



825 NE Multnomah, Suite 2000  
Portland, Oregon 97232

August 24, 2012

***VIA ELECTRONIC FILING  
AND OVERNIGHT DELIVERY***

Public Utility Commission of Oregon  
550 Capitol Street NE, Ste 215  
Salem, OR 97301-2551

Attn: Filing Center

**RE: Joint Application of PacifiCorp, d.b.a. Pacific Power, and Central Electric  
Cooperative for Approval of Service Territory Transfer**

Enclosed for filing is the Joint Application of PacifiCorp, d.b.a. Pacific Power, and Central Electric Cooperative for Approval of Service Territory Transfer.

If you have questions about this filing, please contact Bryce Dalley, Director of Regulatory Affairs & Revenue Requirement, at (503) 813-6389.

Sincerely,

William R. Griffith  
Vice President, Regulation

Enclosures

cc: David D. Markham/Central Electric Cooperative

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UA \_\_\_\_\_

In the Matter of the Joint Application of  
PacifiCorp, d.b.a. Pacific Power, and  
Central Electric Cooperative for Approval of  
Service Territory Transfer

**JOINT APPLICATION**

1           PacifiCorp, d.b.a. Pacific Power (PacifiCorp), and Central Electric Co-op (CEC)  
2 (collectively the Parties and individually each a Party) file this Joint Application  
3 (Application) pursuant to ORS 758.460 and OAR 860-025-0027 for an order from the Public  
4 Utility Commission of Oregon (Commission) approving a Service Territory Transfer  
5 Agreement Between Central Electric Co-op and PacifiCorp dated as of August 1, 2012  
6 (Agreement).

7           **A.     Introduction**

8           CEC and PacifiCorp are each engaged in the retail sale of electricity to customers  
9 within Crook County, Oregon. The Commission allocated a portion of the Crook County  
10 service territory to PacifiCorp.<sup>1</sup> The Commission allocated a portion of the Crook County  
11 service territory to Central Electric Cooperative, Inc.<sup>2</sup> The Parties' areas of service are  
12 adjacent to each other in Crook County, Oregon. PacifiCorp's allocated service territory  
13 includes a portion of Combs Flat, which is near a steep, rocky slope off of Highway 26 east  
14 of Prineville, Oregon. PacifiCorp currently does not provide service to Combs Flat and does  
15 not have facilities located on Combs Flat. PacifiCorp has received requests to establish  
16 service on Combs Flat. Due to Crook County requirements, in order for PacifiCorp to

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<sup>1</sup> Order #38498, Docket U-F-2332 (1962).

<sup>2</sup> Order # 38806 (1962).

1 provide such service, lines would need to be constructed underground, through lava rock,  
2 which would cause considerable expense to those needing service.

3 CEC's service territory is adjacent to PacifiCorp's and positioned in such a way as to  
4 be able to provide overhead service to those on Combs Flat. CEC is willing to provide  
5 service to Combs Flat. PacifiCorp does not object to this arrangement and is willing to  
6 transfer its allocated area on Combs Flat to CEC.

7 Accordingly, the Parties entered into the Agreement which provides for an adjustment  
8 of the service territory boundaries to conform to existing development in the Combs Flat  
9 area. The Agreement consists of the transfer of certain territory allocated to PacifiCorp  
10 (PacifiCorp Service Territory) to CEC. No transfer of customers, disposition of property or  
11 facilities or exchange of monies is involved.

12 **B. The Joint Applicants**

13 The name and principal business office of each applicant is as follows:

PacifiCorp  
825 NE Multnomah Street  
Portland, OR 97232

Central Electric Co-op  
2098 N. Highway 97  
P.O. Box 846  
Redmond, OR 97756

14 PacifiCorp is an electric public utility subject to the Commission's jurisdiction.  
15 PacifiCorp provides retail electric service to customers in California, Idaho, Oregon, Utah,  
16 Washington and Wyoming.

17 CEC is a cooperative electric utility that provides service within Deschutes, Crook,  
18 Jefferson, Grant, Linn, Wasco and Lake counties in Oregon.

19 **C. Correspondence and Pleadings**

20 All notices and communications regarding this Application should be addressed to:

21 //

1           **For PacifiCorp:**

PacifiCorp Oregon Dockets  
825 NE Multnomah, Ste 2000  
Portland, OR 97232  
Email: [OregonDockets@pacificorp.com](mailto:OregonDockets@pacificorp.com)

Michelle Mishoe  
Legal Counsel  
Pacific Power  
825 NE Multnomah, Ste 1800  
Portland, OR 97232  
Tel.: (503) 813-5977  
Email: [michelle.mishoe@pacificorp.com](mailto:michelle.mishoe@pacificorp.com)

2           In addition, it is respectfully requested that all data requests regarding this matter be  
3 addressed to:

4           By E-mail (preferred):                   [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)

5           By regular mail:                         Data Request Response Center  
6   PacifiCorp  
7   825 NE Multnomah, Suite 800  
8   Portland, OR 97232

9           Informal inquires may also be directed to Bryce Dalley, Director of Regulatory  
10 Affairs and Revenue Requirement at (503) 813-6389.

