



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

April 25, 2016

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-1166

Attn: Filing Center

RE: UI 301— Application for Supplemental Order

Enclosed for filing is PacifiCorp d/b/a Pacific Power's (PacifiCorp or Company) Application for a Supplemental Order in the above-referenced docket.

PacifiCorp respectfully requests that all data requests regarding this matter be addressed to:

By E-mail (preferred): datarequest@pacificorp.com.

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah St., Suite 2000
Portland, OR 97232

Informal questions concerning this filing may be directed to Erin Apperson, Manager, Regulatory Affairs, at (503) 813-6642.

Sincerely,

R. Bryce Dalley
Vice President, Regulation

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI 301

In the Matter of the Application of
PACIFICORP, d/b/a/ Pacific Power,
Requesting Approval of an Affiliate Interest
Transaction with Ferron Canal & Reservoir
Company.

**APPLICATION OF PACIFICORP FOR
SUPPLEMENTAL ORDER**

1 In accordance with Order No. 10-345, entered September 2, 2010, in docket UI 301,
2 PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) files this application for a
3 supplemental order from the Public Utility Commission of Oregon (Commission) approving
4 a Share Assessment Agreement by and between Rocky Mountain Power, an unincorporated
5 division of PacifiCorp, and Ferron Canal & Reservoir Company (FCRC), a copy of which is
6 included with this Application as Attachment A. Order No. 10-345 approved an affiliated
7 interest agreement between the Company and FCRC. Order No. 10-345 requires the
8 Company to notify the Commission in advance of any material changes to the contract that
9 governs the relationship between the Company and FCRC. The Company hereby provides
10 advance notice of its intent to enter into the Share Assessment Agreement (Agreement) with
11 FCRC, in accordance with Order No. 10-345.

12 **I. Background**

13 FCRC is a non-profit mutual irrigation company, which is a privately owned water
14 stock company. The Company holds approximately 37 percent of the outstanding water
15 stock in FCRC. FCRC holds water rights in the Ferron Creek drainage, of which the
16 Company, by virtue of its share ownership, is entitled to a proportionate amount of FCRC's

1 water right entitlements. FCRC manages the water rights on behalf of the Company and the
2 other shareholders in the company.

3 The Company pays annual assessment fees to FCRC to help cover its operating and
4 maintenance costs, as well as other costs pertinent to conducting its business, in exchange for
5 receiving access to water used by the Company's Hunter generating facility, located in
6 Emery County, Utah. The Company also contracts additional water from FCRC, which is
7 made available to the Hunter generating facility through a long-term agreement between
8 FCRC and the Company.

9 The Company, as an industrial water user, has historically been assessed rates by
10 FCRC equal to those of its agricultural water users. However, over the past six years, FCRC
11 has steadily increased the Company's share assessment rate from an equal rate to a rate five
12 times that of the agricultural rate. Under the Utah Share Assessment Act, FCRC's Board of
13 Trustees sets the value of the share assessments for its water users, which are divided into
14 different classes much like electric utilities. On February 11, 2016, the FCRC Board of
15 Trustees passed a resolution formalizing the restructuring of its share assessments by
16 establishing assessment rates based on the classification of water use (e.g., industrial,
17 agriculture). This resolution establishes a share assessment ratio for industrial class shares of
18 5:1 as compared to agricultural class shares, which effectively represents a rate increase to
19 the Company. As an industrial user, the Company will pay a 5:1 ratio to the share
20 assessment for agricultural users.

21 The Company proposes to enter into the Agreement, which will limit FCRC's future
22 ability to increase the Company's assessment rate beyond a 5:1 ratio as compared to the
23 agricultural assessment rate. The Agreement will also provide industrial user representation

1 on FCRC’s Board of Trustees by creating a position for the Company on the Board. The
2 Agreement has a term of 10 years. Entering into the Agreement is in the public interest
3 because it will protect the Company from increased share assessment rates and will allow the
4 Company to have representation on the FCRC Board of Trustees, which will help to ensure
5 that Company is able to meet its obligation to provide safe and reliable electric service.

6 With this Application, the Company respectfully seeks Commission approval of the
7 Share Assessment Agreement by and between PacifiCorp and Ferron Canal & Reservoir
8 Company.

