

ORDINANCE NO. 05-17

ORDINANCE GRANTING TO PACIFICORP, DBA PACIFIC POWER, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND FRANCHISE OF ERECTING, CONSTRUCTING, INSTALLING AND MAINTAINING ELECTRIC LINES CONSISTING OF POLES, CONDUITS, AND/OR OTHER SUITABLE STRUCTURES WITH WIRES, CABLES, AND/OR OTHER APPLIANCES INSTALLED THEREON OR THEREIN, INCLUDING COMMUNICATION CIRCUITS, IN SO MANY AND IN SUCH PARTS OF THE PUBLIC HIGHWAYS, STREETS, ROADS, AND PLACES OF THE COUNTY OF SISKIYOU, STATE OF CALIFORNIA, AS THE GRANTEE OF SAID RIGHT, PRIVILEGE AND FRANCHISE, ITS SUCCESSORS OR ASSIGNS, MAY FROM TIME TO TIME ELECT TO USE FOR THE FOLLOWING PURPOSES, AND OF USING SUCH ELECTRIC LINES FOR TRANSMITTING, CONVEYING, DISTRIBUTING, AND SUPPLYING ELECTRICITY TO THE PUBLIC FOR ANY AND ALL PURPOSES.

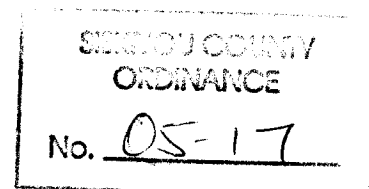
THE BOARD OF SUPERVISORS OF THE COUNTY OF SISKIYOU ORDAINS AS FOLLOWS:

Section 1: The County of Siskiyou, hereinafter referred to as "County" or "Grantor" hereby grants to PacifiCorp, dba Pacific Power, hereinafter referred to as "Grantee", the right, privilege and franchise to:

- (a) erect, construct, install and maintain electric lines consisting of poles, conduits, and/or other suitable structures, with wires, cables, and/or other appliances installed thereon or therein, including communication circuits, in so many and in such parts of the public highways, streets, roads and places of said county, including state highways now or hereafter established in said county, as the Grantee of said right, privilege and franchise, its successors or assigns, may from time to time elect to use for the following purposes; and to
- (b) use such electric lines for transmitting conveying distributing, and supplying electricity to the public for any and all purposes.

Section 2: The term of this franchise shall commence the effective date of this ordinance and continue and remain in full force and effect for a period of fifteen (15) years unless the Grantee, its successors and assigns

- (a) surrenders or abandons this franchise,
- (b) forfeits this franchise for noncompliance with its terms, or
- (c) the State of California, the County, or other public corporation thereunto duly authorized, purchases by voluntary agreement or condemns and takes under the power of eminent domain in accordance with then existing law all property actually used and useful in the exercise of this franchise situated within the unincorporated area of the County.



Section 3: This franchise does not in any way impair or affect the County's right to acquire the property of the Grantee by purchase or condemnation, and nothing contained in this franchise shall be construed to contract away, modify or abridge either for a term or in perpetuity the County's right of eminent domain. (*California Public Utilities Code Section 6262*)

Section 4: This franchise shall not be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the Grantee of the necessary publication and any other sum paid by it to County therefor at the time of acquisition. (*California Public Utilities Code Section 6263*)

Section 5: All electric lines which shall be constructed and used under and pursuant to the provisions of this franchise and in the exercise of this franchise shall be erected and construed in a good and workmanlike manner under the direction and upon the prior approval of the County's Public Works Director and shall be maintained in compliance with all valid laws and ordinances. Upon the written request of the County Public Works Director or the Board of Supervisors, the Grantee, its successors or assigns, shall within sixty (60) days thereafter and at its own cost and expense remove or replace any electric lines or related facilities now in place or hereafter put in place and maintained hereunder on (1) any county highway or county property where such changes are necessary for the public safety or for the improvement of such county road for the traveling public, or (2) any county highway or county property to which the County has a prescriptive or prior right. However, the authority of the Public Works Director or the Board of Supervisors to make such request shall not continue in respect to any county road when the same shall become a state highway or freeway, nor shall it apply to any state highway or freeway now or hereafter established, and this provision shall not be deemed an obligation of the Grantee its successors and assigns, in respect to any such highway or freeway within the purview of Section 703 of the Streets and Highways Code of the State of California.