11           **For Central Electric Cooperative:**

12           Central Electric Cooperative  
13           Operations Manager  
14           P.O. Box 846  
15           Redmond, Oregon 97756

16  
17 With a copy to:

18  
19           Central Electric Cooperative, Inc.  
20           President/CEO  
21           P.O. Box 846  
22           Redmond, Oregon 97756

23  
24           In addition, it is respectfully requested that all data requests regarding this matter be  
25 addressed to:

26           By E-mail :    [rmccconnell@cec.coop](mailto:rmccconnell@cec.coop)

27           By Fax:         (541) 548-0366

1 **C. Application Requirements under OAR 860-025-0027**

2 OAR 860-025-0027 requires that the following information be provided in support of  
3 this Application:

4 **1. Purpose of Transfer**

5 The Parties propose transferring a portion of PacifiCorp's allocated service territory  
6 in the Combs Flat area to CEC. PacifiCorp currently does not provide service to Combs Flat  
7 and does not have facilities or customers located on Combs Flat. PacifiCorp has received  
8 requests to establish service on Combs Flat. To satisfy Crook County requirements, for  
9 PacifiCorp to provide such service, lines would need to be constructed underground, through  
10 lava rock, which would cause considerable expense to those needing service. CEC's service  
11 territory is adjacent to PacifiCorp's service territory and positioned in such a way as to be  
12 able to provide overhead electric service to Combs Flat, which is less expensive.

13 PacifiCorp does not have facilities in the area and would need to expend considerable  
14 resources to install underground facilities due to the steep terrain. CEC has facilities in the  
15 area that can readily be expanded to serve Combs Flat. The proposed transfer of allocated  
16 service territory will help reduce the cost of installing facilities in the area.

17 Such a transfer will promote efficient, economic and safe development and operation  
18 by allowing CEC to expand its existing facilities near Combs Flat to provide safe and reliable  
19 electric service to customers desiring to locate in the area. Allowing CEC to provide service  
20 will be less costly than PacifiCorp constructing facilities to provide service. CEC's facilities  
21 are located nearer to Combs Flat and can more readily be expanded. Absent the transfer  
22 PacifiCorp would need to construct new facilities to serve customers closer to CEC's existing  
23 facilities. Such construction could involve unnecessary expense, customer inconvenience and

1 relocation or duplication of facilities, all of which would be avoided by the service territory  
2 transfer established in the Agreement.

3 The proposed transfer is an effective means to conform the boundaries to existing  
4 development, and promote safe, efficient and economic service to serve future development.

## 5 **2. Copy of the Agreement**

6 A copy of the Agreement detailing the transfer of service territory is included as  
7 Attachment A.

## 8 **3. Maps of the Area to be Transferred and the Joint Applicants' Service** 9 **Territories**

10 Maps depicting the general location and boundaries of PacifiCorp's service territory  
11 are on file with the Commission, and there have been no material changes. Maps depicting  
12 the general location and boundaries of CEC's service territory are on file with the  
13 Commission, and there have been no material changes. A map depicting the general location  
14 and boundaries of the Parties' service territories affected by the Agreement is included with  
15 the Agreement as Schedule 1.13a.

## 16 **4. Maps Depicting Customer Locations and Location of Equipment and** 17 **Facilities**

18 No transfer of customers is involved. Currently there is one cell tower located on  
19 Combs Flat receiving electric service from CEC, although there is interest in establishing  
20 service in the area. A map depicting the location of electric facilities in the area is included as  
21 Attachment B.

## 22 **5. Description of Territory Being Transferred**

23 A legal description of the service territory being transferred to CEC is included as  
24 Schedule 1.13 to the Agreement.

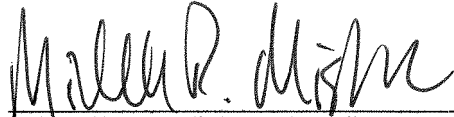
1           **6.       Copies of CEC Permits and Franchises**

2           OAR 860-027-0027 requires the transferee to provide copies of any permits and/or  
3 franchise agreements authorizing it to provide service in the area to be transferred. Combs  
4 Flat is unincorporated and there are no permits or franchises associated with providing  
5 electric service to this area.

6           Wherefore, PacifiCorp and CEC respectfully request a Commission order approving  
7 the Agreement and the transfer and allocation of service territory provided therein.

