

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 20, 2024**

REGULAR **CONSENT** **EFFECTIVE DATE** February 21, 2024

DATE: February 6, 2024

TO: Public Utility Commission

FROM: Russ Beitzel

THROUGH: Bryan Conway and Marc Hellman **SIGNED**

SUBJECT: PACIFICORP dba Pacific Power:
(Docket No. UI 492)
Application for Approval of an Affiliated Interest Transaction with Kern
River Gas Transmission Co.

STAFF RECOMMENDATION:

Staff recommends the Commission approve PacifiCorp's, dba Pacific Power, Application Requesting Approval of an Affiliate Interest Transaction with Kern River Gas Transmission Co., subject to the following conditions:

1. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, a summary of the Company's transactions with Kern River Gas Transmission Co.
2. The Commission reserves the right to review, for reasonableness, the financial aspects of this transaction in any rate proceeding.
3. The Company shall provide the Commission access to all books of account, as well as all documents, data and records that pertain to any transaction involving Kern River Gas Transmission Co.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's, dba Pacific Power (PacifiCorp, PP or Company), Application where PacifiCorp for approval of a contract under which Kern River Gas Transmission Co. (Kern), PacifiCorp's affiliate, will build facilities necessary for natural gas transportation to PacifiCorp's Naughton Plant.

Applicable Rule or Law

"Affiliated interest," as defined in ORS 757.015(3), includes every corporation five percent or more of whose voting securities are owned by any corporation or person owning five percent of the voting securities of a public utility or in any successive chain of ownership of a public utility.

ORS 757.495 requires a public utility to seek approval of contracts with affiliated interests within 90 days of the execution of the contract. ORS 757.495(3) provides that the Commission may approve an affiliated interest agreement if the agreement is fair, reasonable, and not contrary to the public interest.

OAR 860-027-0040 sets forth the process for applications for approval of transactions with affiliated interests. When services or supplies are sold by an energy utility to an affiliate, OAR 860-027-0048(4)(d) requires the transaction to be recorded at the higher of cost or market.

OAR 860-027-0048(4)(e) states 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.

Analysis

PacifiCorp filed its Application with the Commission on November 27, 2023, pursuant to ORS 757.495 and in accordance with OAR 860-027-0040. In its Application, the Company seeks approval from the Commission of an affiliated interest transaction where PacifiCorp is contracting with Kern to provide natural gas transmission to its Naughton Plant. The contract contains provisions where Kern will also build any necessary facilities to accommodate the natural gas transmission.

Both PacifiCorp and Kern are wholly owned by Berkshire Hathaway Energy Company (BHE).¹ Because BHE owns more than five percent of both companies, this transaction qualifies as an affiliated interest according to ORS 757.015(3).

Staff's review of the Application included examination of the Company's Application and issuing IRs. Staff investigated the following issues:

¹ See UI 492 Application, page 2.

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 Agreement

Staff reviewed the Precedent and Facilities Agreement and the Transportation Service Agreement. Staff did not find any unexpected or unusual terms or conditions in the applications.

Transfer Pricing

For this transaction, PacifiCorp will receive natural gas to its Naughton Plant via facilities and a pipeline built by Kern. In response to a Staff IR, the Company provided evidence that Kern was the lowest cost provider of natural gas pipeline facilities versus several other providers that submitted bids.

The transfer pricing will be at Kern's rates to be approved by the Federal Energy Regulatory Commission and this structure therefore complies with OAR 860-027-0048(4)(e).

Public Interest Compliance

Entering into the Agreement allows PacifiCorp to repurpose its Naughton Plant from coal to natural gas. Rather than continue to use coal as a fuel source or shutter the plant, this contract allows for the continued use of the assets. Additionally, Kern will provide transport of the PacifiCorp natural gas at the lowest cost in the region, based on the submitted bids.

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 general rate case filings.

Staff's recommended conditions provide for Commission examination of PacifiCorp's records concerning the Agreement with Kern:

1. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, a summary of the Company's transactions with Kern River Gas Transmission Co.
2. The Commission reserves the right to review, for reasonableness, the financial aspects of this transaction in any rate proceeding.

3. The Company shall provide the Commission access to all books of account, as well as all documents, data and records that pertain to any transaction involving Kern River Gas Transmission Co.

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

Conclusion

Based on the review of this Application, Staff concludes:

1. The application includes 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 requesting approval of an Affiliate Interest Transaction with Kern River Gas Transmission Co, an affiliated interest, subject to Staff's three recommended conditions.