9 **II. Compliance with OAR 860-027-0040 Filing Requirements**

10 **A. Address**

11 The Company’s name and address of its principal business office are:

12 PacifiCorp
13 825 NE Multnomah Street
14 Portland, OR 97232

15 **B. Communications and Notices**

16 All notices and communications with respect to this Application should be addressed
17 to:

18 PacifiCorp Oregon Dockets
19 825 NE Multnomah Street, Suite 2000
20 Portland, OR 97232
21 OregonDockets@pacificorp.com

Jeffery B. Erb
Assistant General Counsel
Pacific Power
825 NE Multnomah Street, Suite 1800
Portland, OR 97232
Tel. (503) 813-5029
jeff.erb@pacificorp.com

25 Additionally, PacifiCorp respectfully requests that all data requests regarding this
26 matter be addressed to:

27 By e-mail (**preferred**)

datarequest@pacificorp.com

28 By regular mail

Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000

30

Informal inquires may be directed to Erin Apperson, Manager, Regulatory Affairs, at (503) 813-6642.

C. Relationship Between PacifiCorp and Affiliated Interest

FCRC is a non-profit mutual irrigation company, which is a privately owned water stock company. PacifiCorp holds approximately 37 percent of the outstanding water stock in FCRC. Therefore, FCRC could be deemed an “affiliated interest” of the Company as set forth in ORS 757.015(3).

D. Voting Securities

The Company and FCRC do not own voting securities in each other.

E. Common Officers and Directors

The Company and FCRC do not share any common officers or directors.

F. Pecuniary Interest

No officer or director of the Company or FCRC is a party to or has a pecuniary interest in the business transaction between the Company and FCRC.

G. Description of Goods and Services Provided; Cost(s) Incurred; Market Value; Pricing Methods

Company pays annual assessment fees to FCRC to help cover its operating and maintenance costs, as well as other costs pertinent to conducting its business, in exchange for receiving access to water used by the Company’s Hunter generating facility, located in Emery County, Utah. The Company contracts additional water from FCRC, which is made available to the Hunter generating facility through a long-term agreement between FCRC and the Company.

1 The Company, as an industrial water user, has historically been assessed equal rates
2 by FCRC to those of its agricultural water users. However over the past six years, FCRC has
3 steadily increased the Company's share assessment rate from an equal rate to a rate five
4 times that of the agricultural rate. The purpose of the Agreement is to prevent further
5 increases and to allow the Company to have representation on the FCRC Board of Trustees.

6 **H. Estimate of Amount PacifiCorp will Pay Annually for Services**

7 The Company anticipates it will spend approximately \$87.50 per water right share, or
8 \$669,112.50, annually in relation to the Agreement.

9 Separately, the Company leases an additional 7,000 acre-feet of water from FCRC
10 each year under an existing water lease agreement between Company and FCRC, which
11 equates to an additional estimated aggregate spend of \$366,691.00. The costs associated
12 with this separate, pre-existing agreement are based on a consumer price index, so annual
13 payments for the additional water rights fluctuate from year to year.

14 **I. Reasons Relied Upon for Procuring the Proposed Services, and Benefits**
15 **to the Public**

16 As noted above, it was determined that entering into the Agreement will help the
17 Company control increases in its annual share assessment costs / rates under the Agreement,
18 and will allow the Company to have representation on the FCRC Board of Trustees for the
19 next ten years. The public benefits by the Company being able to manage its costs and have
20 representation on the FCRC Board of Trustees.

21 **J. Description of the Procurement Process**

22 Not applicable.

1 **K. Relationship of Cost of Provision of Services and Market Value**

2 As described above, the cost of the Company's water rights shares under the
3 Agreement will be capped for ten years, at approximately \$669,112.50 per year for the term
4 of the Agreement.

5 **L. Contracts Between Affiliated Interest and PacifiCorp**

6 A copy of the Share Assessment Agreement is included with this supplemental notice
7 as Attachment A.


8 **M. Copy of Board Resolutions**

9 The Agreement did not require a resolution from the Company's board of directors.

10
11 WHEREFORE, for the reasons set forth above, PacifiCorp respectfully requests that
12 the Commission issue a supplemental order approving PacifiCorp's execution of the Share
13 Assessment Agreement.

14
DATED: April 25th, 2016.

Respectfully submitted,



Jeffery B. Erb, #95259
Assistant General Counsel
Pacific Power

ATTACHMENT A

Share Assessment Agreement

Share Assessment Agreement

by and between Ferron Canal & Reservoir Company and PacifiCorp

This Share Assessment Agreement (“Agreement”) is effective as of the ____ day of _____, 2016, (“Effective Date”) by and between Rocky Mountain Power, an unincorporated division of PacifiCorp, (“PacifiCorp”) and Ferron Canal and Reservoir Company (“Ferron”), a Utah nonprofit irrigation company. PacifiCorp and Ferron shall collectively be referred to as the “parties” or individually as a “party” as the context so requires.