Section 6: Grantee shall, immediately upon erecting, constructing, installing, replacing or repairing the said electric lines, or any part thereof, at its own cost and expense place said highways, streets, roads and places or so much thereof as may have been damaged thereby, in the order and condition required by any encroachment permit that may have issued for such work or in as good order and condition as that in which they were before being disturbed or excavated for the purpose of erecting, constructing, installing, replacing or repairing said electric lines or any part thereof. Grantee shall guaranty the quality of the repair work for a period of twenty four (24) months from the date of repair. Should maintenance of such repair work become necessary during such guaranty period, Grantee shall, at its own cost and expense, perform such maintenance.

Section 7: Grantee shall have the right to maintain, repair and replace any or all of such electric lines from time to time as may be necessary and proper and trim and remove trees and vegetation which could interfere with electric lines and other facilities or which could cause a safety hazard. Grantee shall obtain an encroachment permit before this work is

done in the county road right-of-way and pay all associated fees, if any, including, but not limited to, inspection fees.

Section 8: Grantee shall file with the County Clerk within three (3) months after the expiration of the calendar year, or fractional calendar year, following the date of the granting of this franchise and within three (3) months after the expiration of each calendar year thereafter, a verified statement showing in detail the total gross receipts of the Grantee during the preceding calendar year or fractional calendar year from the sale of the utility service for which the franchise was granted. (*California Public Utilities Code Section 6299*)

Section 9: Subject to any other consideration paid to County by Grantee, Grantee shall, during the term for which this franchise is granted, pay to County no less than two per cent (2%), or to the fullest extent permitted by law, of its gross annual receipts arising from the use, operation or possession thereof. Grantee shall pay the County such fees within fifteen (15) days after the time for filing its statement of gross receipts pursuant to Section 8. Any neglect, omission, or refusal by the Grantee to file the verified statement, or to pay the percentage at the times or in the manner provided constitutes grounds for the declaration of a forfeiture of the franchise and of all rights thereunder. (*California Public Utilities Code Section 6300*)

Section 10: If the Grantee fails, neglects or refuses to comply with any of the provisions or conditions prescribed in this franchise, and does not within ten (10) days after written demand for compliance begin the work of compliance, or after such beginning does not prosecute the work with due diligence to completion, the County may declare the franchise forfeited. (*California Public Utilities Code Section 6291*)

Section 11: Grantee shall pay to County a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of this franchise. Such payment shall be made within thirty (30) days after the County furnishes the Grantee with a written statement of the expenses. (*California Public Utilities Code Section 6293*)

Section 12: Grantee shall indemnify and hold harmless the County and its officers from all liability for damages proximately resulting from any operations under the franchise unless such damages are caused by the sole negligence of the County or its officers or relate to the gross negligence or willful misconduct of the County or its officers. (*California Public Utilities Code Section 6295*)

Section 13: Prior to any sale, transfer, assignment, or lease of this franchise, or any part thereof, or any of the rights or privileges granted thereby, Grantee shall give County no less than sixty (60) days' written notice of its intention to sell, transfer, assign or lease this franchise, or any part thereof, which notice shall include the terms and conditions of the proposed transaction. Grantee shall file with the County within thirty (30) days after any sale, transfer, assignment, or lease of the franchise or any part thereof, or any of the rights or privileges granted thereby, written evidence of the transaction certified to by the Grantee or its duly authorized officers. (*California Public Utilities Code Section 6298*)

Section 14: Grantee shall be liable to the County for all damages proximately resulting from the failure of the Grantee to well and faithfully observe and perform any provision of this franchise. (*California Public Utilities Code Section 6302*)

Section 15: This franchise is granted under and pursuant to the provisions of the laws of the State of California that relate to the granting of franchises by counties.

Section 16: This ordinance shall become effective 30 days after its passage and shall, within 15 days of adoption published once in a newspaper of general circulation, printed and published in the County of Siskiyou.

PASSED AND ADOPTED this 13<sup>th</sup> day of December, by the following vote:

AYES: Supervisors Erickson, Hoy, Armstrong and Cook

NOES: NONE

ABSENT: Supervisor Overman

ABSTAIN: NONE

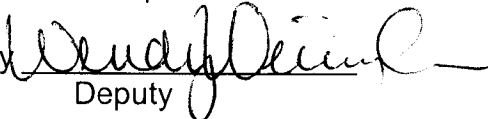


LaVada Erickson  
Chair, Board of Supervisors

ATTEST:

COLLEEN BAKER, CLERK

Board of Supervisors

By   
Deputy

Siskiyou County Board of Supervisors  
P.O. Box 338, 311 Fourth Street  
Yreka, CA 96097  
Telephone: (530) 842-8081

