

ORDER NO. 16 009

ENTERED JAN 12 2016

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UI 360

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Request for Approval of an Affiliated Interest  
Agreement with Phillips 66 Company.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on January 12, 2016, 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 Circuit Court for Marion County in compliance with ORS 183.484.


ITEM NO. CA4



PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 12, 2016

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

DATE: December 23, 2015

TO: Public Utility Commission

FROM:  Scott Gibbens

THROUGH:  Jason Eisdorfer and  Marc Hellman

SUBJECT: PACIFICORP: (Docket No. UI 360) Requests approval of an Affiliated Interest Agreement with Phillips 66 Company

**STAFF RECOMMENDATION:**

The Public Utility Commission of Oregon (Commission) should approve PacifiCorp's (PacifiCorp or Company) application for approval of a Master Materials Supply Contract (Contract) with Phillips 66 Company (Phillips 66), an affiliated interest, subject to the following conditions:

1. PacifiCorp shall notify the Commission of any substantive changes to the contract, including any material changes in price or other parameters specified in the Agreement. Any such changes shall be filed in this docket.
2. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, all transactions entered into under the contract with Phillips 66.
3. The Commission reserves judgment on the fairness and reasonableness of the contract for ratemaking purposes.

**ISSUE:**

Whether the Commission should allow PacifiCorp to enter into a Contract with Phillips 66, an affiliated interest, in order to purchase lubricating oil and grease products.

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**RULE:**

"Affiliated interest," as defined in ORS 757.015, includes every corporation five percent or more of whose voting securities are owned by any corporation or person owning at least five percent of the voting securities of a public utility or by any person or corporation in any chain of successive ownership of at least five percent of voting securities of the utility. See ORS 757.015(3). ORS 757.495 requires a public utility to seek approval of contracts with affiliated interests within 90 days after 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)(g), for cost allocation purposes, "when services or supplies are sold to an energy utility by an affiliate under contract, the transfer price shall be based upon the tariff or terms of the contract approved by the Commission Order under ORS 757.495." The Commission need not determine the reasonableness of all financial aspects of the contract for ratemaking purposes, but, rather, may reserve that issue for subsequent proceedings. See Commission Order No. 11-071.

**ANALYSIS:**

PacifiCorp is an indirect, wholly-owned subsidiary of Berkshire Hathaway Energy Company (BHE). BHE is a subsidiary of Berkshire Hathaway, Inc. (Berkshire). On August 28, 2015, Phillips 66 became a subsidiary of Berkshire.

Berkshire's ten percent ownership interest in Phillips 66 creates an affiliated interest for PacifiCorp through Berkshire's ownership interest in BHE and BHE's ownership interest in PacifiCorp.

PacifiCorp agreed to participation under the terms and conditions of the contract between BHE and Phillips 66, executed December 23, 2014. The terms of this contract became subject to Commission review due to Berkshire's investment in Phillips 66. PacifiCorp filed its application for approval of the contract within 90 days of the date Phillips 66 became an affiliated interest. Staff's review of this application included examination of the Company's current application, the contract, purchase orders between the affiliated interests, as well as responses submitted by the Company to six Staff information requests.

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Staff investigated the following issues in considering whether the agreement is fair, reasonable, and not contrary to the public interest:

1. Terms and Conditions of the Agreement;
2. Transfer Pricing and Historical Trends;
3. Public Interest Compliance; and
4. Records Availability, Audit Provisions, and Reporting Requirements.

*Terms and Conditions of the Agreement*

Staff reviewed the contract between BHE and Phillips 66 as well as the Affiliate Participation Letter which binds PacifiCorp to the terms of the agreement, along with the Company's responses to information requests about certain articles in the contract. Staff had no issues or concerns with the general structure of the agreement.

*Transfer Pricing and Historical Trends*

Staff reviewed the pricing sheet associated with the contract as well as an escalation/de-escalation pricing mechanism. Staff compared those prices with similar products found in Attachment 2 of the company's application. The Company and Staff agree that the negotiated agreement "contemplates economies of scale" likely to result in lower costs for the Company and, therefore, lower rates for consumers. Staff also reviewed the historical trends using PacifiCorp's previous purchases. Staff reviewed both the historical data of purchases from Phillips 66 prior to becoming an Affiliated Interest (January 2015 to August 2015) and the amount of lubrication and grease that PacifiCorp purchased before the implementation of the contract in question (2009 to 2014). Staff found that the predicted annual purchase amount of \$700,000 was consistent both with the purchasing trends prior to the December 23, 2014, agreement and after. Due to the fact that both the prices and quantities are consistent with PacifiCorp's purchases prior to August 28, 2015, Staff finds that they are fair and reasonable for purposes of approving an affiliated interest agreement. The Commission may reserve consideration of the reasonableness of contract for ratemaking purposes, and Staff recommends that it do so.

*Public Interest*

PacifiCorp uses lubrication and grease to maintain the proper function of its plant and equipment. There is little question that the products provided by Phillips 66 are necessary for PacifiCorp to provide safe and reliable electric service. As previously mentioned, procuring quality lubrication at the lowest cost possible ensures that rate payers will see the lowest costs possible. Staff believes that the contract is consistent with the public interest.

*Records Availability, Audit Provisions, and Reporting Requirements*

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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 as may be necessary.

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.

PacifiCorp has reviewed this memo and has not communicated any objections or concerns.

**PROPOSED COMMISSION MOTION:**

PacifiCorp's Affiliated Interest Agreement with Phillips 66, be approved subject to the conditions recommended by Staff.

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