

ORDER NO. 16 011

ENTERED JAN 12 2016

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UP 333

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Sale of Mining Equipment to
Titan Florida, LLC.

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.

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

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A

DATE: January 4, 2016

TO: Public Utility Commission

FROM: Brian Bahr ³³

THROUGH: E Jason Eisdorfer and Marc Hellman A

SUBJECT: PACIFICORP: (Docket No. UP 333) Requests Approval to Sell a Dragline and Associated Parts to Titan Florida, LLC.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve the application by PacifiCorp dba Pacific Power (PacifiCorp or Company) to sell the Page 732 Dragline and associated parts (Dragline) to Titan Florida, LLC (Titan), subject to the following conditions:

1. Company shall notify the Commission in advance of any substantive changes to the transfer of properties, including any material changes in price. 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 form) in this docket.
2. The final journal entry recording the transaction shall be submitted to the Commission within 60 days after the transaction closes.
3. Company shall conduct a study, and provide a report to the Commission on the results of the study, within 90 days of the order approving this property sale transaction, that reviews all coal-related facility investments of greater than \$25 thousand initial value and identifies any of such investments that are currently included in rate base but have been taken out of, or are otherwise no longer in, service.

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ISSUE:

With this application, the Company requests Commission approval to sell a Dragline and associated parts to Titan.

APPLICABLE RULES AND LAWS:

ORS 757.480 and OAR 860-027-0025 are the relevant laws governing the sale or lease of utility property.

ORS 757.480 provides, in relevant part, that a utility doing business in Oregon shall obtain the Commission's approval prior to selling property used to provide utility service. In support of a request for approval of a property sale, the utility must provide the information and documentation listed in OAR 860-027-0025. OAR 860-027-0025(1)(I) requires the applicant to show that the property sale will be consistent with the public interest. The Commission has interpreted the phrase "consistent with the public interest" to require a showing of "no harm to the public" in asset sale dockets. See, e.g. *In the Matter of the Application of PacifiCorp*, Order No. 00-112 at 6 (2000); *In the Matter of the Application of Portland General Electric*, Order No. 99-730 at 7 (1999).

The Commission has reserved the right to review any or all financial aspects of a transaction in a general rate case or other proceeding, and may condition approval of a sale on receiving notice in advance of any substantive changes to the sale and transfer of the property including any material change in price. See Docket No. UP 235, Order No. 06-651; Docket No. UP 57, Order No. 90-433.

ANALYSIS:

Background

PacifiCorp owns two-thirds of Bridger Coal Company (BCC), which provides coal to the Jim Bridger generating plant located in Wyoming. Idaho Power Company owns the other one-third and has filed a parallel application for the sale of the Dragline, docketed as UP 334. The Dragline was put into service in 1974, but subsequently became uneconomic to operate as increased demand for coal required larger equipment. The Dragline has been out of service for the past 17 years.

After the Dragline became idle in 1998, BCC has continually attempted to sell the Dragline. BCC commissioned a broker to locate a purchaser and determine a sales price. Titan agreed to purchase the Dragline for a price of \$500,000. The broker fee is

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10 percent of that amount. The sale price is approximately \$190,000 greater than the current net book value for the Dragline. According to the purchase agreement (Agreement) between BCC and Titan, Titan is responsible for paying the sales tax and for dismantling, packaging, and removing the Dragline.

The application was filed by the Company on December 1, 2015, concurrent with a separate application filed by Idaho Power Company, which owns one-third of BCC, for the sale of the Dragline. The Company requested approval of this application by December 31, 2016. Staff discussed this request with the Company, and the Company has no objections to this application being considered by the Commission at the first public meeting in January 2016.

Issues

Staff investigated the following issues:

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

Staff's review of these issues included examination of the Company's application, applicable laws, the Agreement, and the Company's responses to six requests for information from Staff.

Scope and Terms of the Sale and Purchase Agreement

The Agreement, included in the Company's application as Attachment A, does not appear to contain any unusual terms or conditions. Titan, the buyer, is responsible for dismantling, packaging, and removing the equipment. The buyer is also responsible for paying the sales tax (estimated to be around \$30,000) and removal of the equipment.