# AGENDA WORKSHEET

Consent  Regular

Meeting Date: December 6, 2005

Time Needed: \_\_\_\_\_

*32*  
*9/11*

Contact Person/Department: Frank J. DeMarco/County Counsel's Office

Address: 205 Lane Street, P. O. Box 659, Yreka, CA 96097

Telephone Number: (530) 842-8100

For Clerk's Use Only

Person(s) Appearing & Title: Frank J. DeMarco, County Counsel

### Subject/Summary of Issue

**FIRST READING OF ORDINANCE GRANTING TO PACIFICORP, DBA PACIFIC POWER, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AND FRANCHISE OF ERECTING, CONSTRUCTING, INSTALLING AND MAINTAINING ELECTRIC LINES CONSISTING OF POLES, CONDUITS, AND/OR OTHER SUITABLE STRUCTURES WITH WIRES, CABLES, AND/OR OTHER APPLIANCES INSTALLED THEREON OR THEREIN, INCLUDING COMMUNICATION CIRCUITS, IN SO MANY AND IN SUCH PARTS OF THE PUBLIC HIGHWAYS, STREETS, ROADS, AND PLACES OF THE COUNTY OF SISKIYOU, STATE OF CALIFORNIA, AS THE GRANTEE OF SAID RIGHT, PRIVILEGE AND FRANCHISE, ITS SUCCESSORS AND ASSIGNS, MAY FROM TIME TO TIME ELECT TO USE FOR THE FOLLOWING PURPOSES, AND OF USING SUCH ELECTRIC LINES FOR TRANSMITTING, CONVEYING, DISTRIBUTING, AND SUPPLYING ELECTRICITY TO THE PUBLIC FOR ANY AND ALL PURPOSES FOR A PERIOD OF 15 YEARS COMMENCING WITH THE EFFECTIVE DATE OF THE ORDINANCE**

On February 17, 2004, this Board adopted Urgency Ordinance 04-04, which granted a franchise for a period not to exceed one year to PacifiCorp, dba Pacific Power, its successors and assigns, the right, privilege, and franchise of erecting, constructing, installing and maintaining electric lines consisting of poles, conduits, and/or other suitable structures with wires, cables, and/or other appliances installed thereon or therein, including communication circuits within Siskiyou County. The franchise ordinance was subsequently extended to February 1, 2006. The ordinance presented today is the long term franchise ordinance which grants a 15 year franchise to PacificCorp commencing with the effective date of the ordinance.

Financial Impact?

Yes

Please describe impact, indicate funding source & amount budgeted.

No

Please explain why there is no financial impact.

Continued receipt of franchise fees

### Recommended Motion

That the Board approve for a second reading the attached Ordinance granting PacifiCorp a 15 year franchise for the purposes set forth in said ordinance, which term would commence upon the effective date of the ordinance and continue in effect for a period of 15 years therefrom.

### REVIEWED AS RECOMMENDED BY POLICY

County Counsel  
Personnel  
Auditor  
County Administrator

*Frank J. DeMarco*  
*[Signature]*

### CLERK'S INSTRUCTIONS

Certified Minute Order(s) \_\_\_\_\_

Other \_\_\_\_\_  
\_\_\_\_\_

NOTE: TO ENSURE PLACEMENT ON THE AGENDA, THE ORIGINAL AGENDA WORKSHEET ALONG WITH 10, STAPLED, 3-HOLE PUNCHED COPIES MUST BE SUBMITTED DIRECTLY TO THE BOARD CLERK BY 3:00 P.M. ON THE WEDNESDAY BEFORE THE BOARD MEETING.



# COUNTY OF SISKIYOU

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*Colleen Baker*

County Clerk • Registrar of Voters

Courthouse  
311 Fourth Street  
P.O. Box 338  
Yreka, CA 96097-0338

County Clerk  
(530) 842-8084

Board of Supervisors  
(530) 842-8081

Elections  
(530) 842-8086

Fax  
(530) 842-8093

Website  
[www.co.siskiyou.ca.us](http://www.co.siskiyou.ca.us)

December 14, 2005

**FAX**

Siskiyou Daily News  
P.O. Box 129  
Yreka, CA. 96097

Dear Madam or Sir,

Please publish the attached ordinance(s), one time, as a legal publication on **Monday, December 19, 2005**, and forward an affidavit of publication to the County Clerk.

Please send a **copy** of the affidavit and the **invoice** to the Board of Supervisors, c/o County Administrator PO Box 750, Yreka CA 96097.

