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Division of Public Utilities

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Action Request Response

To: Utah Public Service Commission

From: Utah Division of Public Utilities

Artie Powell, Director
Brenda Salter, Utility Technical Consultant Supervisor
Jeff Einfeldt, Utility Technical Consultant

Date: October 27, 2020

Re: **Docket No. 20-035-25**, DPU review of PacifiCorp's Affiliated Interest Report for the year ended December 31, 2019.

RECOMMENDATION (Acknowledge Report)

The Division of Public Utilities ("Division") has reviewed PacifiCorp's ("Utility") Affiliated Interest Report ("Report") for the Year Ended December 31, 2019 and determined the report complies with MidAmerican Holdings Company Transaction Commitment #8 approved in Docket No. 05-035-54. The Division reviewed transactions from major affiliates and a sample of transactions representing relatively small dollar amounts. The Division found no evidence that terms and pricing in these transactions are not at the lower of cost or market, or otherwise not in the public interest. The Division recommends the Commission acknowledge the report.

ISSUE

On May 29, 2020, the Public Service Commission ("Commission") issued an Action Request for the Division to review PacifiCorp's Affiliated Transaction Report with an original due date of June 29, 2020. Because the Division required additional time to complete the review, the

Commission granted an extension to November 12, 2020. This is the Division's response to the Commission's Action Request.

ANALYSIS

In the absence of a Utah statute defining affiliated interests, the Division follows those found in Oregon, Washington, and California for guidance. Affiliated interests of PacifiCorp are defined by Oregon Revised Statutes 757.015, Revised Code of Washington 80.16.010, and California Public Utilities Commission Decision 97-12-088, as amended by Decision 98-08-035, as having two or more officers or Directors in common with PacifiCorp or by meeting the ownership requirements of five percent direct or indirect ownership.

Although PacifiCorp provides retail electricity services to certain affiliates within its service territory, such transactions are excluded from this report because they are billed at tariff rates. Due to the volume and breadth of the Berkshire Hathaway Inc. ("Berkshire Hathaway") family of companies, it is possible that employees of PacifiCorp have made purchases from certain Berkshire Hathaway affiliates not listed here, and have been reimbursed by PacifiCorp for those purchases as a valid business expense. PacifiCorp does not believe those transactions would be material individually or in aggregate.

The purpose of the PacifiCorp Affiliated Interest report is to inform the Commission of the current subsidiaries and affiliates associated with PacifiCorp, including a brief narrative of the operations of each affiliate including officers and directors in common, the services received and provided, and certain financial information.

The Division, at the direction of the Commission, reviews the extent affiliates actually exercise any substantial influence over the policies and actions of PacifiCorp. The Division noted seven new affiliates in 2019, Apple Inc., Bank of New York Mellon, J. Aron & Company LLC, Penn Machine Company LLC, Electric Transmission Texas LLC, Grid Assurance LLC, and MTL Canyon Holdings LLC. Three entities are no longer listed on the Report, Phillips 66 Company, MEC Construction Services Co., and Interwest Mining Company. Of the remaining affiliates listed in the 2019 report, minor changes in ownership of less than one-half percent were noted for a number of affiliates. The greatest changes were an increase of Delta Airlines Inc. holdings

of 1.4% from 9.56% to 10.96%, and an increase in US Bancorp holdings of 0.52% from 9.09% to 9.61%. Three affiliates appearing on the 2018 and 2019 reports list no financial activity for the 2018 or 2019 periods.

TYPES OF SERVICES

PacifiCorp Affiliate transactions are of two kinds: 1) the administrative services provided and received that are covered by the Intercompany Administrative Services Agreement (“IASA”); and 2) the tangible goods and services provided and received outside the IASA.

IASA Services

The services provided and received under the IASA are billed and payments are made according to the IASA agreement. The Division requested the complete SAP general ledger detail of these transactions and was able to reconcile to the totals included on the summary of transactions included in section II of the 2019 Affiliated Interest Report. These transactions appeared quite similar to prior years’ activity with a net decrease in total activity for the current year of \$1,542,000 (approximately -11.8%). Total IASA services for 2019 were \$11,474,000 compared to the prior year total of \$13,016,000. The billings and payments follow the procedures set forth by the IASA at 4(b) PAYMENT, and provide assurance these transactions provided the affiliates with the benefit of the services. The Division did not observe any indication of undue negative or positive financial impact to the Company as a result of these transactions.

Non-IASA Services

The non-IASA services are tangible goods and services exchanged between PacifiCorp and the respective affiliate. Certain affiliates that provided and/or received significant amounts of non-IASA services are discussed below.

Coal

Coal producing affiliate transactions total \$156,825,000 and comprise approximately 71.2 percent of total non-IASA affiliate transactions of \$220,142,000 for the year ended 2019. This represents a decrease of \$7,974,000 in coal activity from the prior year. Coal activity for 2019

appears consistent with prior year and is trending slightly down. The coal contracts and costs are reviewed during rate cases and other actions, therefore, the Division conducted no additional review or investigation of coal costs related to this report.

Water Assessments

The ownership percentage the Utility holds in three water companies represents the water shares purchased by the Utility to provide the annual water needed for its generating plants. The water companies assess the shareholders the yearly anticipated amount needed for operation. These water companies are organized under Section 501(c) 12 of the Internal Revenue Code and operate as non-profit organizations. The billings for these services are based on the operational needs of the water companies and are billed at cost. Total services received for 2019 are similar to the prior year. Further review of these transactions is considered unnecessary under the circumstances described above.

