

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**RESOLUTION E-4090  
May 24, 2007**

**R E S O L U T I O N**

Resolution E-4090. PacifiCorp. This resolution approves PacifiCorp's Advice Letter 338-E seeking approval under Public Utilities Code Section 851 to sell PacifiCorp's share of the switchyard associated with the now defunct Trojan Nuclear Project to Portland General Electric.

By Advice Letter 338-E. Filed on February 9, 2007.

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**SUMMARY**

This resolution approves PacifiCorp's Advice Letter 338-E seeking approval under Public Utilities ("PU") Code Section 851 to sell PacifiCorp's share of the switchyard associated with the now defunct Trojan Nuclear Project ("Switchyard") to Portland General Electric ("PGE").

This resolution is effective immediately.

**BACKGROUND**

Utilities proposing to sell, lease, dispose of, or otherwise encumber property must comply with PU Code Section 851. Under recent amendments to PU Code Section 851, for certain transactions valued at \$5,000,000 or less, the utility can file an advice letter and obtain a resolution from the Commission authorizing the transaction. The Commission has initiated a pilot program per Resolution ALJ-186 that provides certain criteria required for a PU Code Section 851 transaction to qualify for advice letter treatment.

On February 9, 2007, PacifiCorp filed Advice Letter 338-E pursuant to the pilot program seeking authority under PU Code Section 851 to sell PacifiCorp's share of Switchyard to PGE. Protests or comments were due to the Commission on March 12, 2007; no protests or comments were filed.

The 1130 megawatt Trojan Nuclear Project ("Project"), located near the town of Rainier, Oregon, was placed in service in 1976. PacifiCorp owns a 2.5% undivided interest in the Project, including the nearby Switchyard. Before the Project's shutdown, high voltage output from the Project substation was routed to various transmission circuits belonging to the Bonneville Power Administration ("BPA") and PGE. The Project was shutdown in 1992, and is currently undergoing decommissioning. Presently, the Switchyard is used to provide power service to the existing Project and serves no other purpose.

PacifiCorp entered into a contract to sell its 2.5% ownership share in the Switchyard to PGE, as described in the Agreement Amending the Agreement for Construction, Ownership and Operation of the Trojan Nuclear Plant and for the Purchase and Sale of the Trojan Switchyard, by and between PGE, PacifiCorp and the City of Eugene, ("Purchase and Sale Agreement"). The Purchase and Sale Agreement was executed on December 20, 2006. The Purchase and Sale Agreement is contingent upon PacifiCorp receiving approval from this Commission and the Public Service Commission of Wyoming ("Wyoming Commission"). PacifiCorp applied for approval of the transaction with the Wyoming Commission on January 31, 2007.

PacifiCorp does not serve any customers using the Switchyard. Electric service to the Project will not be affected by the proposed sale, and the proposed sale will have an immaterial effect on PacifiCorp's customer rates.

The Switchyard will continue to be used to provide station power service to the Project until the Project has been completely decommissioned. Moreover, PGE is building a new gas fired generating project (Port Westward) near the Project and wishes to interconnect Port Westward to its system via the Switchyard. PGE already owns a 67.5% interest in the facilities, and Eugene Water & Electric Board ("EWEB") has sold its 30% interest to PGE. PGE wishes to acquire PacifiCorp's remaining 2.5% interest so that it will own 100% of the Switchyard. If PGE does not buy PacifiCorp's 2.5%, PGE can still run power through the Switchyard to interconnect its Port Westward facility to its system because PGE is the majority owner in the Switchyard and, as the majority owner, PGE has operational control of the Switchyard.

In its advice letter, PacifiCorp provides information to show that it meets the eligibility criteria under the advice letter pilot program. PacifiCorp states the following. Under the California Environmental Quality Act ("CEQA") Checklist,

the activity proposed in the transaction will not require environmental review by the Commission because it is not a “project” under CEQA. The proposed transaction will not have an adverse impact on the public interest because PacifiCorp does not serve any customers using the Switchyard. Electric service to the Project will not be affected by the proposed sale, and the proposed sale will have a neutral or net positive (but negligible) effect on PacifiCorp’s customer rates. The transaction will not result in a significant physical or operational change in the Switchyard.

### **NOTICE**

Notice of Advice Letter 338-E was made by publication in the Commission’s Daily Calendar. PacifiCorp states in 338-E that a copy of the Advice Letter was mailed and distributed in accordance with Section III, G of General Order 96-A.

### **PROTESTS**

No protests or comments to PacifiCorp Advice Letter 338-E were filed.

### **DISCUSSION**

We have reviewed PacifiCorp’s Advice Letter 338-E and find that it does not satisfy criteria for inclusion in the pilot program identified in Resolution ALJ-186. Specifically, Resolution ALJ-186 applies where there is a “statutory or categorical exemption” under CEQA, or where the Commission is only a responsible agency. (Section II.A.1. of the Appendix to Resolution ALJ-186). Here, there is no “statutory or categorical exemption”, but instead, there is no “project” under CEQA, as discussed below.

