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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFICORP (U 901 E) for Authority to Sell Certain Mining Assets in Accordance with Public Utilities Code Section 851

A1509007

APPLICATION OF PACIFICORP (U 901 E) FOR AUTHORITY TO SELL CERTAIN MINING ASSETS IN ACCORDANCE WITH PUBLIC UTILITIES CODE SECTION 851

(PUBLIC VERSION)

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Attorneys for PacifiCorp

Dated: September 18, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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In accordance with Rules 2.1 and 3.6 of the California Public Utilities Commission's Rules of Practice and Procedure and the July 24, 2015 letter from the Director of the Commission's Energy Division, PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) respectfully submits its Application for authority to sell certain Mining Assets in compliance with California Public Utilities Code (PUC) Section 851. As described below, the sale of these assets was part of a larger transaction that received timely approval from four other state utility commissions and has substantial benefits for the ratepayers of California, Idaho, Oregon, Utah, and Wyoming. The California-allocated net book value of the assets is approximately $305,000, or approximately 1.6 percent of the transaction as a whole.

I. BACKGROUND

PacifiCorp is a multi-jurisdictional utility providing electric retail service to customers in California, Idaho, Oregon, Utah, Washington, and Wyoming. PacifiCorp serves approximately 45,000 customers in portions of Del Norte, Modoc, Shasta, and Siskiyou Counties in northern California.

In December 2014, PacifiCorp filed Advice Letter 513-E with the California Public Utilities Commission (Commission) requesting authorization to sell the following Mining Assets to Bowie Resource Partners, LLC (Bowie): (1) a preparation plant and related assets; (2) a central warehouse and other remainder assets; and (3) the Trail Mountain Mine and related assets. All of the Mining Assets are located in Emery County, Utah. The Mining Assets have a net book value of $305,000 on a California-allocated basis. PacifiCorp sought approval through an advice letter because the California-allocated net book value of the assets is well below the $5 million threshold established in PUC Section 851 and General Order (GO) 173.[1]

The sale of the Mining Assets was part of the closure of the Deer Creek Mine. Although the closure involved other elements,[2] the only element that included the sale of utility assets, and was therefore subject to this Commission's approval under PUC Section 851, was the sale of the Mining Assets. PacifiCorp's Advice Letter 513-E included a request to establish a cost memorandum account to record the costs and benefits of the other elements of the Transaction, but PacifiCorp did not seek ratemaking treatment of any costs associated with the Transaction in Advice Letter 513-E.

The Transaction has significant financial benefits for the ratepayers of California, Idaho, Oregon, Utah, and Wyoming resulting from the money saved by PacifiCorp in

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[1] Consistent with basic ratemaking principles for out-of-state utility assets owned by multijurisdictional utilities, the Commission has interpreted PUC Section 851 to apply on a California-allocated basis. *See* Resolution ALJ-268.

[2] As described in Advice Letter 513-E, there are four major elements: (1) the permanent closure of Deer Creek Mine; (2) withdrawal from the United Mine Workers of America (UMWA) 1974 Pension Trust; (3) the sale of certain Mining Assets; and (4) execution of a replacement coal supply agreement (CSA) for the Huntington generating plant and an amended CSA for the Hunter generating plan. The company also settled its retiree medical obligation related to Energy West union participants. Together these components are referred to as the Transaction.

transferring its Retiree Medical Obligation, withdrawing from the 1974 Pension Trust, divesting itself of under-performing Mining Assets, and purchasing coal at a lower price.[3]

In addition to the advice letter filing in California, PacifiCorp made filings related to the Transaction in Idaho, Oregon, Utah, and Wyoming. PacifiCorp informed the Commissions in all five states that the ratepayer benefits associated with the Transaction were contingent on the Transaction being approved before its contractual closing date of May 31, 2015. The utilities Commissions of the four other states reviewed their respective applications, some of which were contested by multiple parties, approved the resulting settlement agreements, and issued final approval of the Transaction before the contractual closing date.