8           DATED: August 23, 2012.

Respectfully submitted,



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Michelle R. Mishoe, OSB# 07242  
Legal Counsel  
Pacific Power

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David D. Markham  
President/CEO  
Central Electric Cooperative

1           **6. Copies of CEC Permits and Franchises**

2           OAR 860-027-0027 requires the transferee to provide copies of any permits and/or  
3 franchise agreements authorizing it to provide service in the area to be transferred. Combs  
4 Flat is unincorporated and there are no permits or franchises associated with providing  
5 electric service to this area.

6           Wherefore, PacifiCorp and CEC respectfully request a Commission order approving  
7 the Agreement and the transfer and allocation of service territory provided therein.


8           DATED: August 23, 2012.

9   Respectfully submitted,

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12  
13

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Michelle R. Mishoe, OSB# 07242  
Legal Counsel  
Pacific Power

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\_\_\_\_\_  
David D. Markham  
President/CEO  
Central Electric Cooperative



**ATTACHMENT A**  
**SERVICE TERRITORY TRANSFER AGREEMENT**

SERVICE TERRITORY TRANSFER AGREEMENT

BETWEEN

CENTRAL ELECTRIC CO-OP.

AND

PACIFICORP

*August 1, 2012*

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**Schedules**

Schedule 1.13 PacifiCorp Service Territory

Schedule 1.13a Map Exhibit

## SERVICE TERRITORY TRANSFER AGREEMENT

This Service Territory Transfer Agreement (the “Agreement”), dated this 1st day of August, 2012 is entered into by and between Central Electric Co-op (“CEC”) and PacifiCorp, an Oregon corporation (“PacifiCorp”), each hereinafter sometimes referred to as a “Party” or together, the “Parties”.

### RECITALS

A. CEC and PacifiCorp are each engaged in the retail sale of electricity to customers within a defined service territory pursuant to approval by the Oregon Public Utility Commission (“OPUC”). The CEC Service Territory and the PacifiCorp Service Territory, each as defined herein, are located adjacent to each other in Crook County, Oregon.

B. Because of the close proximity of their service territories and the pattern of development in each service territory, there is an area in PacifiCorp’s service territory where CEC currently operates facilities that are closer to development.

C. The Parties believe that the interests of each Party and its respective customers and shareholders would be best served by a transfer of a limited portion of PacifiCorp’s service territory and service obligations corresponding to the OPUC-allocated service territory. The Parties believe that such a transfer will result in a less expensive and more prudent use of resources as expansion of existing facilities becomes necessary.

D. Therefore, PacifiCorp and CEC hereby desire to enter into this Agreement to seek OPUC approval for the proposed service territory transfer and to complete the transactions contemplated by this Agreement on the terms and conditions set forth herein.

### AGREEMENT

#### SECTION I DEFINITIONS

For purposes of this Agreement, the following terms used herein but not otherwise defined herein will have the following meaning when used with initial capitalization, whether singular or plural:

1.01 “Agreement” has the meaning given in the Preamble

1.02 “Assumed Obligation” means, with respect to PacifiCorp, CEC Obligations that PacifiCorp is required to assume and perform after the Effective Time and, with respect to CEC, PacifiCorp Obligations that CEC is required to assume and perform after the Effective Time.

1.03 “Business Day” means a day that is not a Saturday, a Sunday or a day on which banking institutions in the state of Oregon are not required to be open.

1.04 “Closing” has the meaning given in Section 11.01.

1.05 “Closing Date” means the date of the Closing of this Agreement as provided for in Section XI.

1.06 “CEC” has the meaning given in the Preamble.

1.07 “Effective Time” has the meaning given in Section 8.01.

1.08 “Indemnified Party” has the meaning given in Section 11.1(c).

1.09 “Indemnifying Party” has the meaning given in Section 11.1(c).

1.10 “Losses” has the meaning given in Section 11.01(b).

1.11 “OPUC” means the Oregon Public Utility Commission.

1.12 “PacifiCorp” has the meaning given in the Preamble.

1.13 “PacifiCorp Service Territory” means the portion of the Oregon service territory allocated to PacifiCorp by the OPUC which will be transferred to CEC at Closing pursuant to OPUC approval, as more particularly described in Schedule 1.13 and as shown on Schedule 1.13a.

1.14 “Prudent Utility Practice” means those practices, methods and acts which: (a) when engaged in are commonly used in prudent engineering and operations to operate electric equipment and associated mechanical and civil facilities lawfully and with safety, reliability, efficiency and expedition; or (b) in the exercise of reasonable judgment considering the facts known when engaged in, could have been expected to achieve the desired result consistent with applicable law, safety, reliability, efficiency and expedition. Prudent Utility Practice is not limited to the optimum practiced method or act, but rather a spectrum of possible practices, methods or acts.

1.15 “Regulatory Approval” means approval by the OPUC of the transfer of the PacifiCorp Service Territory and CEC Service Territory as described herein.

