

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UP 235

In the Matter of	)	
	)	
PACIFICORP, dba PACIFIC POWER AND	)	ORDER
LIGHT COMPANY	)	
	)	
Application for Approval of the Sale of the	)	
Upper Beaver Hydroelectric Project.	)	

**DISPOSITION: APPLICATION APPROVED WITH CONDITIONS**

On September 6, 2006, PacifiCorp, dba Pacific Power and Light Company (PacifiCorp), filed an application with the Public Utility Commission of Oregon (Commission), pursuant to ORS 757.480(1) and OAR 860-027-0025, requesting authority to sell and transfer PacifiCorp's water rights and assets associated with the Upper Beaver Hydroelectric Project to the City of Beaver, Utah (City of Beaver).

**OPINION**

Under ORS 757.480, a public utility doing business in Oregon shall first obtain Commission approval for any transaction to sell, lease, assign or otherwise dispose of property. Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its Public Meeting on November 21, 2006, the Commission adopted Staff's recommendation to approve the property sale. Staff's recommendation is attached as Appendix A and is incorporated by reference.

**ORDER**

IT IS ORDERED that the requested sale and transfer of the Upper Beaver Hydroelectric Project from PacifiCorp to the City of Beaver is approved, subject to the following conditions:

1. PacifiCorp shall provide the Commission access to all books of account, as well as documents, data, and records that pertain to the sale of the property.

2. PacifiCorp shall notify the Commission in advance of any substantive changes to the sale and transfer of the property, including any material change in price. Any such change shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
3. PacifiCorp shall provide the Commission the final Gain Calculation with all supporting documentation concerning the final figures.
4. PacifiCorp shall notify the Commission when the Closing/Transfer of the Upper Beaver Hydroelectric Project sale occurs and provide to the Commission supporting documentation concerning the sale.
5. The Commission reserves the right to review all financial aspects of this transaction in any rate proceeding or alternative form of regulation.
6. The property shall be removed from electric generation service according to procedures established by the Federal Energy Regulatory Commission (FERC).

Made, entered, and effective NOV 28 2006.



BY THE COMMISSION:

*Becky L. Beier*  
\_\_\_\_\_  
Becky L. Beier  
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: November 21, 2006

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: November 9, 2006

TO: Lee Sparling through Marc Hellman and Michael Dougherty

FROM: David Poston

SUBJECT: PACIFICORP: (Docket No. UP 235) Application for approval of the sale and transfer of Upper Beaver Hydroelectric Project from PacifiCorp to the City of Beaver, Utah.

**STAFF RECOMMENDATION:**

The Oregon Public Utility Commission (Commission) should approve PacifiCorp's (Company) application for the requested sale and transfer of electric properties, and approve waivers under OAR 860-027-0025(1) and (2) with the following conditions:

1. PacifiCorp shall provide the Commission access to all books of account, as well as documents, data, and records that pertain to the transfer of electric properties.
2. PacifiCorp shall notify the Commission in advance of any substantive changes to the sale and transfer of the property including any material change in price. Any such change shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
3. PacifiCorp shall provide the Commission the final Gain Calculation with all supporting documentation concerning the final figures
4. PacifiCorp shall notify the Commission when the Closing / Transfer of the Upper Beaver Hydroelectric Project (Upper Beaver Hydroelectric Project, or Project) sale occurs and provide to the Commission supporting documentation concerning the sale.
5. The Commission reserves the right to review all financial aspects of this transaction in any rate proceeding or alternative form of regulation.
6. The property shall be removed from electric generation service according to procedures established by the FERC.

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## DISCUSSION:

### Background

PacifiCorp filed this application on September 6, 2006, pursuant to ORS 757.480(1)(a) and OAR 860-027-0025. The company seeks a Commission order authorizing the transfer of PacifiCorp's water rights and assets associated with the Upper Beaver Hydroelectric Project to the City of Beaver, Utah (City or City of Beaver).

The sale will be contingent on the City of Beaver's receipt and acceptance of a new Special Use Permit from the United States Forest Service, as well as a requirement that PacifiCorp constructs a separation facility. The expense (estimated at \$390,000) for the separation facility (transmission facility) will enable PacifiCorp to provide utility service to retail customers, and is not included in the sale. This expense will be accumulated in FERC account 107 (construction work in progress), and will be recorded in FERC account 101 (electric plant in service) when construction is completed.

