

ORDER NO. 20-016

ENTERED Jan 21 2020

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UA 172

In the Matter of

PACIFICORP, dba PACIFIC POWER, and
CONSUMERS POWER, INC.,

Joint Application for Approval of Allocation
of Service Territory.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on January 14, 2020, 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:

A handwritten signature in blue ink, appearing to read "Nolan Moser".

Nolan Moser
Chief Administrative Law Judge

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 14, 2020**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ Upon Approval _____

DATE: December 19, 2019

TO: Public Utility Commission

FROM: Paul Rossow

THROUGH: Michael Dougherty and JP Batmale **SIGNED**

SUBJECT: PACIFIC POWER AND CONSUMERS POWER, INC.:
(Docket No. UA 172)
Request Allocation of Service Territory.

STAFF RECOMMENDATION:

Staff recommends the Public Utility Commission of Oregon (Commission) approve the proposed Service Territory Allocation Agreement (Agreement), as amended, between Pacific Power (PacifiCorp) and Consumers Power, Inc. (CPI) (collectively Applicants) transferring service territory between PacifiCorp and CPI.

DISCUSSION:

Issue

Whether the Commission should approve the proposed Agreement between PacifiCorp and CPI for the purpose of allowing PacifiCorp and CPI to adjust their respective service territories.

Applicable Rule or Law

Under ORS 758.410(1):

Any person providing a utility service may contract with any other person providing a similar utility service for the purpose of allocating territories and customers between the parties and designating which territories and customers are to be served by which of said contracting parties; and the territories and customers so allocated and designated may include all or

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any portion of the territories and customers which are being served by either or both of the parties at the time the contract is entered into, or which could be economically served by the then existing facilities of either party, or by reasonable and economic extensions thereto.

A contract allocating territory or customers must be filed with the Commission and contain the information required in OAR 860-025-0010. The Commission, in turn, must publish notice of the filing within thirty days, allowing any customer, or if the Commission chooses, to request a hearing within thirty days of the notice. ORS 758.420. When no hearing is held, on the basis of the applicant's filing the Commission "shall enter an order either approving or disapproving the contract as filed, together with any appropriate findings of the facts supporting such order." ORS 758.425.

The criteria for approving an allocation contract are set forth in ORS 758.415. Under this statute, if the Commission finds (1) that the contract will eliminate or avoid unnecessary duplication of facilities, (2) will promote the efficient and economic use and development and the safety of operation of the utility systems of the parties to the contract, and (3) provide adequate and reasonable service to all territories and customers affected thereby, the Commission must approve the contract.

Analysis

Relevant Facts

Each Applicant provides retail electric service within exclusive territories approved by the Commission. The Applicants respective service territories include areas located adjacent to each other in Benton County, Oregon and in Linn County, Oregon.

PacifiCorp received a request from an existing customer to provide electric service to a new facility within CPI's service territory, which is located across the road from the customer's current facility. The new facility is located on Benton County tax lot 104210001101 in Albany, Oregon. This parcel is referred to in the Agreement as the Mint Road Parcel:

PacifiCorp's Mint Road Parcel adjusted territory boundary located in Sec 21, T. 10 S., R. 4 W., of the Willamette Meridian, Benton County, Oregon, described as follows:

... thence northerly to the north quarter corner of said Sec. 28; thence westerly 440 feet; thence northerly along a line parallel with the west line of Sec. 21 to the southerly boundary of tax lot 104210001101; thence westerly to the southwest

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corner of said tax lot; thence northerly to the northwest corner of said tax lot; thence easterly to a point that is 440 feet west of the east line of the southeast quarter of S.W. $\frac{1}{4}$ of Sec. 21, T. 10 S., R. 4 W.; thence northerly along a line parallel with the west line of Sec. 21 and Sec. 16, T. 10 S., R. 4 W., to the north line of said Sec. 16; thence easterly 440 feet...