1.16 “Service Territory” and “Service Territories” means the CEC Service Territory and the PacifiCorp Service Territory, collectively.

1.17 “Transfer” has the meaning given in Section 2.01.

## **SECTION II TRANSFER OF SERVICE TERRITORY**

2.01 Service Territory to be Transferred. Subject to all terms and conditions of this Agreement, at Closing, PacifiCorp shall transfer the PacifiCorp Service Territory to CEC (the “Transfer”). No additional consideration shall be paid by either Party in connection with the Transfer. Other than as expressly set forth in this Agreement with respect to the transfer of service territory and the assumption of specified obligations, the Transfer shall not effect an increase, decrease, alteration or transfer of any of the assets and liabilities of either Party.

2.02 Assumption of Obligations. At Closing, CEC shall assume and thereafter perform the PacifiCorp Obligations to provide electric service in the PacifiCorp Service Territory and any other obligations as may be required by OPUC approval.

### **SECTION III REPRESENTATIONS AND WARRANTIES OF PACIFICORP**

PacifiCorp represents and warrants as follows:

3.01 Organization and Powers of PacifiCorp. PacifiCorp is an Oregon corporation, duly organized and legally existing under the laws of the State of Oregon. PacifiCorp has all necessary corporate power and authority to own, lease and operate its properties and assets and to carry on its business as now conducted and as proposed to be conducted. PacifiCorp is duly qualified or licensed to do business as a foreign corporation and in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of its business or activities makes such qualification or licensing necessary.

3.02 Authority Relative to Agreement. PacifiCorp has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, including all requisite power and authority to transfer the PacifiCorp Service Territory to CEC. This Agreement has been duly and validly authorized, executed and delivered in accordance with the requirements of applicable law and constitutes the valid and binding obligation of PacifiCorp enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and except that the availability of the equitable remedies of specific performance and injunctive relief are subject to the discretion of the court before which any proceeding may be brought.

3.03 Governmental Authorization. Except for the Regulatory Approval, no declaration, filing or registration with, or notice to, or authorization, consent or approval of, any governmental or regulatory body or authority is necessary for the execution and delivery of this Agreement by PacifiCorp or the consummation by PacifiCorp of the transactions contemplated by this Agreement.

3.04 Legal Proceedings. There are no claims, actions, suits, inquiries, investigations or proceedings pending, or to the best knowledge of PacifiCorp, threatened, which directly relate to the PacifiCorp Service Territory, before any federal, state or local court or other governmental or regulatory body.

3.05 Non-Contravention; Approvals. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not violate, conflict with or result in a breach of any provision of, or constitute a default under, or result in the termination of any note, bond, mortgage, indenture, deed of trust, contract, lease or other instrument, obligation or agreement of any kind to which PacifiCorp is now a party.

3.06 Contracts and Agreements. PacifiCorp is not a party to or bound by any contract or agreement that is material to the conduct of its business within the PacifiCorp Service Territory.



3.07 Undisclosed Liabilities. PacifiCorp does not have any material liability or obligation (whether absolute, accrued, contingent or other, and whether due or to become due) relating to the PacifiCorp Service Territory or the operation of its business in the PacifiCorp Service Territory which has not been disclosed to CEC.

#### **SECTION IV REPRESENTATIONS AND WARRANTIES OF CEC**

CEC represents and warrants as follows:

4.01 Organization and Powers of CEC. CEC is an Oregon cooperative corporation duly organized and legally existing under the laws of the State of Oregon. CEC has all necessary corporate power and authority to own, lease and operate its properties and assets and to carry on its business as now conducted and as proposed to be conducted. CEC is duly qualified or licensed to do business and in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of its business or activities makes such qualification or licensing necessary.

4.02 Authority Relative to Agreement. CEC has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, including all requisite power and authority to acquire the PacifiCorp Service. This Agreement has been duly and validly authorized, executed and delivered in accordance with the requirements of applicable law and constitutes the valid and binding obligation of CEC enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and except that the availability of the equitable remedies of specific performance and injunctive relief are subject to the discretion of the court before which any proceeding may be brought.

4.03 Governmental Authorization. Except for the Regulatory Approval, no declaration, filing or registration with, or notice to, or authorization, consent or approval of, any governmental or regulatory body or authority is necessary for the execution and delivery of this Agreement by CEC or the consummation by CEC of the transactions contemplated by this Agreement.

4.04 Legal Proceedings. There are no claims, actions, suits, inquiries, investigations or proceedings pending, or to the best knowledge of CEC, threatened, directly relating to the CEC Service Territory, before any federal, state or local court or other governmental or regulatory body.

4.05 Non-Contravention; Approvals. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby will not violate, conflict with or result in a breach of any provision of, or constitute a default under, or result in the termination of any note, bond, mortgage, indenture, deed of trust, contract, lease or other instrument, obligation or agreement of any kind to which CEC is now a party.