The separation facilities are all considered transmission facilities, and will therefore be allocated across the system.

Other expenses related to the sale include: the installation of slide gates to replace stop logs at Merchant Valley Dam; painting the project surge tank; and PacifiCorp labor costs for assembling production cost data, project sale terms and pricing negotiations, and exchanging information with the City of Beaver. These additional costs will all be at PacifiCorp's expense – estimated at \$354,701, and have been included in calculations related to the sale and resulting gains. These various sales expense estimates have been summarized in Table 1 below.

**Table 1: Sales Expenses**

Incurred Expenses		Pending Expense		Total
Surge Tank	Staff Labor	Slide Gates	Staff Labor	Sales Expense
\$25,400	\$111,500	\$104,000	\$114,000	\$354,701

The sale price of the Project is \$2,000,000, which is based on a negotiated price between the City and PacifiCorp. The City will take possession of the Project within 60 days after all necessary regulatory approvals have been obtained, and PacifiCorp has placed the separation facilities in service. Net book value of the project is projected to be \$1,620,888 on the expected date of closing, March 31, 2007.

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This facility is exempt from FERC licensing since it is less than 5 MW,<sup>1</sup> but is subject to annual dam safety inspections under FERC Part 12 of the Federal Power Act, and the State of Utah.

#### Waivers

Pursuant to OAR 860-027-0025(3), PacifiCorp requests a waiver from the Commission regarding the filing requirements under OAR 860-027-0025(1) and (2). PacifiCorp also requests that the Commission provide a waiver regarding the submission of certain financial information for the City for the following reasons:

- The financial obligations of the City to PacifiCorp with respect to the subject transaction are to be satisfied at Closing. As a result, there will be no ongoing financial commitment to PacifiCorp after the closing date.
- The Upper Beaver Hydroelectric Project will not be used for purposes of providing jurisdictional electric services after the proposed transfer.

#### Upper Beaver Hydroelectric Project Operation

The Upper Beaver Hydroelectric Project is located upon United States Forest Service land in the Fish Lake National Forest, under authority of a Special Use Permit (SUP) in southwestern Utah, on the Beaver River near the City of Beaver, Utah. The Project is 99 years old and was constructed and placed in service in 1907 by the Telluride Power Company, which was acquired in 1963 by Utah Power & Light. PacifiCorp subsequently became the owner of the Upper Beaver hydroelectric project when it merged with Utah Power & Light in 1989.

All land is owned by the U.S. Forest Service, and PacifiCorp pays the U.S. Forest Service a small annual fee of \$2,785 plus escalation for the use of this land. The Project consists of the twenty-five foot Merchant Valley Dam, approximately two miles of main flow line (diameter 30 to 36 inches), associated equipment, other personal property, inventory, water rights, contracts, authorizations, and easements.

Although the total generating capacity of the Project is approximately 2.5 MW, existing water rights and hydrologic conditions of the watershed limit output capacity to about 1 aMW – producing an average of 8,964 MWH per year. Additionally, in mid-2004, PacifiCorp's Hydro Engineering Department recommended replacement of a 350-foot section of main flow line just below Merchant Valley Dam. The cost of replacing this main flow line, as well as other capital additions and replacements planned over the next thirty years, is estimated at \$3.9 million.

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<sup>2</sup> FERC exemption is pursuant to 16 U.S.C. § 2705 (d). Also see 29 FERC P 62,054 (1984) (Order granting exemption from licensing)

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PacifiCorp's Hydro Resources determined that the estimated investments that would be necessary for continued future operations of the Project warranted a financial analysis and a review of alternate options.

#### Transfer and Sale of Property

PacifiCorp proposes to transfer the water rights and assets related to the Upper Beaver Hydroelectric Project to the City. The City has a need for the project to provide additional power to meet the needs of the City's municipal retail electric loads. The City needs an additional 2 MW of capacity, and can take advantage of synergies to make operation of the Project economically feasible. For instance, the City can use local labor on both the Upper Beaver Hydroelectric Project, as well as the lower Beaver Hydroelectric Project, which the City currently owns and operates.

PacifiCorp will maintain the transmission facilities located at the powerhouse and install metering and communications equipment to be utilized to facilitate wheeling of Project output to the City.

