

ORDER NO. 24-451

ENTERED Dec 19 2024

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UP 419

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY and IDAHO POWER  
COMPANY,

Joint Application Requesting Authorization  
for the Sale and Purchase of Certain  
Property at the Boardman Project in  
Morrow County Oregon.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on December 19, 2024, 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:

**Alison Lackey**  
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.

ITEM NO. CA14

**PUBLIC UTILITY COMMISSION OF OREGON  
REDACTED STAFF REPORT  
PUBLIC MEETING DATE: December 19, 2024**

**REGULAR** \_\_\_\_\_ **CONSENT**   X   **EFFECTIVE DATE** December 19, 2024

**DATE:** December 6, 2024

**TO:** Public Utility Commission

**FROM:** Rose Pileggi

**THROUGH:** Caroline Moore, Scott Gibbens, and Anna Kim **SIGNED**

**SUBJECT:** PORTLAND GENERAL ELECTRIC and IDAHO POWER COMPANY:  
(Docket No. UP 419)  
Joint Application requesting authorization for the Sale and Purchase of  
Certain Boardman Project Property in Morrow County.

**STAFF RECOMMENDATION:**

Staff recommends the Public Utility Commission (Commission) approve the joint application by Portland General Electric (PGE or Company) and Idaho Power Company (Idaho Power, IPC, or Company) for the sale by PGE and the purchase by Idaho Power of certain jointly owned property at the Boardman Project, and for the sale by Idaho Power and the purchase by PGE of certain jointly owned property at the Boardman Project, subject to Staff's recommended conditions (Conditions).

Conditions:

1. Both PGE and IPC shall provide to the Commission the final book entries associated with the sale within 60 days of close of the transaction.
2. For the purposes of rate base, PGE will record the water rights at the net book value of the water rights: \$0.

**DISCUSSION:**

Issue

Whether the Commission should approve the joint application by Portland General Electric and Idaho Power for the sale and purchase of certain Boardman Project assets.

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### Applicable Rule or Law

Pursuant to ORS 757.480, a public utility doing business in Oregon must obtain the Public Utility Commission's approval to sell or acquire certain utility property. No public utility shall become owner of any property utilized for utility purposes and having a value in excess of \$10,000 of any other public utility unless authorized so to do by the Public Utility Commission. Per ORS 537.390, in the valuation of water rights only the cost to the original owner to perfect those rights is allowable in rate-making. The standard for property sales transactions is a "no harm" standard and, with the inclusion of Staff's recommended conditions, this proposed transaction falls within this scope. See ORS 757.485; OAR 860-027-0025.

### Analysis

#### *Background*

On June 30, 2022, Portland General Electric and Idaho Power Company filed a joint application seeking approval from the Commission for an order authorizing of the sale and purchase of certain joint property from the Boardman Project both to and from each Company. In 1976, PGE and Idaho Power entered into an Agreement for the Construction, Ownership, and Operation of the Number One Boardman Station on Carty Reservoir. Boardman permanently ceased coal-fired operations on October 15, 2020, consistent with Commission Order No. 10-457. The property subject to this transaction is listed item by item in the Asset Purchase Agreement (Agreement). The joint property allocated by the Agreement includes Idaho Power's and PGE's tangible property, shared facilities, real property and water rights, and the Boardman-Slatt and Dalreed transmission line facilities. Staff issued several information requests as part of their review of the proposed transactions.

#### *Terms and Conditions*

The Agreement allows for each Company to retain its own tangible property and compensates Idaho Power for its 10% share of the Boardman Project, making PGE the sole owner of all real property, water rights, and shared facilities associated with such.<sup>1</sup> The Boardman Project real property is approximately 1,225 acres and located in Morrow County. The water rights subject to the Agreement are the Oregon Water Rights Certificates 86056 and 86057. The Agreement also transfers Idaho Power's interests in the Dalreed and Boardman-Slatt Line Facilities to PGE.<sup>2</sup>

Staff reviewed the Agreement and has not identified any unusual or restrictive terms or conditions at this time other than the pricing of the water rights.

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<sup>1</sup> See Application, Section I. Background, pp 1 – 2.

<sup>2</sup> See Asset Purchase Agreement, p. 2, and Exhibits to the Agreement.

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### *Transfer Pricing*

The Agreement between Idaho Power and PGE seeks to compensate each Company for their ownership share. PGE has entered into the agreement to compensate Idaho Power for the assets as follows: \$70,000 for the real property, \$2,300,000 for the water rights, and the net book value of the transmission lines at closing, approximately \$302,415 at the time of the application filing.<sup>3</sup> The shared facilities and individual Company tangible properties have been assigned a \$0 purchase price.

In reaching an agreeable price for the real property, Idaho Power and PGE jointly hired a third party to conduct an appraisal.<sup>4</sup> Idaho Power's share of the market value was 10 percent, \$70,000. In response to Staff's IR 13, Idaho Power provided the historical cost of the land as \$106,610.<sup>5</sup> The value listed in the Agreement is the lower of the two. Each Company sought an independent valuation of the water rights and settled on a value between the two. Idaho Power's 10 percent ownership was set at \$2,300,000.<sup>6</sup> In response to Staff's IR 13, Idaho Power listed the historical costs of the water rights as \$0.<sup>7</sup>

### *Public Interest Compliance*

Idaho Power, in the initial application responded to the Required Information Under OAR 860-027-0025(1) for Idaho Power, paragraph (I), by stating: "Approval of the conveyance, purchase, and sale of certain Boardman Project assets by Idaho Power and PGE will not adversely affect Idaho Power and its customers but rather fairly compensate them for assets no longer in use by Idaho Power following cessation of coal-fired operations at the Boardman project."<sup>8</sup>

PGE, in the initial application responded to the Required Information Under OAR 860-027-0025(1) for PGE, paragraph (I), by stating: "Approval of this transaction is consistent with the public interest as it will enable PGE to preserve and protect its water rights to meet current or future water needs associated with power generation at or near this site and, if economic, further develop the water rights to the benefit of customers."<sup>9</sup> The independent valuations of water rights conducted by Idaho Power indicated that there have been brief periods where the water rights were utilized to avoid forfeiture of some portion of those rights, but that the total annual volume of waters utilized from

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<sup>3</sup> See Application, p. 3.

