

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: JUNE 26, 2001**

**REGULAR AGENDA X CONSENT AGENDA    EFFECTIVE DATE**

**DATE:** June 19, 2001

**TO:** Phil Nyegaard through Marc Hellman and Mike Myers

**FROM:** Tom Riordan

**SUBJECT:** UM 1021 – PacifiCorp Holdings, Inc. and PacifiCorp Application for an Order Authorizing PacifiCorp Holdings, Inc. to Exercise Substantial Influence Over the Policies and Actions of PacifiCorp

**SUMMARY RECOMMENDATION:**

I recommend approval of the application with the conditions noted in the detailed recommendation.

**DISCUSSION:**

Background:

PacifiCorp Holdings, Inc. (PHI) and PacifiCorp filed this application on April 24, 2001, pursuant to ORS 757.511 that requires the Commission's authorization before any person may directly or indirectly exercise any substantial influence over the policies and actions of a public utility that provides heat, light, or power, if such person is, or such acquisition would become an affiliated interest with such public utility as defined in ORS 757.015(1), (2), or (3). Pursuant to Section 757.511(3), the Commission is required to grant approval if it finds that the proposed transaction will serve PacifiCorp's customers in the public interest.

ScottishPower, the parent company of PHI and PacifiCorp, proposes to implement an internal corporate restructuring whereby all of the common stock of PacifiCorp, presently held by NA General Partnership (NAGP), will be transferred to a newly formed, non-operating U. S. holding company, PHI, in exchange for 100 percent of the capital stock of PHI. No other consideration will be involved. Therefore, no financing will be required for the transaction. ScottishPower will continue to own, indirectly through ScottishPower NA 1 Limited, ScottishPower NA 2 Limited, NAGP, and PHI, 100 percent of the issued common stock of PacifiCorp after the proposed transaction is completed.

As a result of the transaction, PacifiCorp will become a direct subsidiary of PHI, which will then acquire the power to exercise influence over the policies and actions of PacifiCorp. There will be no change in the overall control or interest held in PacifiCorp,

however, because PHI is a wholly owned subsidiary of ScottishPower. Accordingly, the ultimate power to exercise substantial influence over the policies and actions of PacifiCorp will remain with

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ScottishPower. PHI will also become an affiliated interest of PacifiCorp, as defined in ORS 757.015(1) and (2).

The applicants represent that the principal advantages of the transaction are: 1) it will facilitate the further separation of PacifiCorp's non-utility business from its utility operations, reducing risks to the regulatory side of the PacifiCorp's business, to the benefit of PacifiCorp's customers, 2) it will not increase PacifiCorp's cost of and rates for supplying electrical service, and 3) it involves an internal corporate restructuring and does not otherwise interrupt the ultimate control and interest held by ScottishPower, which the Commission found in Order No. 99-616 to be in the public interest.

### Issues

I have investigated the application and determined that this transaction does not involve a typical merger or acquisition situation. It appears to be a filing that is necessary to meet the technical/legal requirements of ORS 757.511. Essentially, the filing is required because another entity, namely PHI, has been added and will be directly over PacifiCorp in the ScottishPower corporate organizational restructuring (Exhibit A). This Commission did not impose a requirement in its approval of the ScottishPower/PacifiCorp merger that PacifiCorp transfer its non-utility businesses to an unregulated affiliate. The Commission believed that its affiliated interest statutes and regulations were sufficient to provide Oregon customers with the necessary safeguards against cross-subsidizations. The fact that PacifiCorp is now further separating its non-utility businesses from its utility operations by the proposed stock exchange with PHI, and "its intention to subsequently transfer over time some or all of its non-utility business to PHI", does not then make its efforts for separations and transfers a requirement for Staff's recommendation for approval by the Commission in this docket. Staff concurs that locating non-utility entities under PHI may be a good idea and make reporting by PacifiCorp cleaner and simpler, but it is not necessary that the Commission require it now for this approval.

Again, Staff believes that this is a technical/legal filing required by ORS 757.511 and the requirement that the proposed transaction will serve PacifiCorp's customers in the public interest likely was satisfied by the benefits customers obtained in UM 918, where the acquisition of PacifiCorp by ScottishPower was approved by the Commission.

### **CONCLUSIONS:**

Based on an investigation and review of the application, I conclude the following:

1. PacifiCorp is a regulated electric company, subject to the jurisdiction of the Public Utility Commission of Oregon.

2. PacifiCorp Holdings, Inc. (PHI) is a non-regulated, U. S. holding company that is an indirect wholly owned subsidiary of ScottishPower.
3. After consummation of the proposed transactions, PacifiCorp will become a direct subsidiary of PHI, and as such, an affiliated interest relationship will exist between the two companies, as defined in ORS 757.015.

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#### **DETAILED RECOMMENDATION:**

I recommend that the Commission approve PacifiCorp Holdings, Inc. and PacifiCorp's application for an order authorizing PacifiCorp Holdings, Inc. to exercise substantial influence over the policies and actions of PacifiCorp and include the following conditions in this matter:

1. PacifiCorp shall not record on its regulated books of account any amounts for the customers the costs incurred to accomplish the exchange of its stock held by NAGP for the capital stock of PHI.
2. The Commission reserves the right to review for reasonableness all financial aspects of this arrangement in any rate proceeding or alternative form of regulation.
3. PacifiCorp shall continue to be obligated to comply with all outstanding conditions in Commission Order No. 99-616 that approved the ScottishPower/PacifiCorp merger.
4. PacifiCorp shall file semiannual reports regarding the transfer of non-utility businesses from PacifiCorp to PHI. Such reports shall be filed by February 1, 2002 and August 1, 2002, for the last six months of 2001 and the first six months of 2002, respectively.

If transfers of non-utility businesses occur after 6/30/02, PacifiCorp shall file additional semiannual reports on February 1 and August of 2003 and if necessary, each six months thereafter.