4.06 Contracts and Agreements. CEC is not a party to or bound by any contract or agreement that is material to the conduct of its business within the CEC Service Territory.

4.07 Undisclosed Liabilities. CEC does not have any material liability or obligation (whether absolute, accrued, contingent or other, and whether due or to become due) relating to the CEC Service Territory or the operation of its business in the CEC Service Territory which has not been disclosed to PacifiCorp.

## **SECTION V MUTUAL COVENANTS**

5.01 Press Releases. Prior to Closing, no press releases or other public announcements concerning the transactions contemplated by this Agreement shall be made by either Party without the consent of the other Party, which consent shall not be unreasonably withheld; *provided, however,* that nothing herein shall operate to prevent a Party from supplying such information or making statements as required by governmental authority or in order for a Party to satisfy its legal obligations (prompt prior notice of which shall in any such case be given to the other party).

5.02 Conditions and Best Efforts. Subject to the terms of this Agreement and fiduciary obligations under applicable law, PacifiCorp and CEC shall each use commercially reasonable efforts to effectuate the transactions contemplated by this Agreement and to fulfill all of the conditions of its obligations under this Agreement and will do all such acts and things as reasonably may be required to carry out its obligations hereunder and to consummate and complete this Agreement, including, without limitation of the foregoing, promptly making application for Regulatory Approval. Notwithstanding the foregoing, neither Party shall be required in connection with any Regulatory Approval to agree to any payment or agree to any conditions of approval that are unacceptable to such Party.

5.03 Conduct of Business. Each Party will conduct its business in the Service Territories until the Closing in accordance with its past practices with such changes as appropriate consistent with Prudent Utility Practices. Notwithstanding the foregoing, nothing herein will prohibit either Party from:

(i) Making changes in the operation of its Service Territory that are required under existing commitments or that are appropriate in accordance with Prudent Utility Practices.

(ii) Making and prosecuting such filings (including without limitation rate increases or rate structure filings) with regulatory authorities (including, without limitation, the Federal Energy Regulatory Commission and the OPUC) as either Party deems appropriate with respect to its ownership and operation of the Service Territory.

5.04 Preserve Relationships. Prior to Closing, CEC and PacifiCorp shall each use its commercially reasonable efforts to maintain business relationships with customers in the Service Territories.

**SECTION VI**  
**CONDITIONS PRECEDENT TO PACIFICORP'S OBLIGATIONS**

All of the obligations of PacifiCorp to be discharged prior to or at Closing are subject to the fulfillment, prior to or at Closing, of each of the following conditions:

6.01 Authorization. The performance of the transactions provided for in this Agreement will have been duly authorized and approved by PacifiCorp which authorization and approval shall not have been revoked, rescinded or superseded in any way.

6.02 All Necessary Action. At Closing, CEC shall have taken all actions necessary to fully serve customers in the PacifiCorp Service Territory.

6.03 Representations, Warranties and Covenants of CEC. All representations and warranties made in this Agreement by CEC shall be true and correct in all material respects as of the Closing Date as fully as though such representations and warranties had been made on and as of the Closing Date and CEC shall have complied in all material respects with all covenants made by it in this Agreement to be performed prior to Closing. At Closing, CEC will provide to PacifiCorp a certificate dated as of the date of Closing and signed by an authorized representative of CEC confirming the accuracy of the matters stated in this Section.

6.04 Third Party Releases and Consents. PacifiCorp or CEC will have obtained the written consent of third parties, including government agencies, in form and substance satisfactory to PacifiCorp and its counsel, necessary for consummation of the transactions contemplated by this Agreement, other than consents from railroads and government agencies with respect to easements, rights of way and similar rights that are normally processed in the ordinary course.

6.05 Litigation. At the Closing Date, there shall not be in effect any order, decree or injunction of a court of competent jurisdiction restraining, enjoining or prohibiting the consummation of the transactions contemplated by this Agreement (each Party agreeing to use its best efforts, including appeals to higher courts, to have any such order, decree or injunction set aside or lifted), and no action shall have been taken and no statute, rule or regulation will have been enacted by any state or federal government or governmental agency in the United States which would prevent the consummation of such transactions.

6.06 Regulatory Approval. The Regulatory Approval will have been obtained and be in effect at the Closing Date on terms acceptable to PacifiCorp.

**SECTION VII**  
**CONDITIONS PRECEDENT TO CEC'S OBLIGATIONS**

All of the obligations of CEC to be discharged prior to or at the Closing are subject to the fulfillment, prior to or at the Closing, of each of the following conditions:

7.01 Authorization. The performance of the transactions provided for in this Agreement shall have been duly authorized and approved by the Board of Directors of CEC,

which authorization and approval shall not have been revoked, rescinded or superseded in any way.

