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UE-220043

January 19, 2022

VIA ELECTRONIC FILING

Amanda Maxwell
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98503-1036

State Of WASH.
UTIL. AND TRANSP.
COMMISSION

01/19/22 13:40

Received
Records Management

RE: Docket UE-22_____—Affiliated Interest Filing—PacifiCorp and BNSF Railway Company

Under the provisions of RCW 80.16.020 and in accordance with WAC 480-100-245, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) provides notice of an affiliated interest transaction with BNSF Railway Company (BNSF) for coal transportation services, from all Wyoming Powder River Basin coal mines to the PacifiCorp Dave Johnston power plant, located in Glenrock, Wyoming.

A verified copy of the BNSF Railway Common Carrier Pricing Authority 90068 Attachment A Coal Unit Train Commitment Certificate Number BNSF 90068-0100 (Agreement) is included with this Notice as Confidential Attachment A (see confidentiality protections sought below).

PacifiCorp is a wholly owned indirect subsidiary of Berkshire Hathaway Energy Company (BHE). BHE is a subsidiary of Berkshire Hathaway, Inc. BNSF is also a subsidiary of Berkshire Hathaway, Inc. RCW 80.16.010 includes in its definition of “affiliated interest,” “every corporation five percent or more of whose voting securities are owned by any person or corporation owning five percent or more of the voting securities of such public service company or by any person or corporation in any such chain of successive ownership of five percent or more of voting securities.” Therefore, Berkshire Hathaway, Inc.’s ownership interest in BHE and BNSF creates an affiliated interest relationship between the Company and BNSF.

The existing long-term rail agreement to provide for the transportation of coal needed to fuel PacifiCorp’s Dave Johnston plant expired on December 31, 2021. PacifiCorp is the owner and operator of the Dave Johnston plant. The Dave Johnston plant is “captive” to the BNSF Railroad with respect to rail service. There are no other rail delivery options available from alternative railroads, and the distance between the mines and plant makes shipping coal via truck both cost prohibitive and logistically impractical. The new Agreement has been negotiated at arms-length, and the value will vary depending on the source mine for the coal. The aggregate cost is currently estimated to be \$ [REDACTED] based on expected future supplier mix, for the three-year Agreement through December 31, 2024. The Dave Johnston plant is not reflected in Washington rates under the Commission-approved Washington Inter-Jurisdictional Allocation Methodology. Notwithstanding, the Company is providing this notice out of an abundance of caution to ensure consistent treatment of affiliate contracts under the requirements of RCW 80.16.

Entering into the new Agreement is in the public interest because it allows PacifiCorp to continue to efficiently operate the Dave Johnston plant. Without the new Agreement, PacifiCorp would not be able to obtain the coal needed to continue operating the plant at a reasonable cost. BNSF is the only entity that can provide the coal to PacifiCorp via rail.

While PacifiCorp considers the Agreement to be of utmost commercial sensitivity and *highly* confidential, it is requesting confidential treatment for Confidential Attachment A in accordance with WAC 480-07-160. The attachment contains commercially sensitive pricing information that could expose the Company and BNSF to competitive injury if disclosure is unrestricted. The Company requests confidential treatment, at a minimum, on the basis that the document contains “valuable commercial information, including trade secrets or confidential marketing, cost, or financial information, or customer-specific usage and network configuration and design information,” as provided in RCW 80.04.095 and in accordance with WAC 480-07-160(2).¹

Also included with this filing is a verification from Brian Greer, Director of Fuel Resources, regarding the Agreement.

It is respectfully requested that all formal correspondence and Staff requests regarding this material be addressed to:

By email (preferred): datarequest@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah Street, Suite 2000
Portland, Oregon, 97232

¹ Due to the highly confidential nature of the Agreement, in the event it is included as part of an adjudicative proceeding, or if intervening parties request a copy outside of an adjudicative proceeding, PacifiCorp may seek a protective order authorizing highly confidential treatment or enter into non-disclosure agreements with parties, as appropriate, prior to any disclosure of the Agreement.

