

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 28, 2024**

REGULAR **CONSENT** X **EFFECTIVE DATE** Upon Approval

DATE: May 15, 2024

TO: Public Utility Commission

FROM: Mitchell Moore

THROUGH: Bryan Conway and Matt Muldoon **SIGNED**

SUBJECT: PACIFICORP:
(Docket No. UI 500)
Requests approval for affiliated interest transaction of pole transformers with Nevada Power Company

STAFF RECOMMENDATION:

Staff recommends the Public Utility Commission of Oregon (Commission) approve PacifiCorp's (PacifiCorp, PAC, or Company) application for approval of an affiliated-interest Agreement (Agreement) with Nevada Power Company dba NV Energy (NV Energy), an affiliated interest, subject to the following Staff-proposed conditions (Conditions):

Conditions:

1. PacifiCorp shall notify the Commission of any substantive changes to the Agreement, including any material changes in price or other parameters of the Agreement. Any such changes shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
2. PacifiCorp shall provide the Commission, upon request, access to all books of account, as well as documents, data and records that pertain to any transaction under this agreement involving NV Energy.
3. The Commission reserves the right to review, for reasonableness, all financial aspects of these transactions in any rate proceeding or alternative form of regulation.

Issue

Whether the Commission should approve PacifiCorp's affiliated interest transaction with NV Energy, which involves the sale of four units of pole transformer equipment.

Applicable Law

An "affiliated interest," as defined in ORS 757.015(3), includes every corporation five percent or more of whose voting securities are owned by a corporation or person that also owns, or is part of a successive chain of ownership, five percent or more of the voting securities of a public utility.

Application requirements for affiliated interest transactions are set forth in OAR 860-027-0040. OAR 860-027-0040(2)(g) requires that the application include the cost incurred and market value of the goods or services being provided.

The Commission reviews affiliated interest transactions to ensure they are fair and reasonable and not contrary to the public interest. ORS 757.495(3). When services or supplies (except for generation) are sold to an energy utility by an affiliate, sales shall be recorded in the energy utility's accounts at the affiliate's cost or the market rate, whichever is lower, unless there is an applicable rate on file with the Commission or with FERC. OAR 860-027-0048(4)(e).

Analysis

Background

PacifiCorp filed this application with the Commission on April 11, 2024, pursuant to ORS 757.495(1) and OAR 860-027-0040. PacifiCorp is an indirect, wholly owned subsidiary of Berkshire Hathaway Energy Company (BHE). NV Energy is also a wholly owned, indirect subsidiary of BHE, which qualifies NV Energy as an affiliated interest of PacifiCorp.

In its filing the Company requests to execute an agreement with NV Energy to supply NV Energy with four pole transformers needed by NV Energy for a critical infrastructure project. PacifiCorp states in its filing that NV Energy will pay PacifiCorp the cost of the parts, including administrative expenses, a total which is higher than the market price for equivalent parts.

The filing states that a delay in delivery of previously ordered transformer equipment necessitated the purchase of the equipment from PacifiCorp to meet critical customer agricultural needs this spring.

Staff's review included examination of the Company's current application, including a copy of the Contract. Staff investigated the following issues:

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

Terms and Conditions of the Agreement

The bill of sale contract between PacifiCorp and NV Energy specifies the equipment and the amount to be paid.

Staff reviewed the contract and did not identify any unexpected or unusual terms or conditions.

Transfer Pricing

Under the agreement NV Energy will pay PacifiCorp \$44,991.30 for the transformer equipment. PacifiCorp represents that this includes all their costs, including administrative costs, and is a price above current market price. Staff is satisfied that the contract pricing terms are at or above standard market prices.

Public Interest

The Commission customarily applies a "no-harm" standard in determining what is "not contrary to the public interest" in matters involving affiliated interest transactions. See, e.g., *In the Matter of a Legal Standard for Approval of Mergers*, Commission Order No. 01-778 at 10 (September 4, 2001). Staff does not find any provisions in the contract that would be contrary to the public interest.

Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that the Commission retains the ability to review all affiliated-interest transactions of the Company through both its annual affiliated-interest report, in general rate case filings, and its auditing capability. Staff's recommended conditions provide for all necessary Commission examination of PacifiCorp's records concerning the agreement.

Conclusion

Based on Staff's review of this application Staff concludes that the public interest is not harmed by this transaction, provided the recommended Conditions are adopted.

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The Company has reviewed this memo and agrees with its content.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's application for approval of an affiliated-interest Agreement with NV Energy, an affiliated interest, subject to the Staff's three recommended Conditions.

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