In California, the Office of Ratepayer Advocates (ORA) and Sierra Club protested the Advice Letter,[4] which the Commission subsequently suspended. Despite PacifiCorp's diligent communication with Energy Division to address any issues related to the Transaction and to inform the Commission of the status of the non-California applications, the Commission took no action on the Advice Letter before the Transaction's contractual closing date. PacifiCorp chose to comply with its contractual obligations and close the Transaction to preserve

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[3] *See* Application of PacifiCorp for Approval of its 2016 Energy Cost Adjustment Clause and Greenhouse Gas-Related Forecast and Reconciliation of Costs and Revenue (A.15-08-004 filed August 3, 2015), p. 7. Also see accompanying direct testimony of Mr. Michael G. Wilding, p. 12 "The largest drivers of the lower projected [net power costs] in the 2016 [Energy Cost Adjustment Clause] are coal and natural gas fuel costs and market transaction purchases….Overall coal costs are lower primarily due to the closure of the Deer Creek Mine in 2015 and the coal supply agreement with Bowie Resources at the Hunter plant." In the referenced application, the company is requesting an overall rate decrease of approximately $1.9 million or 1.5 percent associated with the Energy Cost Adjustment Clause.

[4] Sierra Club intervened in the Utah and Oregon proceedings and protested several aspects of the proposed Transaction. Ultimately, however, Sierra Club entered into a settlement stipulation with PacifiCorp and other interested parties in the proceeding before the Public Service Commission of Utah; the stipulation requested the Commission issue an order finding the proposed Deer Creek Mine transaction was prudent and in the public interest. Sierra Club also agreed with the Public Utility Commission of Oregon that the proposed transaction was in the public interest.

the benefits provided by the Transaction to the ratepayers of all five states. PacifiCorp acted prudently and in the best interests of its customers under the circumstances.

In support of this Application, PacifiCorp provides the following information:

II. DESCRIPTION OF REQUEST

PacifiCorp respectfully requests the Commission authorize PacifiCorp to sell the preparation plant assets, the central warehouse assets, and the Trail Mountain Mine assets as part of the Transaction. PacifiCorp does not seek to change its rates in connection with this Application. For the reasons set forth below, PacifiCorp requests authority for the sale of the Mining Assets on a *nunc pro tunc* basis.[5]

A. Deer Creek Mine Closure and Sale of Mining Assets

1. Mining Assets Sold as Part of the Transaction

PacifiCorp acquired the Deer Creek Mine, located in Emery County, Utah, in 1977. The mine annually produced on average 3.5 million tons of coal. The mine's depreciable life currently runs through its expected reserve depletion in 2019. The Deer Creek Mine was the primary source of coal for the nearby Huntington plant, which annually consumes on average 2.8 to 2.9 million tons. The mine also supplied some coal to the Hunter plant. PacifiCorp expected that the mine would meet the Huntington plant's coal supply needs and supplement the Hunter plant's supply needs until 2019. In California, the depreciable lives of the Huntington and Hunter plants run through 2036 and 2042, respectively.

PacifiCorp proposed to close the Deer Creek Mine for two major reasons. First, the mine's mining costs and pension liabilities were sharply increasing. Second, the mine was producing lower-quality coal, which, in turn, reduces the volume of coal produced. At the same

[5] The Commission "has inherent power to approve, retroactively [*nunc pro tunc*], a transfer of public utility control to reflect actual facts . . . ." (*Applied Theory Corporation*, Decision No. 00-09-033.)

time, the coal market in Utah had changed, market supplies were more available, and the advantages of owning coal mining assets in Utah had lessened. Together, these factors combined to make continued operation of the Deer Creek Mine less economic than closure.

To ensure the Huntington and Hunter plants continued to be supplied with coal following the closure of the Deer Creek Mine, PacifiCorp entered into a new CSA with Bowie[6] to supply coal to the Huntington plant from the close of the Transaction to December 31, 2029, subject to minimum and maximum obligations and according to certain quality specifications; PacifiCorp additionally entered into an amendment to an existing CSA associated with supply to the Hunter plant under an agreement that expires December 31, 2020.

