ITEM NO. CA9

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 16, 2020

REGULAR ____ CONSENT _X_ EFFECTIVE DATE ______June 17, 2020______

DATE: June 2, 2020

TO: Public Utility Commission

FROM: Kathy Zarate

THROUGH: Bryan Conway, Michael Dougherty, John Crider, and Matthew Muldoon **SIGNED**

SUBJECT: PACIFIC POWER:
(Docket No. UI 437)
Requests Approval of an Affiliate Interest Transaction with Coca-Cola North America.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve Pacific Power's (PacifiCorp, PAC, or Company) Application for Approval of an Affiliate Interest Transaction with Coca-Cola North America (Coca-Cola), an affiliated interest, subject to the following conditions:

1. PacifiCorp shall notify the Commission of any substantive changes to the agreements, including any material changes in price or other parameters. Any such changes shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.

2. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, all transactions entered into under the agreements with Coca-Cola.

3. The Commission reserves judgment on the fairness and reasonableness of the agreements for ratemaking purposes.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's Application for Approval of an Affiliated Interest Agreement with Coca-Cola North America.

Applicable Law

ORS 757.495 requires a public utility seek approval of contracts with affiliated interests within 90 days of execution of the contract. The required process for submitting an agreement for review by the Commission is set forth in ORS 757.015(2) and OAR 860-027-0040.

ORS 757.495(3) provides that the Commission may approve an affiliated interest agreement if the agreement is fair and reasonable and not contrary to the public interest. Under OAR 860-027-0048(4)(e), for cost allocation purposes, "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 approved rate if an applicable rate is on file with the Commission or with FERC. If services or supplies (except for generation) are not sold pursuant to an approved rate, sales shall be recorded in the energy utility's accounts at the affiliate's cost or the market rate, whichever is lower."

Pursuant to OAR 860-027-0000(2), the Commission may waive division 27 rule requirements for good cause shown.

The Commission need not determine the reasonableness of all financial aspects of the contract for ratemaking purposes, but rather reserves that issue for subsequent ratemaking proceedings. *See In re Avista Corp.*, OPUC Docket No. UI 306, Order No. 11-071 (Mar. 2, 2011).

Analysis

PacifiCorp submitted this filing on March 20, 2020. PacifiCorp is an indirect, wholly-owned subsidiary of Berkshire Hathaway Energy Company (BHE). BHE is a subsidiary of Berkshire Hathaway, Inc. (Berkshire Hathaway). Coca-Cola is also a subsidiary of Berkshire Hathaway. Berkshire Hathaway holds over five percent of Coca-Cola common stock. Berkshire Hathaway's ownership interest in both PacifiCorp and Coca-Cola constitutes an affiliated interest.

PacifiCorp and Coca-Cola entered into a contract for the provision of four Freestyle beverage machines, for an estimated cost of $55,000 over a three year and six month period.[1] These machines are to be installed in two employee breakrooms, which PacifiCorp is constructing at its offices located in Portland, Oregon. As a component of these spaces, the Freestyle beverage machines will enhance the opportunity for employees to interact with each other apart from the work environment during their breaks and lunches. PacifiCorp asserts that providing a broad variety of beverages is part of PacifiCorp's continued efforts to improve employee experiences in order to retain current employees and attract new talent to the organization.

The Company did not conduct a competitive bid due to the lack of suppliers who could meet the requirement to provide a broad variety of beverages in a single machine, and only one firm could meet the full requirement. PacifiCorp engaged in discussions with a Pepsi representative and reviewed the Spire machine. The requirement was to provide a broad selection of beverage options to the employees including many different flavors of soft drinks along with healthier options like vitamin water, flavored sparkling water, non-caffeinated and sugar free beverages, and chilled water. The Pepsi machine did not have a broad selection of beverages, and the healthier options were limited.[2]

Staff also reviewed the Company's responses to the twenty-three Staff data requests issued in this filling.

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

Transfer Pricing
PacifiCorp asserts that the market value of this affiliate transaction is approximately $55,000 over a three years and six months period, or approximately $16,900 per year. PacifiCorp notes that these costs are likely overstated, as maintenance costs used for this calculation were "a high level estimate" and that actual maintenance costs "will

[1] PacifiCorp's Response to Staff IR 20.
[2] PacifiCorp's Response to Staff IR 3.

likely not be this high."[3] PacifiCorp asserts that the market value is the same as the contract price.[4] PacifiCorp does not have information related to Coca-Cola's costs for providing service to PacifiCorp.[5] As such, Staff finds that there is good cause to waive the requirement that costs pursuant to this contract be recorded at the lower of PacifiCorp's costs or the affiliate's costs to provide service, and to record on its books its actual costs pursuant to the contract.

The annual total-company amount of this Agreement as show it in Table 1,[6] below, will be allocated to Oregon using the System-Overhead (SO) allocation factor calculated for the calendar year each year the agreement is in effect. The latest SO factor according to the December 2019 results of operations filing in Oregon is 27.5427 percent.[7]

Estimated Cost of Freestyle Machines			
	First Set	Second Set	Notes
Cost Per Unit Per Month	$ 300	$ 300	
Months	42	36	Assumes that contract terminated of sets at the same time
Cost per Unit over Term	$ 12,600	$ 10,800	
# of Units	2	2	
Total Lease Costs	$ 25,200	$ 21,600	
		$ 46,800	
High Level Estimate for Maintenance	$ 2,500	$ 8,750	$2.5k per year is a conservative estimate
Total Estimated Value of Contract		$ 55,550	
Typical Annual Cost		$ 16,900	

[8]

Public Interest Compliance

Staff finds the contract to be consistent with the public interest (customarily a no harm standard applied by the Commission).

Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that the Commission retains the ability to review all affiliated transactions of the Company through both its annual affiliated interest report and in ratemaking

[3] PacifiCorp's Response to Staff IR 20.
[4] PacifiCorp's Response to Staff IR 19.
[5] PacifiCorp's Response to Staff IR 21.
[6] Table 1 is a replication of PacifiCorp's Response to Staff IR 20, Attachment A.
[7] PacifiCorp's response to Staff IR 20.
[8] PacifiCorp's response to Staff IR 20.

proceedings. Staff's recommended conditions above provide for Commission examination of PacifiCorp's records concerning the agreement as may be necessary.

Conclusion

Accordingly, Staff finds the pricing to be fair and reasonable. Based on the review of this application, Staff concludes:

1. The application regards an affiliated interest agreement that is fair and reasonable and not contrary to the public interest with inclusion of the proposed ordering conditions; and
2. Necessary records are available.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's Application for Approval of an Affiliated Interest Agreement with Coca-Cola North America, subject to Staff's recommended conditions.