The sale contract requires the City to enter into a Generation Interconnection Agreement, providing for the interconnection of the Project with the PacifiCorp system. The interconnection agreement and the communication equipment will allow PacifiCorp to wheel power to the City, since it does not own transmission equipment from this location in the City's municipal territory.

The referenced metering and communications equipment are components of the approximately \$390,000 separation facilities investment, discussed above, that will be owned by PacifiCorp after closing the transaction. Thus PacifiCorp's ownership will not transfer to the City and the costs are properly not included in sales cost.

#### Issues

Staff investigated the following issues:

1. Scope and Terms of the Project Purchase Agreement
2. Public Interest Compliance
3. Allocation of Gain
4. Records Availability, Audit Provisions, and Reporting Requirements

Scope and Terms of Agreements – Based upon Staff's analysis of the Project Purchase Agreement, there appears to be no unusual or restrictive terms that will harm customers.

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Public Interest Compliance – Staff's analysis of the proposal supports PacifiCorp's representation that customers will not be harmed by the proposed transaction, and may actually benefit from the sale.

PacifiCorp performed three different 30-year present value economic analyses. Each of these analyses looked at the present value revenue requirement (PVRR), including:

- The PVRR of continuing operations at the Upper Beaver Hydroelectric Project, which would include an estimated \$3.9 million in capital investments over the next 30 years, and an estimated \$280,000 annual operation & maintenance cost. The PVRR of this option is \$10.73 million.
- The PVRR of Project decommissioning and purchasing replacement energy from the market. The PVRR of this option is \$10.59 million.
- The PVRR of the sale of the Project and purchasing replacement energy from the market. The PVRR of this option is \$8.34 million. However, when including the \$390,000 cost of the separation facilities (which would become the property of PacifiCorp, but which is an expense that would only be required if the Project is sold), the PVRR increases by \$505,000 to \$8.842 million.

PacifiCorp's analyses results in a PVRR for the sale-of-the-Project option that is \$1.887 million lower than continued ownership, and \$1.744 million lower than decommissioning.

The PVRR calculations for both the sale and decommissioning of the Project are based on power replacement of 8,964 MWH per year (the average annual output of the Project) at the September 2005 PacifiCorp Official Base Price Projection (the most current projections at the time of the calculations, which are higher than the more current June 2006 projected rates). All the analyses were based on PacifiCorp's 7.1 percent after tax analysis discount rate.

The gain from this sale is an estimate, and factors such as the actual date of sale could affect the actual gain. There is no broker involved in this sale, and the City has agreed, in the Project Purchase Agreement, to cover any related escrow fee, and that any sales, transfer, purchase, use, or similar tax or fees (other than capital gains tax) that may be payable by reason of the sale of all or a portion of the assets (transfer taxes) shall not be borne by PacifiCorp.

Allocation of Gain – Staff reviewed and concurs with PacifiCorp's Estimated Proforma Gain Calculation on the Sale of the Upper Beaver Hydroelectric Project sale, and the

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sale option gain of \$24,411, with an Oregon allocated share of \$6,500 – based on Oregon's current allocation factor of 26.6 percent. For accounting purposes, if the gain meets the threshold of \$25 thousand for the balancing account on an Oregon allocated basis, the customer's portion of the gain shall be placed in a balancing account as established by Commission Order 01-787 (UE 116). A recommended Condition will provide the Commission the final calculations of the gain on sale.

It is important to note that the \$390,000 cost of the separation facilities, if included in the sales cost, would change the gain on the sale of this project to a loss. However, the separation facilities will become the property of PacifiCorp and will not be retired from service. Therefore, the separation facilities should be treated separately from the utility plant that is the subject of this sale.

Records Availability, Audit Provisions and Reporting Requirements - Recommended Conditions Nos. 1, 3, and 4 provide the Commission with access to necessary records and information.

The sale conforms to the no harm standard used by the Commission because the PVRR for the sale-of-the-Project option is lower than both continued ownership and decommissioning. Additionally, if the gain meets the materiality threshold for the balancing account, the gain will be deferred for later distribution to customers.

PacifiCorp has reviewed Staff's analysis and does not object to Staff's recommendations.

#### **PROPOSED COMMISSION MOTION:**

PacifiCorp's UP 235 application for authority to sale and transfer electric properties and waivers of OAR 860-027-0025(1) and (2) be approved, subject to Staff's recommended conditions.

UP 235 – PacifiCorp Transfer of the Upper Beaver Hydroelectric Project