In connection with the Deer Creek Mine closure, the Company was able to make advantageous sales of its Mining Assets to its CSA supplier, Bowie. The assets sold were: (1) the preparation plant and related assets located in Emery County, Utah; (2) the Central Warehouse assets, also located in Emery County; and (3) the Trail Mountain Mine assets, substantially all of which are situs assigned to Utah. The preparation plant assets include certain fee lands, surface assets, equipment, and working capital assets related to and near the preparation plant, which is adjacent to the Hunter plant. To achieve coal quality specifications, the preparation plant blends coal for the Hunter plant, including coal from the Deer Creek Mine. The preparation plant assets were sold in exchange for [redacted].

[6] Bowie is a Delaware limited liability company and one of the nation's largest western bituminous coal producers. Bowie has a diverse portfolio of four mining operations in Utah and Colorado that annually produce an aggregate of 14 million tons of high-BTU, low-sulfur bituminous coal. Bowie's mines include some of the most productive and longest continuously operating mines in the United States. It has three longwall mining operations—the Bowie Mine, the Skyline Mine, and the Sufco Mine—and one room-and-pillar operation, the Dugout Canyon Mine. As discussed above, Bowie is also a current coal supplier for the Hunter plant under a CSA entered into in 1999.

The central warehouse assets include additional fee lands, surface assets, and mining equipment, including the central warehouse facility, located near Castle Dale, Utah. On December 12, 2014, PacifiCorp and Bowie entered into the Central Warehouse Asset Purchase and Sale Agreement, under which no stated monetary consideration for the transfer would be given; as consideration for the transfer, Bowie agreed to assume and discharge certain liabilities, including all asset retirement obligations related to the central warehouse assets.

In December 2014, PacifiCorp and Bowie also entered into an Asset Purchase and Sale Agreement for the Trail Mountain Mine. PacifiCorp purchased the Trail Mountain Mine in 1992. Although closed in 2001, the Trail Mountain Mine has not been reclaimed. In addition to holding the Trail Mountain leases, PacifiCorp owned a certain parcel of real property adjacent to the coal leases and, together with related assets, these elements comprise the Trail Mountain Mine assets. Under the Asset Purchase and Sale Agreement, there is no stated monetary consideration for the transfer of the Trail Mountain assets to Bowie; as consideration, Bowie agreed to assume and discharge certain liabilities, including all mine reclamation and asset retirement obligations related to the Trail Mountain assets.

The estimated net book value of these three asset groups at the time of sale was approximately $305,000 on a California-allocated basis.

2. Basis for Granting Nunc Pro Tunc Authority

On December 15, 2014, PacifiCorp sought authority from five state utilities commissions for the Deer Creek Mine Transaction. PacifiCorp reasonably believed the state commissions would be able to issue a final decision regarding the Transaction before the contractual closing date of May 31, 2015. PacifiCorp informed the commissions of the contractual closing date and asked that final decisions be issued before that date. In California, PacifiCorp sought authority for the Transaction by filing Advice Letter 513-E under GO 173.

GO 173 allows a utility to seek approval for the sale of assets under PUC Section 851 if the property at issue is valued at $5 million or less by filing an Advice Letter in lieu of a formal application. Because the net book value of the California-jurisdictional assets being sold as part of the Transaction totaled approximately $305,000, PacifiCorp believed an Advice Letter was appropriate. At no time between the December 15, 2014 filing of AL 513-E and the July 24, 2015 disposition of the Advice Letter did Commission staff indicate to PacifiCorp that GO 173 did not apply to the California-jurisdictional portion of the Transaction.

The ORA and Sierra Club filed protests of Advice Letter 513-E; they argued GO 173 did not apply because the value of the Transaction exceeded $5 million on a total-company basis, that additional discovery and review of the Transaction was necessary, and that the Transaction was a project subject to the California Environmental Quality Act (CEQA). The Commission suspended AL 513-E from January 16 to May 15, 2015, for further review.