Sincerely,  
COLLEEN BAKER, County Clerk

By: Wendy Winingham, Deputy County Clerk

*Attachment*

**BEFORE THE BOARD OF SUPERVISORS**  
**COUNTY OF SISKIYOU, STATE OF CALIFORNIA**

**December 6, 2005**

PRESENT: Supervisors LaVada Erickson, Bill Hoy, Jim Cook and Marcia H. Armstrong.  
Chair Erickson presiding.

ABSENT: Supervisor Bill Overman

ADMINISTRATOR: Howard Moody

DEPUTY COUNTY CLERK: Wendy Winningham

COUNTY COUNSEL: Frank J. DeMarco

PURPOSE OF MEETING: Regular

**COUNTY COUNSEL** - First reading of an Ordinance granting to PacifiCorp, DBA Pacific Power, its successors and assigns, the right, privilege and franchise of erecting, constructing, installing and maintaining electric lines consisting of poles, conduits, and/or other suitable structures with wires, cables, and/or other appliances installed thereon or therein, including communication circuits, in so many and in such parts of the public highways, streets, roads, and places of the County of Siskiyou, State of California, as the grantee of said right, privilege and franchise, its successors or assigns, may from time to time elect to use for the following purposes, and of using such electric lines for transmitting, conveying, distributing, and supplying electricity to the public for any and all purposes, for a period of fifteen years commencing with the effective date of the Ordinance.

Pursuant to Government Code §25131 a proposed ordinance regarding PacifiCorp, DBA Pacific Power, was introduced.

County Counsel Frank DeMarco provided an overview of the proposed ordinance and requested that the second reading be scheduled for the meeting of December 13, 2005.

Continued.....

STATE OF CALIFORNIA    )  
                                  ) ss  
COUNTY OF SISKIYOU    )

I, COLLEEN BAKER, County Clerk and Ex-Officio Clerk of the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of the minute order of said Board of Supervisors passed on December 6, 2005.

c: File

Witness my hand and seal this

\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

COLLEEN BAKER, County Clerk and ex-Officio Clerk of  
the Board of Supervisors of Siskiyou County, California

By: \_\_\_\_\_  
Deputy Clerk

**BEFORE THE BOARD OF SUPERVISORS**  
**COUNTY OF SISKIYOU, STATE OF CALIFORNIA**

**December 6, 2005**

PRESENT: Supervisors LaVada Erickson, Bill Hoy, Jim Cook and Marcia H. Armstrong.  
Chair Erickson presiding.

ABSENT: Supervisor Bill Overman

ADMINISTRATOR: Howard Moody

DEPUTY COUNTY CLERK: Wendy Winningham

COUNTY COUNSEL: Frank J. DeMarco

PURPOSE OF MEETING: Regular

**COUNTY COUNSEL** - First reading of an Ordinance granting to PacifiCorp, DBA Pacific Power, its successors and assigns, the right, privilege and franchise of erecting, constructing, installing and maintaining electric lines consisting of poles, conduits, and/or other suitable structures with wires, cables, and/or other appliances installed thereon or therein, including communication circuits, in so many and in such parts of the public highways, streets, roads, and places of the County of Siskiyou, State of California, as the grantee of said right, privilege and franchise, its successors or assigns, may from time to time elect to use for the following purposes, and of using such electric lines for transmitting, conveying, distributing, and supplying electricity to the public for any and all purposes, for a period of fifteen years commencing with the effective date of the Ordinance. *(continued)*

**MOTION:**  
Armstrong/Cook  
**AYES:** Erickson, Hoy,  
Armstrong and Cook  
**ABSENT:** Overman

Approve first reading of Ordinance granting to PacifiCorp, DBA Pacific Power, its successors and assigns, the right, privilege and franchise of erecting, constructing, installing and maintaining electric lines consisting of poles, conduits, and/or other suitable structures with wires, cables, and/or other appliances installed thereon or therein, including communication circuits, in so County of Siskiyou, State of California, as the grantee of said right, privilege and franchise, its successors or assigns, may from time to time elect to use for the following purposes, and of using such electric lines for transmitting, conveying, distributing, and supplying electricity to the public for any and all purposes, for a period of fifteen years commencing with the effective date of the Ordinance, and continue to December 13, 2005 for the second reading.

STATE OF CALIFORNIA    )  
  ) ss  
COUNTY OF SISKIYOU    )

I, COLLEEN BAKER, County Clerk and Ex-Officio Clerk of the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of the minute order of said Board of Supervisors passed on December 6, 2005.

