

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI 287

In the Matter of

PACIFICORP, dba PACIFIC POWER

Application Requesting Approval of an
Affiliated Interest Agreement with Nalco
Company.

ORDER

DISPOSITION: APPLICATION APPROVED WITH CONDITIONS

On June 18, 2009, PacifiCorp, dba Pacific Power (Pacific Power), filed an application with the Public Utility Commission of Oregon (Commission) pursuant to ORS 757.495(1), and OAR 860-027-0040, for approval of an affiliated interest agreement between Pacific Power and Nalco Company (Nalco), an affiliated interest. The current business agreement began on January 1, 2007, and represents an extension of a long-standing service provision by Nalco to Pacific Power. The basis for the request is detailed in Staff's Report, attached as Appendix A, and incorporated by reference.

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 July 28, 2009, the Commission adopted Staff's recommendation and conditions listed in Appendix A.

OPINION

Affiliation

An affiliated interest relationship exists under ORS 757.015.

Applicable Law

ORS 757.495 requires a public utility to seek approval of contracts with affiliated interests within 90 days after execution of the contract.

ORS 757.495(3) requires the Commission to approve the contract if the Commission finds that the contract is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission reserves that issue for a subsequent proceeding.

CONCLUSIONS

1. An affiliated interest relationship exists.
2. The services contract is fair, reasonable, and not contrary to the public interest.
3. The application should be approved, with certain conditions.

ORDER

IT IS ORDERED that PacificCorp's, dba Pacific Power, application for approval of an affiliated interest agreement with Nalco Company is approved, subject to the conditions stated in the Staff Report attached as Appendix A.

Made, entered, and effective JUL 30 2009.

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.

ITEM NO. CA7

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 28, 2009**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ NA _____

DATE: July 8, 2009

TO: Public Utility Commission

FROM: Marion Anderson 

THROUGH:  Lee Sparling,  Marc Hellman, and  Michael Dougherty

SUBJECT: PACIFICORP DBA PACIFIC POWER: (Docket No. UI 287) Application requesting approval of an Affiliated Interest Agreement between PacifiCorp and Nalco Company, an affiliated interest.

STAFF RECOMMENDATION:

The Public Utility Commission (the Commission) should approve the application of PacifiCorp dba Pacific Power (PacifiCorp or the Company) for an affiliated interest agreement with Nalco Company (Nalco) under the following conditions:

1. The Company shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to any payments to/from affiliates.
2. The Commission reserves the right to review, for reasonableness, all financial aspects of this arrangement in any rate proceeding or earnings review under an alternative form of regulation.
3. The Company shall notify the Commission in advance of any substantive changes to the agreement, including any material changes in any cost. 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 format) in this docket.

DISCUSSION:

This application was filed on June 18, 2009, pursuant to ORS 757.495(1), and OAR 860-027-0040. The current business agreement began on January 1, 2007, and represents an extension of a long-standing service provision by Nalco to PacifiCorp.

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The affiliated relationship was established during the fourth quarter of 2008 through a purchase of approximately 6 percent of Nalco Holding Company (parent of Nalco) common stock by Berkshire Hathaway, Inc. Berkshire Hathaway, Inc. wholly owns MidAmerican Energy Holdings Company which wholly owns PacifiCorp. This chain satisfies the affiliation definition under ORS 757.015(3).

The following issues were investigated:

- Scope of the Agreement
- Transfer Pricing
- Determination of Public Interest Compliance
- Records Availability, Audit Provisions, and Reporting Requirements

Scope of the Agreement

Nalco furnishes the following goods and services: generation plant water treatment programs with related services; generation plant engineering assistance; chemicals relevant to water treatment; and new generation plant consulting and technical assistance. The annual retainer is roughly \$1,750,000.

Transfer Pricing

Staff considers the more than thirty year association between PacifiCorp and Nalco to satisfy the market pricing requirement of the aforementioned OAR, since the original provisions were made as arms-length transactions.

Determination of Public Interest Compliance

This agreement is fair and reasonable and not contrary to the public interest.

Records Availability, Audit Provisions, and Reporting Requirements

Staff Recommendation Condition No. 1 affords necessary access to any relevant records.

Based on the review of this application, Staff concludes the following:

1. The arrangement's scope is reasonable.
2. The contract will not harm customers and is not contrary to the public interest with the recommended conditions.
3. Necessary records are available.

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PROPOSED COMMISSION MOTION:

The affiliated interest agreement between PacifiCorp and Nalco Company be approved, subject to the recommended conditions.

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