We find that Advice Letter 338-E is exempt from CEQA. Although PGE intends at some point in the future to make a different use of the Switchyard than what it is currently being used for, PGE is the majority owner in the Switchyard. As majority owner, PGE has operational control of the Switchyard, in any event, whether or not we approve this transaction. Accordingly, our approval of this transaction has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment within the meaning of CEQA Guideline 15378(a). Therefore, the sale of a minority stake in the Switchyard by PacifiCorp to the majority owner

PGE does not meet the definition of a “project” as provided in CEQA Guideline 15378, and, in accordance with CEQA Guideline 15060(c)(3), CEQA does not apply.

We approve this transaction for the following reasons. The transaction will not have an adverse effect on the public interest because PacifiCorp does not serve any customers using the Switchyard. Further, PacifiCorp is a minority owner in the Switchyard, and, as a minority owner, PacifiCorp does not have operational control of the Switchyard.

### **COMMENTS**

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

### **FINDINGS**

1. On February 9, 2007, PacifiCorp filed Advice Letter 338-E pursuant to the pilot program seeking authority under PU Code Section 851 to sell PacifiCorp’s share of the Switchyard to PGE.
2. Protests or comments were due to the Commission on March 12, 2007; no protests or comments were filed.
3. The 1130 megawatt Project, located near the town of Rainier, Oregon, was placed in service in 1976.
4. PacifiCorp owns a 2.5% undivided interest in the Project, including the nearby Switchyard. Before the Project’s shutdown, high voltage output from the Project substation was routed to various transmission circuits belonging to the BPA and PGE.
5. The Project was shutdown in 1992, and is currently undergoing decommissioning.
6. Presently, the Switchyard is used to provide power service to the existing Project and serves no other purpose.
7. PacifiCorp entered into a contract to sell its 2.5% ownership share in the Switchyard to PGE.
8. The Purchase and Sale Agreement is contingent upon PacifiCorp receiving approval from this Commission and the Wyoming Commission.

9. PacifiCorp applied for approval of the transaction with the Wyoming Commission on January 31, 2007.
10. PacifiCorp does not serve any customers using the Switchyard.
11. Electric service to the Project will not be affected by the proposed sale, and the proposed sale will have an immaterial effect on PacifiCorp's customer rates.
12. The Switchyard will continue to be used to provide station power service to the Project until the Project has been completely decommissioned.
13. Moreover, PGE is building a new gas fired generating project (Port Westward) near the Project and wishes to interconnect Port Westward to its system via the Switchyard.
14. PGE already owns a 67.5% interest in the facilities, and Eugene Water & Electric Board ("EWEB") has sold its 30% interest to PGE. PGE wishes to acquire PacifiCorp's remaining 2.5% interest so that it will own 100% of the Switchyard.
15. If PGE does not buy PacifiCorp's 2.5% interest in the Switchyard, PGE can still run power through the Switchyard because PGE is the majority owner in the Switchyard and, as the majority owner, PGE has operational control of the Switchyard.
16. PacifiCorp states that under the CEQA Checklist, the activity proposed in the transaction will not require environmental review by the Commission.
17. PacifiCorp states that the proposed transaction will not have an adverse impact on the public interest because PacifiCorp does not serve any customers using the Switchyard.
18. PacifiCorp states that electric service to the Project will not be affected by the proposed sale, and the proposed sale will have a neutral or net positive (but negligible) effect on PacifiCorp's customer rates.
19. PacifiCorp states that the transaction will not result in a significant physical or operational change in the Switchyard.
20. Resolution ALJ-186 applies where there is a statutory or categorical exemption under CEQA, or where the Commission is only a responsible agency.
21. This advice letter does not satisfy criteria for inclusion in the pilot program because, here, there is no statutory or categorical exemption, but instead, there is no "project" under CEQA.
22. Advice Letter 338-E is exempt from CEQA.
23. PGE intends at some point in the future to make a different use of the Switchyard than what it is currently being used for; PGE is the majority

owner in the Switchyard, and, as majority owner, has operational control of the Switchyard, whether or not we approve this transaction.

24. Approval of this transaction has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment within the meaning of CEQA Guideline 15378(a).
25. The sale of a minority stake in the Switchyard by PacifiCorp to the majority owner PGE does not meet the definition of a "project" as provided in CEQA Guideline 15378, and, in accordance with CEQA Guideline 15060(c)(3), CEQA does not apply.
26. The transaction will not have an adverse effect on the public interest because PacifiCorp does not serve any customers using the Switchyard.
27. PacifiCorp is a minority owner in the Switchyard, and, as a minority owner, PacifiCorp does not have operational control of the Switchyard.

**THEREFORE IT IS ORDERED THAT:**

1. The request of PacifiCorp seeking approval under PU Code Section 851 to sell its share of the Switchyard to PGE per Advice Letter 338-E is approved.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on May 24, 2007; the following Commissioners voting favorably thereon:

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Paul Clanon  
Executive Director

MICHAEL R. PEEVEY  
PRESIDENT  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners