

ORDER NO. 16 247

ENTERED JUL 05 2016

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI 301

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application to Supplement Order No. 10-345.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on July 5, 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:




Kristi Collins
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.

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ITEM NO. CA18

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 05, 2016

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A

DATE: June 9, 2016

TO: Public Utility Commission

FROM: Kathy Zarate KZ

THROUGH: Jason Eisdorfer and Marc Hellman

SUBJECT: PACIFICORP: (Docket No. UI 301) Requests Approval of its intent to enter into the Share Assessment Agreement with Ferron Canal & Reservoir Company .

STAFF RECOMMENDATION:

The Commission should approve PacifiCorp's (PacifiCorp or Company) application for a supplemental order allowing the Company to enter into a Share Assessment Agreement (Agreement) by and between Rocky Mountain Power, an unincorporated division of PacifiCorp, and Ferron Canal & Reservoir Company (Ferron or FCRC), an affiliated interest, subject to the following conditions:

1. PacifiCorp shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to any transactions involving Ferron.
2. The Commission reserves the right to review for reasonableness all financial aspects of these transactions in any rate proceedings or alternative form of regulation.
3. PacifiCorp shall notify the Commission in advance of any substantive changes to the contracts, including any material change in price. Any such changes shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
4. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, all transactions entered into under the affiliated interest agreements with Ferron.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's application for a supplemental Order, as required by original Order No. 10-345, thereby allowing the Company to enter into a Share Assessment Agreement with Ferron Canal & Reservoir Company.

Applicable Law

An "affiliated interest," as defined in ORS 757.015(3), includes every corporation five percent or more of whose voting securities are owned by a corporation or person that also owns, or is part of a successive chain of ownership, five percent or more of the voting securities of a public utility.

Transactions between affiliated interests must be recorded at the lower of cost or market rate. OAR 860-027-0048(4)(e). OAR 860-027-0040 provides the Commission's application requirements for transactions between affiliated interests. However, these application requirements can potentially be waived if the transaction amount is less than 0.1 percent of the utility's previous calendar year's Oregon operating revenues. OAR 860-027-0043. Further, the Commission may waive any rule for good cause shown. OAR 860-001-000(2).

The Commission reviews affiliated interest transactions to ensure they are fair and reasonable and not contrary to the public interest. ORS 757.495(3).

Discussion and Analysis

In Order No. 10-345, the Commission approved an affiliated interest agreement between PacifiCorp and FCRC. The Order further required PacifiCorp to submit an application for a supplemental order in advance of any substantive changes to any relevant contract.

The Company's ownership interest in Ferron was established in 1974 under Utah Power & Light Company. PacifiCorp and Utah Power & Light Company subsequently merged in 1989. PacifiCorp currently owns 7,647 shares, or approximately 37 percent, of the shares of Ferron. Ferron is a non-profit company that holds water rights in the Ferron Creek drainage, located in Utah. Additionally, Ferron manages access to certain water supplies on behalf of the Company. Because of PacifiCorp's 37 percent ownership interest in Ferron, the latter qualifies as an affiliated interest of PacifiCorp under ORS No. 757.015.

Since the Commission's approval of the original affiliated interest agreement in 2010, the amounts paid by PacifiCorp to FCRC have steadily increased. This is due primarily to FCRC allocating its costs in an increasing share to PacifiCorp.

classification of water. This resolution establishes a share assessment ratio industrial class share of 5:1, which is a slight rate increase to the Company. However, in exchange for this increase, PacifiCorp obtained the following: first, the ratio of 5:1 is fixed for ten years; and, second, PacifiCorp will have a member on the Board of FCRC, with all rights and privileges.

Staff reviewed the following issues:

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

Terms and Conditions of the agreement

Staff issued requests for information regarding this filing. The filing itself does not contain any unusual terms and conditions of the Agreement as they appear fairly straightforward. The terms and conditions of the Agreement do not appear to be contrary to the public interest and PacifiCorp's representation on the FCRC Board certainly seems reasonable given that they have a 37 percent ownership interest in FCRC. Membership on the Board will be beneficial to PacifiCorp and allow it to participate in Board discussions and directly express its views on matters affecting the Company. Membership, however, will not by itself, provide PacifiCorp the right to veto any proposal that could harm the Company. Decisions are made on a majority vote basis.

Transfer Pricing

FCRC will charge PacifiCorp rates for the water service in a 5:1 ratio as compared to other non-industrial users of water. All other industrial users of water will pay the same 5:1 ratio. Thus PacifiCorp is ensuring that other industrial users are paying for water on the same terms as PacifiCorp. Staff does not view this aspect of the agreement as having great value as in response to a Staff request for information, the Company stated that it was the only industrial customer.

Public Interest Compliance

PacifiCorp's ownership in Ferron ensures a firm, long-term water supply for the Hunter Plant in an area with limited supply and allows the Company to have representation on the FCRC Board of Trustees, which will help to ensure that the Company is treated fairly and equitably as compared to other water users. Staff finds that the terms and conditions to the contract appear to be just and reasonable, and a definite improvement as compared to the status quo.

Records Availability, Audit Provisions, and Reporting Requirements

Order Conditions Number 1 and Number 4, listed above in the Staff recommendations; afford the necessary Commission examination of PacifiCorp's records concerning the Ferron Agreements.

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

1. The Agreement does not appear to contain any unexpected or unusual terms or conditions;
2. The transfer pricing is fair and reasonable;
3. The transaction is not contrary to the public interest; and,
4. Necessary records are available.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's application for a supplemental Order, thereby allowing PacifiCorp to enter into a Share Assessment Agreement with Ferron Canal & Reservoir Company, subject to Staff's recommended conditions.

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