7.02 Representations, Warranties and Covenants of PacifiCorp. All representations and warranties made in this Agreement by PacifiCorp shall be true and correct in all material respects as of the Closing Date as fully as though such representations and warranties had been made on and as of the Closing Date. As of the Closing Date, PacifiCorp will have complied in all material respects with all covenants made by it in this Agreement to be performed prior to Closing. At Closing, PacifiCorp will provide to CEC a certificate dated as of the date of Closing and signed by an authorized officer of PacifiCorp confirming the accuracy of the matters stated in this Section.

7.03 Third Party Consents. PacifiCorp or CEC shall have obtained the written consent of third parties, including government agencies, in form and substance satisfactory to CEC and its counsel, necessary for consummation of the transactions contemplated by this Agreement, other than consents from railroads and government agencies with respect to easements, rights of way and similar rights that are normally processed in the ordinary course.

7.04 Litigation. At the Closing Date, there shall not be in effect any order, decree, or injunction of a court of competent jurisdiction restraining, enjoining or prohibiting the consummation of the transactions contemplated by this Agreement (each Party agreeing to use its best efforts, including appeals to higher courts, to have any such order, decree or injunction set aside or lifted), and no action will have been taken and no statute, rule or regulation will have been enacted by any state or federal government or governmental agency in the United States which would prevent the consummation of such transactions.

7.05 Regulatory Approval. The Regulatory Approval will have been obtained and be in effect at the Closing Date on terms acceptable to CEC.

## **SECTION VIII CLOSING**

8.01 Time and Place. The closing of the transactions contemplated by this Agreement (the “Closing”) will take place at 10:00 a.m., Pacific time, (i) within five (5) Business Days after all of the conditions set forth in Section VI and VII hereof have been satisfied or waived, or (ii) such other date as may be mutually agreed upon by the Parties (the “Closing Date”). The transfer of the PacifiCorp Service Territory and the assignment and assumption of the Assumed Obligations shall be effective as of 11:59:59 p.m., Pacific time, on the Closing Date (the “Effective Time”). The Closing shall be held at such place as the Parties may mutually agree and may be conducted by exchange of documents by facsimile or e-mail and overnight courier service.

8.02 Further Assurances. From time to time after the Closing, each Party, upon the request of the other Party, shall without further consideration execute, deliver and acknowledge all such further instruments of transfer and conveyance and do and perform all such other acts and things as either Party may reasonably require to more effectively carry out the intent of this Agreement.

## **SECTION IX TERMINATION**

9.01 Termination. This Agreement may be terminated and abandoned at any time prior to the Closing:

(a) if the Parties agree in writing to terminate this Agreement by mutual consent;

(b) by either Party if any governmental or regulatory body, the approval of which is a condition to the obligations of CEC and PacifiCorp to consummate the transactions contemplated by this Agreement, will have determined not to grant its approval;

(c) by either Party if any court of competent jurisdiction in the United States or any state will have issued an order, judgment or decree (other than a temporary restraining order) restraining, enjoining or otherwise prohibiting the transfer of the PacifiCorp Service Territory; or

(d) by either Party if the Closing does not occur on or before [insert date] (other than by virtue of a default by one of the Parties), or such later date to which the term of this Agreement may be extended pursuant to mutual agreement of the parties, provided that one of the Parties gives written notice to the other so terminating this Agreement.

9.02 Effect of Termination. Any termination pursuant to this Section IX will relieve both the Parties hereto of all of their obligations set forth herein and any liability with respect thereto; *provided* that termination of this Agreement does not relieve either Party of liability for breach of this Agreement.

## **SECTION X ASSIGNMENT**

10.01 Assignment. Neither Party shall assign its rights under this Agreement to any third party without the written consent of the other Party to this Agreement, which consent shall not be unreasonably withheld.

10.02 No Discharge. No assignment of this Agreement shall operate to discharge the assignor of any duty or obligation hereunder without the written consent of the other Party.

## **SECTION XI MISCELLANEOUS**

11.01 Indemnification. From and after the Effective Time, PacifiCorp shall indemnify and hold harmless CEC from and against any Losses, as defined below, incurred by reason of: (i) any breach or inaccuracy of a representation or warranty made by PacifiCorp; or (ii) breach of covenant by PacifiCorp. From and after the Effective Time, CEC shall indemnify and hold harmless PacifiCorp from and against any Losses, as defined below, incurred by reason of: (i) any breach or inaccuracy of a representation or warranty made by CEC; or (ii) breach of covenant by CEC.

(a) All indemnification claims must be brought within one year after the Closing Date. After Closing, the indemnification provided by this section shall be the sole and exclusive remedy for any Losses of a Party with respect to matters for which indemnification is provided under this Agreement.