CPI's Mint Road Parcel adjusted territory boundary located in Sec. 21, T. 10 S., R. 4 W., of the Willamette Meridian, Benton County, Oregon, described as follows:

...thence southerly along a line parallel to the west line of Sec. 21, T. 10 S., R. 4 W. to the northern boundary line of tax lot 104210001101; thence westerly along the north boundary line of tax lot 104210001101, thence southerly along the western boundary line of tax lot 104210001101; thence easterly 440 feet along the southern boundary line of tax lot 104210001101; thence southerly along a line parallel to the west line of Sec. 21, T. 10 S., R. 4 W....

CPI is willing to adjust its territory boundary to allow PacifiCorp to serve the Mint Road Parcel in exchange for the right to serve five undeveloped parcels located on Linn County tax lots 12S02W0900 00500, 12S02W0900 00400, 12S02W0900 00901, 12S02W0900 00902, and 12S02W0900 00903 in Lebanon, Oregon. These parcels, which are located in Pacific Power's service territory are referred to in the Agreement as the Hwy 34 Parcels:

The Applicants Hwy 34 adjusted territory boundary located in Sec. 9, T. 12 S., R. 2 W., of the Willamette Meridian, Linn County, Oregon, described as follows:

... thence northerly to the northeast corner of tax lot 12S02W0900 00901; thence westerly along the northern boundaries of tax lots 12S02W0900 00901 and 12S02W0900 00902 to the northwest corner of tax lot 12S02W0900 00902; thence northerly along the eastern boundary of the extension of tax lot 12S02W0900 00903, to the northeast corner of the extension of tax lot 12S02W0900 00903; thence westerly along a line parallel to the centerline of Tangent Street also known as State Route 34 to the northwest corner of tax lot 12S02W0900 500; thence southerly along the western boundary line of tax lot 12S02W0900 500 to the intersection with the south line of the N.W. $\frac{1}{4}$ of Sec. 9, T. 12 S., R. 2 W;...

The Agreement provides for an adjustment of the service territory boundaries to allow for efficient and economic use and development. No transfer of existing customers, disposition of property or facilities, or exchange of monies is involved.

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PacifiCorp and CPI entered into the Agreement on or about August 12, 2019. Under the Agreement, the Applicants agree to adjust their respective service territories to:

- Allow PacifiCorp to provide retail electric service to the Mint Road Parcel; and
- Allow CPI to provide retail electric service to the Hwy 34 Parcels.

The Applicants applied for approval of the Agreement with the Commission on August 21, 2019, with a copy of the Agreement attached to the application. On September 13, 2019, Staff issued eleven Information Requests. Staff was able to obtain responses from the Applicants. On November 14, 2019, Staff requested the Applicants review Staff's proposed service territory adjustment narrative. On November 18, 2019, Staff received CPI suggested edits and on December 3, 2019, Staff received PacifiCorp's suggested edits. Notice of the application was published on September 18, 2019 and September 25, 2019. No timely request for hearing was received.

Discussion

Staff reviewed the joint application, the Agreement, maps of the Mint Road and Hwy 34 parcels, and the Commission's GIS data.

In approving customer allocation agreements, the Commission evaluates the merits of the application based on ORS 758.415. Staff finds the proposed agreement meets the criteria set forth in the statute.

First, this Agreement avoids unnecessary duplication of facilities due to the fact the Applicants do not currently serve the Mint Road Parcel or the Hwy 34 Parcels. Approval of the agreement will allow PacifiCorp to serve the customer and for CPI to serve the undeveloped Hwy 34 Parcels. In absent of the changes, the Applicants would be required to construct facilities to serve the areas being transferred.

Second, the agreement promotes efficient and economic use and safe development and operation by allowing PacifiCorp to continue serving an existing customer's new load from existing facilities already integrated into its electric system, and allowing CPI to serve new customers that may locate to the Hwy 34 parcels.

Third, the agreement ensures that the new customer will receive adequate and reasonable service because the Applicants will continue to serve existing customer from facilities already located in their service territories as well as any future development that may occur. Additionally, each Applicant has a proven record of providing safe and reliable service to existing customers.

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PROPOSED COMMISSION MOTION:

Approve the Agreement between PacifiCorp and CPI, filed August 21, 2019.

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