

PUBLIC UTILITY COMMISSION OF OREGON
CONFIDENTIAL STAFF REPORT
PUBLIC MEETING DATE: July 31, 2018

REGULAR CONSENT EFFECTIVE DATE _____ N/A

DATE: July 23, 2018

TO: Public Utility Commission

FROM: Scott Gibbens 

THROUGH: Jason Eisdorfer and John Crider  

SUBJECT: PACIFIC POWER: (Docket No. UP 374) Requests approval for the sale of Bridger Coal Company Shuttle Cars to Utah America Energy, Inc.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve the sale of four shuttle cars by Bridger Coal Company (BCC), of which Pacific Power (PacifiCorp or Company) owns two-thirds, to Utah America Energy, Inc. (UAE) subject to the following conditions:

1. PacifiCorp shall notify the Commission in advance of any substantive changes to the transfer of properties, 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 final journal entry recording the transaction shall be submitted to the Commission within 60 days after the transaction closes.
3. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or earnings review under an alternate form of regulation.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's transfer of its share of ownership

of four Joy 10SC32B Shuttle Cars to UAE, as set forth in the Form of Release between BCC and UAE.

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 a property sale. OAR 860-027-0025(1)(l) requires that the applicant show that the property sale will be 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 the Matter of the Application of PacifiCorp*, Order No. 00-112 at 6 (2000); *In the Matter of the Application of Portland General Electric*, Order No. 99-730 at 7 (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 and Idaho Power together own 100 percent of Bridger Coal Company (BCC). PacifiCorp owns 66 percent and Idaho Power owns 33 percent. BCC and UAE have agreed in principle to exchange four shuttle cars for \$240,000. After accounting for PAC's share of BCC, this equates to an Oregon-allocated amount of \$42,000. The underground mine operated by BCC has reached a point where only half of the shuttle cars owned by BCC are required. BCC selected the four most reliable units to continue operations and solicited bids from 19 prospective buyers for the other four shuttle cars. Two bids were received for the shuttle cars, one for \$60,000 per car from UAE and the other was for only two of the shuttle cars at \$15,000 per car. Being that the cars were no longer needed and holding on the cars would risk further deterioration, the decision was made to accept UAE's bid. The cars are fully depreciated so the sale price is 100 percent gain. PacifiCorp has proposed to account for the gain in the same way BCC costs are handled. This means that the gain would show as a reduction to fuel costs, or more precisely FERC account 501 (Fuel).

PacifiCorp filed its Application for Approval of the Sale of Property (Application) on May 18, 2018.

Staff investigated the following issues:

1. Scope and terms of the Property Exchange Agreement;
2. Transfer pricing and allocation of gain;
3. Public interest compliance; and
4. Records availability, audit provisions, and reporting requirements.

Staff's review of these issues included an examination of the PacifiCorp's Application, the applicable laws, and PacifiCorp's responses to six information requests (IRs) from Staff. PacifiCorp was thorough in its responses and Staff has identified no unresolved issues.

Scope and Terms of the Property Exchange Agreement

PacifiCorp included the Form of Release (Agreement) between BCC and UAE with its Application. The Agreement specifies the liabilities, property, contingencies, and process of the transaction. Of note, the shuttle cars are sold as-is. The Agreement has no terms which Staff found unusual or extraordinary. Staff does not believe that the execution of the terms of the Agreement should pose any harm or risk to customers.

Transfer Pricing and Allocation of Gain

The Company states that it based its determination of the value of the shuttle cars on the information provided in the responses to request for bids. The Company states, "The Company is not aware of any third party market pricing mechanisms for used underground mining equipment. Each piece of equipment has varied conditions and characteristics that need to be considered to determine market value."¹ Staff was unable to independently determine the market value of used shuttle cars, particularly those in need of refurbishment. The Company has previously noted "depressed conditions in the coal market industry" had resulted in a reduced value of equipment related to coal mining.² This most likely explains the relative lack of interest in the shuttle cars by the majority of the parties contacted for bids.

The shuttle cars were fully depreciated, required refurbishment to continue operations, and were not needed for efficient operation at Bridger Coal mine. PacifiCorp found a prospective buyer in a notably thin market, when otherwise the shuttle cars may have only had scrap value. Because of this, Staff finds that the price paid for the cars is of fair market value.

¹ Company response to Staff IR No. 4.

² UP 354 Staff Report dated December 14, 2017.

Public Interest Compliance

The Commission applies a “no harm” standard with regard to the public interest compliance of property sales. Because the property being sold to UAE is at market value, Staff believes there is no harm presented to the public interest. There is no further risk assumed as the four shuttle cars are not needed any longer by BCC. As a result, there is no impact to the Company’s ability to provide safe and reliable power, nor does the transaction result in increased costs for PacifiCorp’s customers.

Staff notes, however, that the proposed accounting treatment which results in a reduction to net power costs provides a very minimal benefit. The Power Cost Adjustment Mechanism (PCAM), which will capture the benefit of lower than expected power costs, is designed to rarely trigger a refund/charge. The mechanism compares actual to forecast power costs and is intended to protect customers and the Company against extraordinary events which result in changes to the cost of providing power. In this circumstance, the refund amounts to roughly one hundredth of one percent of total power costs, meaning a benefit from this sale is only provided should a much larger event also take place.

As a result of Staff’s analysis, Staff finds the property exchange to be in the public interest, but may raise its concerns with the treatment of property sales revenue flowing through power costs in a future proceeding, as applicable.

Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that the Commission retains the ability to review all property sales of the Companies through general rate case filings. Staff’s recommended conditions provide for documentation of this property sale.

PacifiCorp has reviewed this memo and has no objections or concerns.

Conclusion

Based on the review of this application, Staff concludes:

1. The Agreement did not contain any unusual or restrictive terms or conditions;
2. The transfer pricing and allocation of gain is fair and reasonable;
3. The transaction is in the public interest; and
4. Necessary records are available.

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PROPOSED COMMISSION MOTION:

Approve PacifiCorp's proposed sale of four shuttle cars to UAE, as set forth in the ownership transfer agreement between Bridger Coal Company and UAE.

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