Transfer Pricing and Allocation of Gain

The purchase price of the Dragline is \$500,000, less a \$50,000 broker commission. The net book value of the Dragline is \$256,592, resulting in a gain on sale of \$193,408. As two-thirds owner of BCC, PacifiCorp's share of the gain is \$128,945.

Purchase Price	\$500,000
Less Broker Fee	-\$50,000
Less Net Book Value	-\$256,592
Gain on Sale	\$193,408
Ownership Percentage	66.67%
Gain Allocated to PacifiCorp	\$128,945

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A gain on sale of property is typically booked by the Company to its property sales balancing account. In this case, however, the proceeds will flow through BCC's income statement and be reflected in the cost of coal burned at the Jim Bridger generating plant, reducing net power costs. Fuel costs are updated annually through the Company's fuel cost adjustment mechanism; therefore, lower fuel costs for the Company result in lower costs to customers, regardless of the timing of general rate cases.

According to the Company's response to a request for information from Staff, the Dragline has remained in rate base since it was taken out of service in 1998:

The asset was included as part of property, plant, and equipment, but it was not included in the cost of fuel because it was not being depreciated. Since the equipment still had value and was expected to be sold, it was not retired.

Public Interest Compliance

As stated, the Commission customarily applies a "no harm" standard with regard to the public interest compliance of property sales. As the equipment is not currently in use, the delivery of safe and reliable energy to customers is not affected by its sale.

Staff notes that the Dragline remained an asset in the Company's rate base for many years after it was taken out of service, apparently due to the difficulty in finding a buyer for the equipment. In response to a request for information from Staff, the Company described the efforts undertaken to sell the Dragline:

Efforts to sell the Page 732 [Dragline] began in earnest during 2002. At first, attempts were made to market the unit with mine personnel. However it soon became evident that market opportunities were limited due to equipment specifications (small bucket size/capacity and the limited "reach length and dig depth" capability). Over the course of the past thirteen years there have been numerous inquiries but interest diminished when prospective buyers realized the cost required to move the unit. The cost to "relocate" the dragline is approximately \$1.0m (dismantle, transport and reassemble). The buyer would most likely need to refurbish the machine prior to reassembly which would increase the cost by several million dollars.

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The Company also provided a list of parties corresponding with the Company with regards to a potential sale of the Dragline:

<u>Year</u>	<u>Entity</u>
2002, 2008	Vulcan Materials Company
2003	Frank Colitz
2004, 2006	Suwannee American Cement
2005	Flanders Electric on behalf of an Undisclosed Party
2005	M-I SWACO
2005	Denver East Machinery Co.
2005	Minepro
2005	M.R. Tudor
2006	ABL Surplus
2006	AAMCOR Inc.
2006	Union Telecom
2006, 2008, 2015	Draglines Worldwide LLC
2008	Gordon Dawson
2009	Universal Worldwide LLC
2011	GDL Enterprises, Inc.
2011	Intermountain Equipment
2012	North American Coal Corporation
2015	Titan America

Given the difficulty in finding a buyer for the equipment and the favorable sale price, the Company's application should be approved. Staff is concerned that the plant continued to be in rate base even though it was no longer used and useful. To help ensure that there are not similar instances currently taking place, Staff has proposed PacifiCorp conduct a study and report to the Commission whether there are any other appreciable plant investments associated with the coal plant facilities that remain in rate base even though they are no longer used and useful.

Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that the Commission retains the ability to review all property sales of the Company through general rate case filings. Staff's recommended conditions provide for documentation of this property sale. The Company has reviewed a draft of this memo and has stated it has no objections or concerns.

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Conclusion

Based on the review of this application, Staff concludes:

1. The Agreement does not contain any unusual or restrictive terms or conditions;
2. The transfer pricing and allocation of gain is fair and reasonable;
3. The transaction is in the public interest; and
4. Necessary records are available.

PROPOSED COMMISSION MOTION:

PacifiCorp's application for approval to sell a Dragline and associated parts to Titan Florida, LLC, be approved, subject to Staff's recommended conditions.

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