(b) “Losses” shall include actual loss, liability, damage or expense (including reasonable legal fees and expenses, but excluding special, incidental, consequential or punitive damages).

(c) A Party (for purposes of this Section 11.01(c), the “Indemnifying Party”) shall not have any liability under any provision of this Agreement for any Loss to the extent that the proximate cause for such Loss is or was action taken by the other Party to this Agreement (for purposes of this Section 11.01(c), the “Indemnified Party”) after the Closing Date, or action taken by the Indemnified Party after the Closing Date outside the ordinary course of business to the extent such action exacerbates a Loss for which the Indemnifying Party is obligated to provide indemnification under this Section XI.

(d) Each Party entitled to indemnification hereunder shall take all reasonable steps to mitigate all Losses after becoming aware of any event which could reasonably be expected to give rise to any Losses that are indemnifiable or recoverable hereunder or in connection herewith.

11.02 Amendment. This Agreement may be amended only by an instrument in writing executed by the Parties which expressly refers to this Agreement and states that it is an amendment hereto.

11.03 Section and Paragraph Headings. The section and paragraph headings contained in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement.

11.04 Waiver. Any of the terms or conditions of this Agreement may be waived at any time and from time to time, in writing, by the Party entitled to the benefit of such terms or conditions.

11.05 Choice of Law. This Agreement will be subject to and be construed under the laws of the State of Oregon, exclusive of conflict of law provisions.

11.06 Prevailing Party Costs. If a Party commences an action against the other Party because of a breach by that Party of its obligations under this Agreement or any documents executed in consummation with the transaction contemplated by this Agreement, the prevailing Party in any such action shall be entitled to recover from the losing Party its expenses, including reasonable attorneys’ fees, incurred in connection with the prosecution or defense of such action, and any appeal thereof.

11.07 Notices. All notices, requests, demands and other communications given by CEC or PacifiCorp will be in writing and will be deemed to have been given when telecopied with confirmed transmission, when hand delivered, or four business days after deposit into the United States mail, to the following addresses:

If to CEC to: Central Electric Cooperative, Inc.  
Operations Manager  
P.O. Box 846  
Redmond, Oregon 97756

With a copy to: Central Electric Cooperative, Inc.  
President/CEO  
P.O. Box 846  
Redmond, Oregon 97756

If to PacifiCorp, to: Oregon Dockets  
PacifiCorp  
825 NE Multnomah, Suite 2000  
Portland, OR 97232  
Phone: (503) 813.5542  
Email: [oregondockets@pacificorp.com](mailto:oregondockets@pacificorp.com)

With a copy to: PacifiCorp  
Legal Department  
825 NE Multnomah Street, Suite 1800  
Portland, OR 97232  
Attn: Oregon Regulatory Attorney  
Fax: (503) 813-7252

or to such other address as CEC or PacifiCorp may designate in writing.

11.08 Integrated Agreement. This Agreement, the schedules and exhibits hereto, when executed, constitute the entire agreement between the Parties hereto and supersedes all prior agreements and understandings, oral and written, between the parties with respect to the subject matter hereof.

11.09 Counterparts. This Agreement may be executed in two or more counterparts, each of which will for all purposes be deemed to be an original and both of which will constitute one and the same instrument.

11.10 Disclosure. Disclosure of any fact or item in any schedule hereto shall be deemed to have been so disclosed in any other schedule, representation or warranty made by PacifiCorp herein, provided disclosure of such fact or item on such schedule or exhibit contains disclosure of facts that would otherwise be required to be disclosed in such other schedules or representation or warranty. Matters reflected in the schedules hereto are not necessarily limited to matters required by this Agreement to be disclosed. Such additional matters are provided for information purposes only and shall not be deemed to be an admission or acknowledgement by

PacifiCorp or CEC that such information is material or outside the ordinary course of the business of PacifiCorp or CEC.


11.11 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be construed as nearly as possible to give effect to the original intent of the Parties.

11.12 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended or shall be construed to confer upon or give to a person, firm, corporation or municipality other than the Parties hereto any rights or remedies under or by reason of this Agreement or any transaction contemplated herein.

IN WITNESS WHEREOF, the parties have signed this Transfer Agreement as of the date first above written.