RECITALS

- A. PacifiCorp owns 7,647 shares of stock in Ferron (the “PacifiCorp Shares”), which Ferron classifies as “Industrial” for purposes of imposing share assessments on PacifiCorp Shares. Ferron stock represents interests in water rights of Ferron. PacifiCorp uses the water delivered by Ferron under its shares at the Hunter Power Plant for power generation and industrial purposes.
- B. Prior to 2009, Ferron assessed PacifiCorp Shares on an equal basis, or at a 1:1 ratio, with the assessment rate for the Agricultural shares within Ferron (“Agricultural Share Assessment Rate”). In 2009, Ferron assessed PacifiCorp Shares at a 2:1 ratio as compared to the Agricultural Share Assessment Rate. Then in 2013, Ferron assessed PacifiCorp Shares at a 3:1 ratio as compared to the Agricultural Share Assessment Rate. By letters dated July 9, 2015 and August 6, 2015 from Ferron to PacifiCorp, and pursuant to the Utah Share Assessment Act, Ferron desires to increase the assessment rate for PacifiCorp Shares to a 5:1 ratio as compared to the Agricultural Share Assessment Rate, hereafter referred to as the “Industrial Share Assessment Ratio Increase”.
- C. Ferron’s Board of Directors approved the Industrial Share Assessment Ratio Increase on February 11, 2016. A copy of such approval is included as Attachment 1 (“FERRON CANAL & RESERVOIR COMPANY RESOLUTION”)
- D. Ferron believes the Industrial Share Assessment Ratio Increase is necessary in order to adequately fund ongoing Ferron operations, more equitably balance the assessment burden between share water use categories, and better reflect the benefits PacifiCorp receives pursuant to the PacifiCorp Shares, as an industrial user, as compared to the benefits the agricultural shareholders receive pursuant to the Agricultural Shares. Ferron further believes the Industrial Share Assessment Ratio Increase is consistent with Ferron’s internal governance requirements and the Utah Share Assessment Act.
- E. The parties now agree to an assessment structure that, among other things, establishes PacifiCorp’s assessment rate at a 5:1 ratio as compared to the assessment rate of the agricultural shareholders in Ferron, as set forth in this Agreement.

F. From the Effective Date of this Agreement, PacifiCorp will not challenge or oppose the Industrial Share Assessment Ratio Increase or the efficacy or regularity of all actions of Ferron necessary to approve the Industrial Share Assessment Ratio Increase on the terms and conditions stated herein.

G. Ferron will not challenge or oppose the terms and conditions of this Agreement during the effective Term of this Agreement.

TERMS AND CONDITIONS

For the exchange of valuable consideration, the parties agree as follows:

1. **Term:** The term of this Agreement shall be from the Effective Date until December 31, 2025 (the "Term.") This Agreement may be renewed for an additional ten year term by mutual written agreement of the parties.
2. **Share Assessments:**
 - 2.1. A comparison between the Agricultural Share Assessment and the Industrial Share Assessment shall be used for purposes of assessing the Industrial Share Assessment Ratio under this Agreement.
 - 2.1.1. If Ferron assesses all Agricultural users equally, Ferron shall provide the amount of the Agricultural Share Assessment with its annual assessment notice to PacifiCorp.
 - 2.1.2. If Ferron does not assess all Agricultural users equally, for purposes of this Agreement, Ferron shall determine annually the average Agricultural Share Assessment by totaling all assessments levied on Agricultural users and dividing the total by the total number of Agricultural Shares ("Annual Average Agricultural Assessment"). Ferron shall provide the reasonably detailed calculations used to determine the Annual Average Agricultural Assessment as part of its annual assessment notice to PacifiCorp.
 - 2.2. Ferron shall assess the PacifiCorp Shares in accordance with Ferron governance requirements, this Agreement and the Utah Share Assessment Act. Beginning with share assessments for 2016, and based on the share assessment categories described in Paragraph 2.1, the share assessment rate for the PacifiCorp Shares (the "Industrial Share Assessment") shall be no more than a 5:1 ratio as compared to either (1) the Annual Agricultural Assessment or (2) Annual Average Agricultural Assessment, as further explained in Paragraph 2.1. By way of example only, if the Annual Agricultural Assessment is \$17.50 per share, then the Industrial Share Assessment shall be no more than \$87.50 per share, and if the Annual Agricultural Assessment is \$10.00 per share, the Industrial Share Assessment shall be no more than \$50.00 per share.

