

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 2, 2020**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: May 27, 2020

TO: Public Utility Commission

FROM: Mitchell Moore

THROUGH: Bryan Conway, Michael Dougherty, John Crider, and Matt Muldoon **SIGNED**

SUBJECT: PACIFIC POWER:
(Docket No. UI 436)
Requests Approval of Affiliated Interest Transaction with Wells Fargo Bank.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve Pacific Power's (PacifiCorp or Company) application for approval of an affiliated interest transaction with Wells Fargo Bank, N.A, (Wells Fargo) an affiliated interest, subject to the following conditions:

1. PacifiCorp shall notify the Commission of any substantive changes to the transaction, including any material changes in price or other parameters. Any such changes shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
2. PacifiCorp shall report to the Commission, as part of its annual affiliated interest report, all transactions entered into with Wells Fargo Bank.

Issue

Whether the Commission should approve the Company's application to enter into a transaction with Wells Fargo, an affiliated interest, for the conveyance of an easement for the placement of electric distribution facilities.

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. Berkshire Hathaway’s ownership interest in both PacifiCorp and Wells Fargo qualifies Wells Fargo as an affiliated interest of PacifiCorp.

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).

Analysis

Background

PacifiCorp filed this application with the Commission on March 6, 2020, pursuant to ORS 757.495 and OAR 860-027-0040. PacifiCorp is an indirect, wholly-owned subsidiary of Berkshire Hathaway Energy Company, a subsidiary of Berkshire Hathaway, Inc. (Berkshire Hathaway). Berkshire Hathaway owns a 9.8 percent interest in Wells Fargo, and therefore constitutes an affiliated interest of PacifiCorp.

Wells Fargo has a branch location at 235 NW Monroe St. in the City of Corvallis. PacifiCorp provides electric service to the bank branch and several surrounding businesses through an alleyway at the rear of the property. PacifiCorp requests approval of an easement granted by Wells Fargo for the purpose of relocating its overhead distribution facilities in the alleyway onto the bank property.

PacifiCorp states in its filing that the alleyway is narrow, and in recent years garbage trucks have hit and damaged some of the Company’s overhead distribution facilities. These incidents have raised safety concerns and jeopardized PacifiCorp’s ability to provide safe and reliable service.

The easement granted by Wells Fargo is approximately 10' x 255', and runs the entire length of the property line adjacent to the alley. The easement will enable PacifiCorp to relocate the distribution poles that are at risk of being damaged, and ensure the Company's ability to provide safe and reliable service.

Transfer Pricing

The market value of the affiliate transaction is \$0, since Wells Fargo granted the easement to PacifiCorp for no compensation.

Public Interest

The Commission customarily applies a "no harm" standard in determining what is "not contrary to the public interest" in matters involving affiliated interest transactions. See, e.g., *In the Matter of a Legal Standard for Approval of Mergers*, Order No. 01-778 (Docket No. UM 1011). Receiving an easement from an affiliate for no compensation will not harm customers, but instead will ensure the Company is able to provide safe and reliable service. Staff finds that this transaction is in the public interest.

Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that the Commission retains the ability to review all affiliated transactions of the Company through both its annual affiliated interest report and in general rate case filings. Staff's recommended conditions provide for all necessary Commission examination of PacifiCorp's records concerning this transaction.

Conclusion

Based on the review of this application, Staff concludes that the easement conveyance has fair and reasonable pricing, does not appear to contain any unexpected or unusual terms or conditions, and is not contrary to the public interest.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's application for approval of an affiliated interest transaction with Wells Fargo, subject to Staff's recommended conditions.