**CEC:**

**CENTRAL ELECTRIC CO-OP**

By:   
Name: David D. Markham  
Title: President/CEO

**PACIFICORP:**

**PACIFICORP**  
By:   
Name: PAT EGAN  
Title: VICE PRESIDENT



**Schedule 1.13**

**Description of PacifiCorp Service Territory  
To Be Transferred  
From PacifiCorp  
To Central Electric Co-op.**

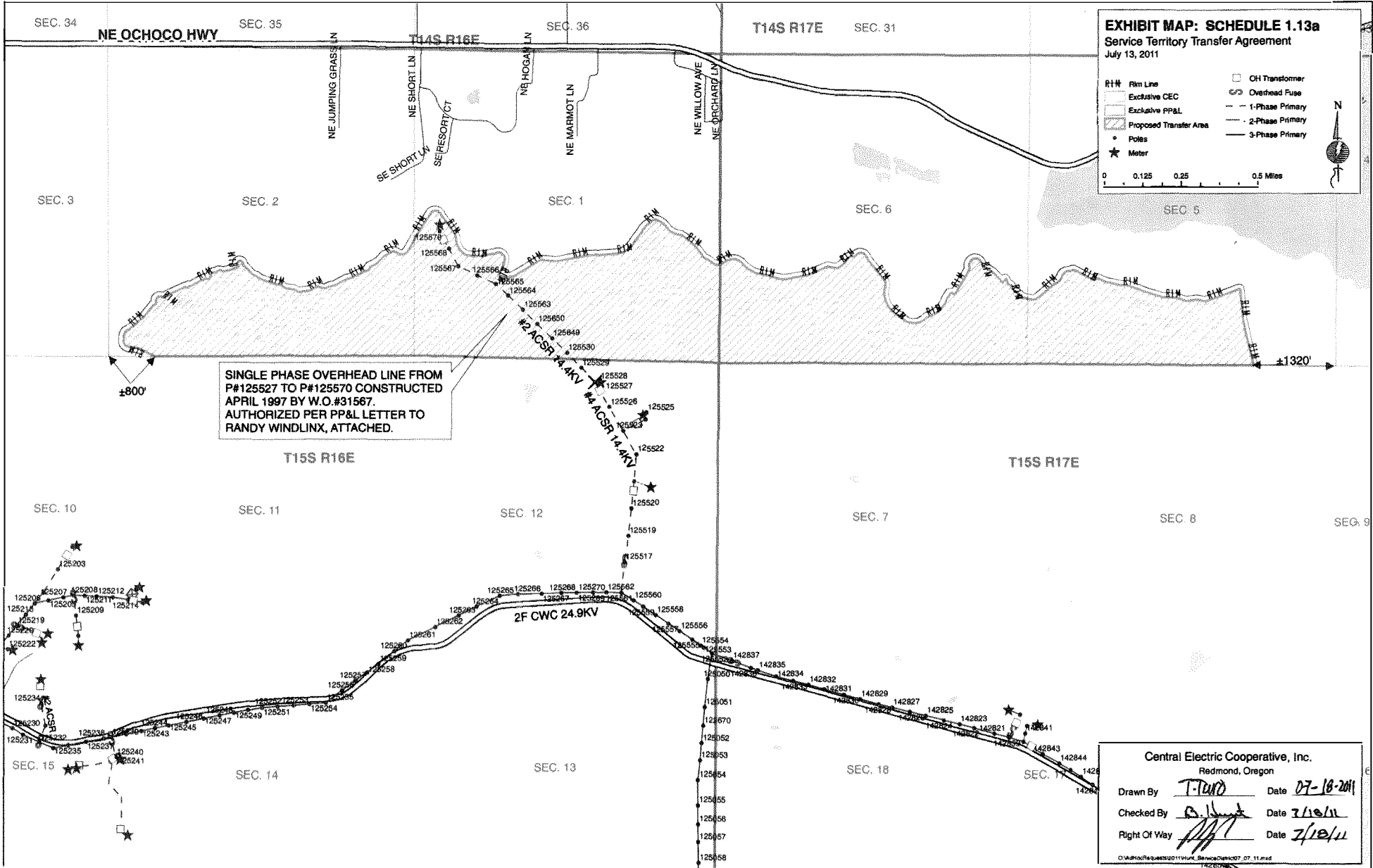
Beginning at a point on the south section line of Sec. 5, T. 15 S. R. 16 E. Willamette Meridian at the intersection of said section line and the northern rim of Combs flat approximately 1320 feet west of the south east corner of said Sec. 5, thence north and then westerly following the north rim of Combs Flat to the intersection of the north rim with the south line of Sec. 2, thence east along section lines to the point of beginning, an area of 681 acres, more or less.

**EXHIBIT MAP: SCHEDULE 1.13a**

Service Territory Transfer Agreement  
July 13, 2011

- R/LH Rim Line
- Exclusive CEC
- Exclusive PP&L
- Proposed Transfer Area
- Poles
- Meter
- OH Transformer
- Overhead Fuse
- 1-Phase Primary
- 2-Phase Primary
- 3-Phase Primary

0 0.125 0.25 0.5 Miles



Central Electric Cooperative, Inc.  
Redmond, Oregon

Drawn By T. Turo Date 07-18-2011  
 Checked By B. [Signature] Date 7/18/11  
 Right Of Way [Signature] Date 7/18/11

C:\MapDoc\p00052011\Map\_Schedule1.13a.mxd 07.11.mxd