

ORDER NO. 12 210

ENTERED JUN 10 2014

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI 347

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Request for Approval of an Affiliated Interest
Agreement with BNSF Railway Company.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on June 10, 2014, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



Becky L. Beier

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 10, 2014

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: May 21, 2014

TO: Public Utility Commission

FROM: Linnea Wittekind

MLC MB

AT

THROUGH: Jason Eisdorfer, Maury Galbraith, and Marc Hellman

SUBJECT: PACIFICORP: (Docket No. UI 347) Requests Approval of Affiliated Interest Agreement with BNSF Railway Company.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve PacifiCorp's (PacifiCorp or Company) application for approval of an Affiliated Interest Agreement with BNSF Railway Company (BNSF), an affiliated interest, subject to the following conditions:

1. PacifiCorp shall notify the Commission of any substantive changes to the Agreement, including any material changes in price or other parameters specified in 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 report to the Commission, as part of its annual affiliated interest report, all transactions entered into under the Agreement with BNSF.

DISCUSSION:

PacifiCorp filed this application with the Commission on March 31, 2014, pursuant to ORS 757.495(1) and OAR 860-027-0040. PacifiCorp is a wholly owned, indirect subsidiary of MidAmerican Energy Holdings Company (MEHC). MEHC is a subsidiary of Berkshire Hathaway, Inc. (Berkshire Hathaway). BNSF is also a subsidiary of Berkshire Hathaway.

"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

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owning five percent of the voting securities of a public utility or in any successive chain of ownership of a public utility. Berkshire Hathaway's ownership interest in BNSF creates an affiliated interest for PacifiCorp through Berkshire Hathaway's ownership interest in MEHC and MEHC's ownership interest in PacifiCorp.

BNSF provides rail transportation services for coal sourced from three different regions of mines located in the Wyoming Power River Basin to PacifiCorp's Dave Johnston Steam Plant (Dave Johnston) near Glenrock, Wyoming. With this application, the Company requests Commission authorization to engage in business transactions with BNSF under the terms and conditions of the Agreement.

Staff's review of this application included examination of the Company's current application, the coal transportation agreement with BNSF which includes common carrier pricing as well as Staff data requests.

Issues

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 agreement is between PacifiCorp and BNSF Railway Company Common Carrier Pricing Authority 90068 – Coal Unit Train Commitment Certificate Number BNSF 90068-0072 (Agreement). Staff reviewed the Agreement and did not find any unexpected or unusual terms or conditions.

Transfer Pricing

PacifiCorp anticipates spending up to \$23 million each year for coal transportation services from BNSF. Under the Agreement, BNSF will transport a minimum of three million tons of coal per year to the Dave Johnston plant. Each year PacifiCorp will determine and nominate a fixed tonnage volume of coal for the Dave Johnston plant's consumption requirements. In addition, PacifiCorp will provide a monthly schedule to BNSF for the monthly coal volumes to be delivered.

Public Interest

For coal to reach the Dave Johnston generation plant it must travel a great distance from the Wyoming Powder River Basin. According to the Company, in these situations where coal must be transported over long distances, railroad transportation is less expensive than other potential transportation sources.

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PacifiCorp has thoroughly explored other transportation options, due to confidentiality the details of those options are not discussed within this memo. Staff has verified that of the transportation options available, BNSF is the least cost/least risk option. The Dave Johnston plant is captive to the BNSF railroad in that BNSF is the only railroad company that can provide coal transportation services to the plant.

Based on Staff's review, Staff finds the Agreement to be in the public interest.

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 all necessary Commission examination of PacifiCorp's records concerning the Agreement with BNSF. PacifiCorp has reviewed this memo and has not communicated any objections or concerns.

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:

PacifiCorp's application for approval of the Agreement with BNSF, an affiliated interest, be approved subject to Staff's recommended conditions.