<sup>4</sup> See Idaho Power Company's Response to Staff's Data Request No. 1 and Portland General Electric's response to Staff's Data Request No. 1.

<sup>5</sup> See Idaho Power Company's Response to Staff's Data Request No. 13.

<sup>6</sup> See Idaho Power Company's Response to Staff's Data Request No. 1 and Portland General Electric's response to Staff's Data Request No. 1.

<sup>7</sup> See Idaho Power Company's Response to Staff's Data Request No. 13.

<sup>8</sup> See Application, p. 13.

<sup>9</sup> See Application, p. 8.

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2011 to 2019 have ranged from [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] and that the total marketable volume of the water rights was [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL].<sup>10</sup> The valuation of water rights conducted by PGE asserted that the total marketable volume provided by these water rights was roughly [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL].<sup>11</sup> PGE's purchasing the remaining 10 percent interest from IPC would be to preserve the full volume provided by these rights for beneficial use at some future time.

Furthermore, in the Background section of the initial application, PGE and Idaho Power jointly state that: "The Boardman Project is currently being decommissioned, demolished, and remediated. The end-of-life requirements of the Ownership Agreement require PGE and Idaho Power to enter into good faith negotiations on a decommissioning agreement and requires the real property (e.g., land and water rights) to revert to PGE while crediting Idaho Power for its share of the value associated with the real property."<sup>12</sup>

The public interest compliance of a sale by two utilities, each doing business in Oregon, of property utilized for utility purposes is a "no-harm" standard. As such, utilities in such a scenario sell and buy the property at net book value, so as to not harm the customers of one utility for the benefit of another.<sup>13</sup> In Idaho Power's response to Staff's IR 13, the Company shows that they have a \$0 historical cost associated with the water rights.<sup>14</sup> In PGE's response to Staff's IR 12, the Company indicates that it will seek to recover the costs of the transaction in the next general rate case.<sup>15</sup> In PGE's response to Staff's IR 18, the Company affirms that they too understand that Idaho Power's historical cost of the water rights subject to this transaction is \$0.<sup>16</sup> As the purchase price and historical cost of the water rights are disparate, it is Staff's position that when the additional volume of water becomes used and useful, in any rate proceeding before the Commission the utility plant in service account of PGE should reflect the net book value of these rights and not the purchase price.

As Idaho Power no longer has use for the assets it seeks to sell to PGE, and as PGE still requires water from Carty Reservoir and other assets in the operation of the Carty plant, approval of this application, subject to Staff conditions, is consistent with public interests.

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<sup>10</sup> See Idaho Power Company's Response to Staff's Data Request No. 1 CONF Attachment 2, p. 11.

<sup>11</sup> See Portland General Electric's Response to Staff's Data Request No. 1, CONF Attachment B, p. 9.

<sup>12</sup> See Application, p. 2.

<sup>13</sup> See Applicable Rule or Law section of this report; p. 2.

<sup>14</sup> See Idaho Power Company's Response to Staff's Data Request No. 13.

<sup>15</sup> See Portland General Electric's Response to Staff's Data Request No. 12.

<sup>16</sup> See Portland General Electric's Response to Staff's Data Request No. 18.

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PGE reviewed a draft of this memo and provided the following comments: PGE's legal interpretation is that ORS 537.390 is inapplicable in these circumstances, inconsistent with prior Commission treatment of water right transfers, against public policy and that the law does not require that the cost of water rights that may be recognized in electric utility rates is limited to the cost of perfecting water rights by the original holder of those rights. In addition, PGE does not agree that the purchase price for the sale of assets between utilities is required to be a net book value. PGE reserves the right to advocate for its positions, including the legal interpretation of ORS 537.390, in future Commission proceedings and for the recovery in rates of PGE's purchase price for such water rights from Idaho Power. For the purpose of the Commission's consideration of the Joint Application by PGE and Idaho Power in this docket, PGE does not oppose the Commission's approval of the Joint Application with the conditions proposed in this Staff's Memo subject to PGE's reservation of its rights. Given the conditions proposed by Staff, PGE wishes to clarify its response to IR 12 and confirm that it will not seek recovery of the cost of the water rights without providing advance written notice to Staff.

#### Conclusion

Staff believes that, based upon a review of the application materials, applicable rules and laws, and the responses to Staff issued data requests, this transaction does not run contrary to the "no harm" standard, and is not contrary to public interests.

#### **PROPOSED COMMISSION MOTION:**

Approve the joint application by Portland General Electric and Idaho Power Company for the sales and purchases by and to each Company of the jointly owned Boardman Project property detailed in the Asset Purchase Agreement, subject to Staff's two Conditions.

PGE IPC UP 419 Sale and Purchase Boardman Project Property REDACTED