PacifiCorp communicated with Energy Division staff regularly following the suspension of AL 513-E to determine the status of the Commission's review, to provide any necessary additional information, and to keep Commission staff apprised of the outcomes of the proceedings in the non-California states. In March 2015, Energy Division staff informed PacifiCorp that a final Resolution regarding AL 513-E was expected by the end of May; the assurances that the Commission would act on the Advice Letter in time to meet the contractual closing date continued through the end of April 2015. On May 1, 2015, Energy Division informed PacifiCorp that the Commission was now reviewing issues raised by Sierra Club in its January 12, 2015 protest of the Advice Letter; staff now informed PacifiCorp that while it was unlikely a Resolution would be issued before the end of May, any delay would likely be minimal. The utilities commissions of Idaho, Oregon, Utah, and Wyoming all issued final orders

approving the Transaction before May 31, 2015.[7] PacifiCorp subsequently provided Energy Division with copies of all four approvals. During the week of May 25, 2015, PacifiCorp attempted to reach Energy Division staff by telephone twice; the calls went unreturned.

PacifiCorp made every reasonable effort to ensure the Commission would be able to approve the Transaction before the contractual closing date. The expedited approval process in GO 173 was appropriate for the California-jurisdictional portions of the Transaction; PacifiCorp filed an Advice Letter and informed the Commission of the contractual closing date, which was, at that time, approximately six months away. PacifiCorp communicated with Energy Division at numerous times following the filing of AL 513-E to ensure the Commission had all the information it required to make a determination regarding the Transaction. PacifiCorp responded to the protests of ORA and Sierra Club with a detailed explanation as to why the Advice Letter process was appropriate and why CEQA was inapplicable. PacifiCorp also responded to data requests, in addition to keeping the Commission informed of the proceedings in the four other state utility commissions and providing copies of the final decisions. Finally, PacifiCorp made a last-ditch attempt to reach Energy Division staff in the days before the contractual closing date, to no avail. Faced with the Commission's inexplicable delay in considering the issues presented in AL 513-E and Sierra Club's protest, which had been in front of the Commission since mid-January—and the Commission's abrupt announcement that, despite having known the contractual closing date for months, and despite PacifiCorp's repeated efforts to provide assistance and move the process forward, a Resolution would not be issued before the closing date—PacifiCorp chose to comply with its contractual commitments and

[7] Public Utility Commission of Oregon, Order No. 15-161 (May 27, 2015); Idaho Public Utilities Commission, Order No. 33304 (May 27, 2015); Public Service Commission of Utah, Bench Order in Docket No. 14-035-147 (April 29, 2015); Public Service Commission of Wyoming, Order in Docket No. 20000-464-EA-14 (May 15, 2015).

preserve the benefits to the ratepayers of five states and closed the Transaction without the Commission's formal approval. This decision was prudent under the circumstances and in the best interests of the ratepayers.

On July 24, 2015, almost two months after the Transaction closed, Energy Division issued a letter rejecting AL 513-E without prejudice and ordering PacifiCorp to file a formal Application for approval of the sale of the Mining Assets. The letter also stated, "[S]taff notes that the transaction has already been executed with other parties and has been filed with other state commissions. This raises the issue of whether the California Commission's jurisdiction and approval authority of PacifiCorp transactions has been properly recognized by the Company." In light of PacifiCorp's extensive efforts to ensure the Commission approved the Transaction before the contractual closing date, there is no question that the Commission's authority was properly recognized by PacifiCorp. That the Commission could not undertake to consider the issues raised by AL 513-E in a timely fashion or issue a final Resolution before the contractual closing date does not negate PacifiCorp's efforts to properly obtain the Commission's approval.

The Commission has the inherent power to grant *nunc pro tunc* authority for the transfer of public utility assets to reflect actual facts, provided such approval is found to serve the public interest.[8] The Commission has also held that, when circumstances beyond the applicant's control prevent the applicant from obtaining Commission authority before a planned transfer of utility assets, it is appropriate to grant *nunc pro tunc* authority.[9] In light of the unique

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[8] *Applied Theory Corporation*, D.00-09-033.

