transaction as necessary.

PacifiCorp has reviewed this memo and has not communicated any objections or concerns.

Conclusion

Based on the review of PacifiCorp's application, Staff concludes that the Commission should approve the Agreement, subject to the following conditions:

1. PacifiCorp shall notify the Commission in advance of any substantive change to this Agreement, including any material changes in price. Any changes to the Agreement terms that alter the intent and extent of activities under the

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Agreement from those approved herein, shall be submitted for approval in an application for a supplemental order (or other appropriate form) in this docket.

2. The Commission reserves the right to review, for reasonableness, financial aspects of this arrangement in any rate proceeding.
3. The final journal entries recording the transaction shall be submitted to the Commission within 60 days after the transaction closes.

**PROPOSED COMMISSION MOTION:**

Approve PacifiCorp's Application for Approval of the asset sale transaction between PacifiCorp and Merit Energy Company, subject to Staff's recommended conditions.

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