BNSF Rail Freight Service

The contract for rail freight of coal products between PacifiCorp and BNSF Railway Company (“BNSF”) is a multiyear contract and was negotiated and in force prior to the purchase of BNSF by Berkshire Hathaway. BNSF is a wholly owned subsidiary of Berkshire Hathaway. Transactions with BNSF for 2019 total \$35,202,000 representing 16.0 percent of the total dollar amount of non-IASA goods and services received from affiliates, which is up \$2,675,000 from 2018. The total received in 2019 is up 8.2 percent from 2018 activity. When negotiated, the contract was an arm’s length transaction. The majority of contract revisions since that time have been in the area of fuel surcharges. The Company has provided requested SAP transaction data of the BNSF affiliate transactions and they have been reviewed by the Division. These transactions are also subject to review by the Division during rate cases and other dockets as part of the coal analysis. The rail transportation services paid by PacifiCorp during the last three years is immaterial when compared with the total annual revenues of BNSF, representing less than two-tenths of one percent of the total annual revenues of BNSF. The pricing and amount of the services are considered to approximate lower of cost or market. The length of the contract

and its inception prior to the ownership by Berkshire Hathaway lends additional assurance that the pricing structure is reasonable. No activity or indicators were found through services, pricing, or other methods that indicate undue influence over the policies and actions of either company.

Kern River Gas Transmission Company

Natural gas transportation services are priced at a tariff rate on file with the Federal Energy Regulatory Commission (“FERC”) or as priced in a negotiated rate transportation service agreement filed with and approved by FERC. This pricing structure makes the pricing of services acceptable as market pricing. Neither company appears to be exercising any substantial influence over the policies and actions of the other.

Phillips 66 Company

Berkshire Hathaway held less than a 5% ownership interest in Phillips 66 Company at the end of 2018 and fully divested itself from Phillips 66 in 2019. Berkshire Hathaway currently has no ownership interest in Phillips 66.

Nevada Power Company

Wholesale energy purchases and sales are priced based on a negotiated rate capped by the selling entity’s cost. Electricity transmission services and transmission ancillary services provided by Nevada Power are priced pursuant to Nevada Power’s Open Access Transmission Tariff (“OATT”). Transmission line losses provided by Nevada Power are priced pursuant to a Nevada Power OATT schedule. Electricity transmission services provided by PacifiCorp are priced based on a formula rate on file with FERC. Transmission line losses and transmission ancillary services provided by PacifiCorp are priced pursuant to PacifiCorp’s OATT Schedules. Operations and maintenance costs are ultimately based on PacifiCorp’s share of actual operations and maintenance costs incurred. Interest income is priced based on rates on file with FERC. These pricing references provide sufficient verification as to be considered lower of cost or market pricing.

Wells Fargo & Company

At December 31, 2019, Berkshire Hathaway holds a 9.48 percent ownership interest in Wells Fargo. Wells Fargo provides financial services to PacifiCorp in the normal course of business at standard pricing for certain transactions, and at negotiated rates below standard pricing for certain other transactions. Non IASA services received by PacifiCorp for 2019 were \$1,107,000 compared to \$1,126,000 in 2018. No substantial influence over either company's policies or actions by the other was found to exist.

Moody's Investors Service ("Moody's")

Berkshire Hathaway holds a 13.07 percent ownership interest in Moody's at the end of 2019, compared to a 12.88 percent ownership interest in 2018. Moody's provides ratings and business analytics services to PacifiCorp in the normal course of business at standard pricing. Influence over either company's policies and actions was not found to exist to prevent pricing arrangements to be considered lower of cost or market driven.

SUMMARY

Generally, 2019 financial activity between PacifiCorp and the listed affiliated entities closely resembles prior years' activity. In excess of 90 percent of the IASA services were information technology and administrative support services including the labor costs associated therewith. The Division noted the IASA transactions largely involve the sharing of the Information Technology and Administrative Support resources and the costs to operate those departments. The pricing of these services is an allocation of costs rather than pricing to include a profit or markup. The Division did not attempt to audit the affiliates providing these services to PacifiCorp. The financial activity reported in the 2019 Affiliated Interest report for many of these affiliates fails to reach a level that allows influence sufficient to affect the operational decisions and pricing strategies. While it is proper the Commission require analysis of company minority interests listed in the report, it appears the pricing more closely approximates arms-

length transactions than wholly-owned controlled entities. Based on the financial information reviewed by the Division, the pricing does not appear to be inappropriate.

The non-IASA services included coal and related rail transportation costs (excess of 90 percent of the total value of total non-IASA transactions), water assessments, and other miscellaneous activity. In its review of the non-IASA goods and services, the Division observed the term “standard business pricing” was found to be referenced often in the minority interest owned affiliates’ financials and notes. Based on the financial information reviewed and other analysis performed by the Division related to the non-IASA goods and services, the pricing does not appear to be inappropriate.

The Division tests and reviews PacifiCorp’s internal controls during general rate cases and other actions, further increasing the Division’s belief that undue influence favoring the Utility or the listed affiliates regarding intercompany financial transactions is not evident.

CONCLUSION

The Division has completed the review of the Affiliated Interest Report and the associated information. As a result of this review the Division believes:

1. Active affiliated interest relationships exist between PacifiCorp and the reported entities.
2. The appropriate affiliate transactions information has been provided to the Division upon request to the Company.
3. The activity between the affiliates as reported in the filing does not appear to be adverse to the public interest.

This concludes the Division’s report and response to the Action Request from the Commission. The Division recommends the Commission accept PacifiCorp’s Affiliated Interest Report for the year ended December 31, 2019.

cc: Michele Beck, Office of Consumer Services
Jana Saba, Rocky Mountain Power