[9] *Joint Application of Centerbridge Capital Partners, etc.*, D. 15-07-015, p. 10 (holding that, because the applicant relied on representations of the Commission's Communications Division that an Advice Letter was appropriate for the indirect transfer of control of a regulated utility, because a series of interlocking contractual obligations were in place by the time

circumstances described in this Application, which prevented PacifiCorp from obtaining Commission authority before the closing of the Transaction, and because the Transaction is undeniably in the public interest, PacifiCorp respectfully requests the Commission grant *nunc pro tunc* authority for the sale of certain Mining Assets included in the Transaction. Granting this authority would be consistent with Commission precedent.[10]

Communications Division informed the applicant that a formal application would be required, and because the other necessary state and federal regulatory approvals had already been obtained or were about to be, *nunc pro tunc* authority for the transaction was appropriate).

[10] The Commission has frequently granted approval of any acquisition of control it believes has occurred on a *nunc pro tunc* basis. (*See e.g.*, *Centerbridge Capital Partners*, D.15-07-015, p. 10; *Lake Forest Utility Co.*, D.09-03-032 [granting *nunc pro tunc* authority for the sale of assets of Lake Forest Utility Co. to Tahoe Park Water Co.]; D.00-04-014; *In re Application of Atcall*, *Inc.*, D.99-12-039 [granting *nunc pro tunc* authority for transfer of control of telecommunications carrier]; *Ionex Telecommunications, Inc.*, D.99-11-010 [approving transfer of control of non-dominant telecommunications carrier]; *Pacific Fiber Link, LLC*, D.99-10-007 [granting *nunc pro tunc* authority to enter into corporate reorganization]; *Interoute Telecommunications, Inc.*, D.99-06-016 [granting *nunc pro tunc* authority for stock acquisition agreements]; *Preferred Carrier Services, Inc.*, D.99-03-030 [granting *nunc pro tunc* authority for transfer of control of shares and assets of telecommunications company]; *West Water Co.*, D.97-12-072 [waiving provisions of Pub. Util. Code § 851 declaring transfer of a water system without prior Commission approval void]; *Re Point Arena Water Works, Inc.*, D.97-09-097 [granting *nunc pro tunc* approval of transfer of rights and property of water company]; *Camp Meeker Rec & Park Dist.*, D.96-05-068 [authorizing acquisition and operation of water company facilities]; *Call America of Palm Desert*, D.95-07-051 [granting *nunc pro tunc* authority for a telecommunications provider to operate]; *WinStar Communications, Inc.*, D.95-05-009 [granting *nunc pro tunc* approval of acquisition of control of a telecommunications company]; *GST Telecom, Inc.*, D.94-12-062 [granting *nunc pro tunc* authorization for transfer of control of telecommunications carrier]; *Forsyth Co.*, D.94-05-030 [granting *nunc pro tunc* authority for acquisition of assets of public utility]; *Hinkley Valley Water Co.*, D.93-07-009 [exempting transfer of water company from provisions of Pub. Util. Code § 853(b)]; *CTI Investments, Ltd.*, D.89-06-024 [exempting acquisition of telecommunications company from Pub. Util. Code § 851]; *Argonaut Heights Sewer Co.*, D.89-02-004 [exempting transfer of public utility from Pub. Util. Code § 851]; *Escondido Tel. Co.*, D.87-03-048 [granting *nunc pro tunc* approval of purchase of stock of telecommunications company]; *Re Compton Heights Water Service*, D.86-02-005 [granting *nunc pro tunc* authorization of transfer of stock in water company]; *Mentone Domestic Water Co.*, D.85-10-017 [granting *nunc pro tunc* authorization for acquisition of water company]; *Moon Meadow Utility Co. Customers*, D.84-07-077 [granting *nunc pro tunc* authority for transfer of water company]; *Little Lake Water Co.*, D.84-06-087 [granting *nunc pro tunc* authority for sale of water company]; *Cabazon Water Co.*, D.83-05-018 [granting *nunc pro tunc* authority for sale of water company].)