2.3. PacifiCorp agrees not to challenge or oppose the Industrial Share Assessment Ratio Increase or the efficacy or regularity of all actions of Ferron necessary to approve the Industrial Share Assessment Ratio Increase. Except upon prior approval by PacifiCorp, Ferron agrees that any changes to the categorization of the Ferron water shares will not alter, change or impact in any way, the Industrial Share Assessment Ratio agreed upon pursuant to this Agreement.

2.4. Industrial Share Assessments shall be administered according to the following principles:

2.4.1. Ferron shall not assess any other Industrial water users more favorably to that Industrial water user than it assesses the PacifiCorp Industrial Shares, except as Ferron may establish as appropriate under the Utah Share Assessment Act.

2.4.2. The Industrial Share Assessment is intended to include a proportionate share of all expenses, including but not limited to general operation, maintenance and other costs, associated with Ferron that are assessable to shareholders. The parties intend that no additional costs will be imposed on PacifiCorp or the PacifiCorp Shares outside of the Industrial Share Assessment.

2.4.3. Ferron shall invoice PacifiCorp only on the basis of a one-line assessment in "dollars per share of stock" owned by PacifiCorp, and no additional special assessments or costs shall be included in the invoice for PacifiCorp's Industrial Share Assessment.

3. **Industrial Representation on Board of Trustees:** As part of the consideration for the increase in PacifiCorp's Industrial Share Assessment, Ferron's Bylaws were amended by a general shareholders vote on January 9, 2016 to provide for the addition of an Industrial representative to be on the Ferron Board of Trustees. Such additional Trustee shall have the same rights and general duties as each other member of the Board of Trustees.

4. **Designated Representative and Notices:** Any notice by either party to the other shall be delivered in writing to the office of the designated representative of the other party, or, if deposited in the mail, properly stamped with the required postage and addressed to the office of such representative as follows:

If to PacifiCorp:

PacifiCorp – Hunter Plant
P.O. Box 569
Castle Dale, Utah 84513
Attn: Managing Director
Telephone: (435) 748-6211

If to Ferron:

Ferron Canal & Reservoir Company
P.O. Box 963
Ferron, Utah 84523
Attn: President
Telephone: (435) 384-2990

5. **Miscellaneous Provisions:**

- a. Governing Law. This Agreement shall be governed by the laws of the State of Utah, without giving effects to its conflict of law rules contained therein.

- b. Entire Agreement. This Agreement represents the entire agreement between PacifiCorp and Ferron with respect to the Industrial Share Assessment Ratio Increase and supersedes all prior negotiations, representations or agreements, either written or oral, relating thereto. This Agreement may be amended only in writing signed by both parties.

- c. Interpretation. Each term hereof shall be construed simply according to its fair meaning and not strictly for or against either party. The parties have jointly prepared this Agreement, and no term hereof shall be construed against a party on the ground that the party is the author of that provision. The Recitals contained herein are repeated verbatim and are incorporated as part of this Agreement.

- d. Jury Waiver. To the fullest extent permitted by law, each party waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising in connection with this Agreement.

- e. Successors and Assigns. This Agreement shall be binding upon all successors and assigns of the parties.

Now, THEREFORE, this Agreement is entered into as of the day and year first written above.

By: _____
PacifiCorp

Its: _____

Date:

By: _____
Ferron Canal & Reservoir Company

Its: _____

Date:

Attest:

Secretary

Attachment 1

**FERRON CANAL & RESERVOIR COMPANY
RESOLUTION**

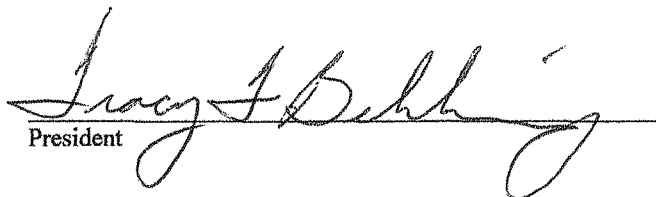
**RESOLUTION IMPLEMENTING AN INDUSTRIAL ASSESSMENT FOR
SHARES OF THE COMPANY FOR WHICH WATER REPRESENTED
THEREBY IS USED FOR INDUSTRIAL USE**

BE IT HEREBY RESOLVED that the Board of Directors of Ferron Canal & Reservoir Company does establish an annual assessment on Industrial Shares that shall be five times the annual assessment on Agricultural Shares of the Company. This assessment on Industrial Shares shall be effective for the 2015 year and continue for ten years with an option to renew the assessment.

This resolution shall be effective upon passage and shall remain in force until revoked, repealed or amended by a subsequent action of the Board of Directors of the Company.

DATED the 11th day of February, 2016

FERRON CANAL & RESERVOIR COMPANY


President