Witness my hand and seal this

c: File

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

COLLEEN BAKER, County Clerk and ex-Officio Clerk of  
the Board of Supervisors of Siskiyou County, California

By: \_\_\_\_\_  
Deputy Clerk

**BEFORE THE BOARD OF SUPERVISORS**  
**COUNTY OF SISKIYOU, STATE OF CALIFORNIA**

**December 13, 2005**

PRESENT: Supervisors LaVada Erickson, Bill Hoy, Jim Cook and Marcia H. Armstrong.  
Chair Erickson presiding.

ABSENT: Supervisor Overman

ADMINISTRATOR: Howard Moody

DEPUTY COUNTY CLERK: Wendy Winningham

COUNTY COUNSEL: Frank J. DeMarco

PURPOSE OF MEETING: Regular

**COUNTY COUNSEL** - Second reading of an Ordinance granting to PacifiCorp, DBA Pacific Power, its successors and assigns, the right, privilege and franchise of erecting, constructing, installing and maintaining electric lines consisting of poles, conduits, and/or other suitable structures with wires, cables, and/or other appliances installed thereon or therein, including communication circuits, in so many and in such parts of the public highways, streets, roads, and places of the County of Siskiyou, State of California, as the grantee of said right, privilege and franchise, its successors or assigns, may from time to time elect to use for the following purposes, and of using such electric lines for transmitting, conveying, distributing, and supplying electricity to the public for any and all purposes, for a period of fifteen years commencing with the effective date of the Ordinance.

Pursuant to Section 25131 of the Government Code a proposed Ordinance regarding PacifiCorp, DBA Pacific Power, came before the Board for a second reading, the same having been introduced on December 6, 2005.

County Counsel Frank DeMarco provided an overview of the proposed ordinance.  
Continued.....

STATE OF CALIFORNIA    )  
                                  ) ss  
COUNTY OF SISKIYOU    )

I, COLLEEN BAKER, County Clerk and Ex-Officio Clerk of the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of the minute order of said Board of Supervisors passed on December 13, 2005.

c: File

Witness my hand and seal this

\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

COLLEEN BAKER, County Clerk and ex-Officio Clerk of  
the Board of Supervisors of Siskiyou County, California

By: \_\_\_\_\_  
Deputy Clerk

**BEFORE THE BOARD OF SUPERVISORS**  
**COUNTY OF SISKIYOU, STATE OF CALIFORNIA**

December 13, 2005

PRESENT: Supervisors LaVada Erickson, Bill Hoy, Jim Cook and Marcia H. Armstrong.  
Chair Erickson presiding.

ABSENT: Supervisor Overman

ADMINISTRATOR: Howard Moody

DEPUTY COUNTY CLERK: Wendy Winningham

COUNTY COUNSEL: Frank J. DeMarco

PURPOSE OF MEETING: Regular

**COUNTY COUNSEL** - Second reading of an Ordinance granting to PacifiCorp, DBA Pacific Power, its successors and assigns, the right, privilege and franchise of erecting, constructing, installing and maintaining electric lines consisting of poles, conduits, and/or other suitable structures with wires, cables, and/or other appliances installed thereon or therein, including communication circuits, in so many and in such parts of the public highways, streets, roads, and places of the County of Siskiyou, State of California, as the grantee of said right, privilege and franchise, its successors or assigns, may from time to time elect to use for the following purposes, and of using such electric lines for transmitting, conveying, distributing, and supplying electricity to the public for any and all purposes, for a period of fifteen years commencing with the effective date of the Ordinance. *(continued)*

**MOTION:** Hoy/Armstrong  
**AYES:** Erickson, Hoy,  
Armstrong and Cook  
**ABSENT:** Overman

Waive the second reading and adopt Ordinance 05-17, granting to PacifiCorp, DBA Pacific Power, its successors and assigns, the right, privilege and franchise of erecting, constructing, installing and maintaining electric lines consisting of poles, conduits, and/or other suitable structures with wires, cables, and/or other appliances installed thereon or therein, including communication circuits, in so many and in such parts of the public highways, streets, roads, and places of the County of Siskiyou, State of California, as the grantee of said right, privilege and franchise, its successors or assigns, may from time to time elect to use for the following purposes, and of using such electric lines for transmitting, conveying, distributing, and supplying electricity to the public for any and all purposes, for a period of fifteen years commencing with the effective date of the Ordinance.

STATE OF CALIFORNIA    )  
                                  ) ss  
COUNTY OF SISKIYOU    )

I, COLLEEN BAKER, County Clerk and Ex-Officio Clerk of the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of the minute order of said Board of Supervisors passed on December 13, 2005.

c: File

Witness my hand and seal this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

COLLEEN BAKER, County Clerk and ex-Officio Clerk of  
the Board of Supervisors of Siskiyou County, California

By: \_\_\_\_\_  
Deputy Clerk