III. CEQA COMPLIANCE (Rule 2.4)

A. The Sale of the Mining Assets is Not a Project Subject to CEQA

The sale of the Mining Assets related to the closure of the Deer Creek Mine is not a project that triggers the application of CEQA. The CEQA Guidelines provide that a "project" is an activity that may cause a direct or reasonably foreseeable indirect physical environmental change.[11] The transfer of ownership is not a "project" subject to CEQA because it will not cause any direct or indirect environmental impacts.[12] The Commission has recognized that the sale of assets does not cause any direct physical change in the environment unless construction is required as a condition of sale, as, for instance, to separate facilities.[13] The Commission has further recognized that indirect physical changes to the environment do not occur when the asset being sold is used for the same purpose before and after the transfer of ownership.[14]

The preparation plant assets will be operated in the same manner as they were before being sold to Bowie, and the mine itself will be shut down and the property restored to natural conditions. The central warehouse assets will also continue to be used in the same manner they were used before the sale. The Trail Mountain Mine assets will continue to be used in the same manner as they were before the sale, as well; the mine itself will be returned to natural conditions. None of the assets will be significantly modified.[15] Furthermore, no new

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[11] Pub. Res. Code § 21065; Cal. Code Regs. tit. 14, § 15378(a).

[12] *See Simmons v. City of Los Angeles* (1976) 63 Cal.App.3d 455, 465 (holding that a proposed charter amendment to transfer park land that had been used for police training for 40 years was not a project because the amendment merely continued an existing use without environmental change).

[13] *Application of PG&E and the City of Santa Rosa, etc.*, D.98-07-069, pp. *4-5. *See also Application of Ambler Park Water Utility and Cal-Am Water Company, etc.*, D.98-09-038, pp. 13-14; *Application of PG&E for an Order Authorizing Transfer of the Photovoltaics for Utility Scale Applications Research Project, etc.*, D.97-07-019, p. *8.

[14] D.98-07-068, pp. *4-5.

[15] *Cf. Application of PG&E to Establish Market Values for and to Sell its Richmond-to-Pittsburg Fuel Oil Pipeline, etc.*, D.05-07-016, p. 8-15 (requiring CEQA review of the proposed sale of

mining rights are created by the Transaction. Because there will be no direct or indirect impacts on the environment, the sale of the Mining Assets is not a project subject to CEQA review.

B. CEQA Exemptions

Even assuming the sale of the Mining Assets is a project subject to CEQA, which it is not, the sale falls squarely within two CEQA exemptions: the categorical exemption for existing facilities (Class 1),[16] and the "common sense" exemption.[17]

The existing facilities categorical exemption applies to projects that consist of the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination."[18] The CEQA Guidelines state that the key consideration is whether a project involves negligible or no expansion beyond the existing use.[19] The exemption for existing facilities also applies to the transfer of ownership of an asset that will result in negligible or no expansion beyond the asset's existing use[20] or that will restore an asset to its original authorized capacity.[21] The sale of the Mining Assets to Bowie will not result in any change to their existing uses; the sale is therefore within the categorical exemption for existing facilities.

The common sense exemption applies if "[t]he activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect

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PG&E's pipeline and pump station, which involved significant changes to the assets and their existing use).

[16] Cal. Code Regs., tit. 14, § 15301.

[17] *Id.* at § 15061(b)(3).

[18] *Id.* at § 15031.

[19] *Ibid.*

[20] *Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 966-967.

[21] *See Committee for a Progressive Gilroy v. State Water Resources Control Board* (1987) 192 Cal.App.3d 847, 864 (ruling that a city wastewater project originally approved for the treatment of 6.1 mgd, which was operating below capacity, qualified for the existing facilities exemption and did not require CEQA review to restore its operations to the original 6.1 mgd allowance).

on the environment."[22] The litmus test for the common sense exemption is whether "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."[23] The CEQA Guidelines define "significant effect on the environment" as a substantial, or potentially substantial, *adverse* change in any of the physical conditions within the area affected by the project.[24] As has already been shown, the sale of the Mining Assets and the eventual remediation of the Trail Mountain Mine has no possibility of adversely impacting the environment. The assets will not be put to different uses following the sale, they will not be substantially modified, and their sale and continued use will not negatively affect the environment. The sale is therefore exempt from CEQA review.

IV. STATUTORY AND REGULATORY REQUIREMENTS

A. Applicant and Correspondence (Rules 2.1(a) and (b))

PacifiCorp is a public utility organized and existing under the laws of the state of Oregon. PacifiCorp engages in the business of generating, transmitting, and distributing electric energy in portions of northern California and in Idaho, Oregon, Utah, Washington, and Wyoming. PacifiCorp's principal place of business is 825 NE Multnomah Street, Suite 2000, Portland, Oregon 97232.

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[22] Cal. Code Regs., tit. 14, § 15061(b)(3).
[23] Cal. Code Regs., tit. 14, § 15061(b)(3).
[24] Cal. Code Regs., tit. 14, § 15382; *see also Creed-21 v. City of San Diego* (2015) 234 Cal.App.4th 488, 512 (finding a city's revegetation project was exempt from CEQA review under the common sense exemption, because no adverse changes to the environment would result).

Communications regarding this Application should be addressed to:

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B. Statutory and Procedural Authority (Rule 2.1)

Rule 2.1 requires that all applications state clearly and concisely the authorization or relief sought, cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought, and be verified by the applicant. The relief being sought is summarized in Section II, and is further described in the testimony and exhibits supporting this Application. The statutory and other authority under which this relief is being sought includes Rules 2.1 and 3.6, PUC Section 851, and this Commission's prior orders, decisions, and resolutions. An officer of PacifiCorp has verified this Application as required by Rules 1.11 and 2.1.

C. Proposed Categorization, Need for Hearing, Issues to be Considered, and Proposed Schedule (Rule 2.1(c))

PacifiCorp proposes the Commission classify this proceeding as "ratesetting." Although this Application does not affect rates, the definitions of "adjudicatory" or "quasi-legislative" as set forth in Rule 1.3(a) and (d) clearly do not apply to this Application. Rule

7.1(e)(2) specifies that when a proceeding does not clearly fit into any of the categories, it should be conducted under the ratesetting procedures. Rule 1.3(e) also defines ratesetting proceedings to include "other proceedings" that do not fit clearly into any other category.

PacifiCorp does not believe hearings will be necessary. PacifiCorp's Application and the supporting testimony and exhibits constitute a sufficient record for the Commission to rule on the requested authorizations without the need for hearings.

PacifiCorp proposes the following schedule:

Application filed	September 18, 2015
Protest/Responses to Application	TBD
Prehearing Conference	October 30, 2015
Scoping Memo	November 2015
Proposed Decision	January 2016
Final Commission Decision	February 2016

D. Organization and Qualification to Transact Business (Rule 2.2)

A certified copy of PacifiCorp's Articles of Incorporation, as amended and presently in effect, was filed with the Commission in A.97-05-011, which resulted in Commission issuance of D.97-12-093, and is incorporated by reference under Rule 2.2.

E. Financial Statement (Rule 2.3)

A copy of PacifiCorp's recent financial statements, contained in the Quarterly Report on Form 10-Q, filed with the Securities and Exchange Commission, for the period ending June 30, 2015, is provided in Appendix A.

F. List of Testimony and Exhibits

Confidential Exhibit PAC/100 – Direct Testimony of Cindy A. Crane

Confidential Exhibit PAC/101 – Asset Purchase and Sale Agreement (Preparation Plant) between PacifiCorp and Bowie Resource Partners, LLC, dated as of December 12, 2014.
Confidential Exhibit PAC/102 – Asset Purchase and Sale Agreement (Central Warehouse) between PacifiCorp and Bowie Resource Partners, LLC, dated as of December 12, 2014.

Confidential Exhibit PAC/103 – Asset Purchase and Sale Agreement (Trail Mountain Mine) between PacifiCorp and Bowie Resource Partners, LLC, dated as of December 12 2014.

V. CONCLUSION

Based on the information provided in this Application, as well as the accompanying testimony and exhibits, PacifiCorp respectfully requests that the Commission issue an order approving the sale of the Mining Assets under PUC Section 851, and find the sale of the Mining Assets addressed in this Application is not a project subject to CEQA review.

Respectfully submitted September 18, 2015 at San Francisco, California.

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By _____
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VERIFICATION

I am an officer of the applicant in the above-captioned proceeding and am authorized to make this verification on its behalf. The statements in the foregoing document are true on my own knowledge, except as to matters which are stated therein on information or belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 18, 2015, at Portland, Oregon.

R. Bryce Dalley
Vice President, Regulation