

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 28, 2015

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: April 21, 2015

TO: Public Utility Commission

FROM: Mitchell Moore ^{mm} 

THROUGH: Jason Eisdorfer and Marc Hellman

SUBJECT: PACIFICORP: (Docket No. UP 318) Requests approval of sale of utility property to private buyer.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve the application by PacifiCorp dba Pacific Power (Company) to sell certain utility property (Property) to a developer (Buyer) subject to certain conditions described below.

INTRODUCTION:

This application was filed on February 20, 2015, pursuant to ORS 757.480(1)(a) and OAR 860-027-0025.

PacifiCorp seeks approval from the Commission for an order authorizing the sale of Property located on Airport Road in Pendleton Oregon. The Property is currently being used by the Company's local operations for storage and pole top rescue training. The Company also has distribution facilities that cross the Property.

The Company decided to sell the Property after receiving an unsolicited offer from an investment company. The Buyer is purchasing the property for the purpose of constructing an office building that Buyer anticipates will house a crime laboratory for the State of Oregon. Under the terms of the purchase agreement, PacifiCorp will retain an easement for the existing distribution facilities. It will move the storage facilities and pole top rescue operations to an adjacent location.

The 3.75 acre Property is partially classified as utility property and partially classified as non-utility (i.e. not included in rate base) property. Approximately 1.125 acres

(30 percent of the total) is used by the utility's operations and distribution facilities, and that portion is included in rate base.

The sales price of the entire Property is \$540,000. In lieu of a professional appraisal of the Property's value, the Company sought an opinion from an independent third-party real estate broker. The Buyer had made an initial offer, and the Company countered the initial offer after the independent broker's opinion of value. The Buyer accepted the Company's counter-offer of \$540,000, an offer that includes the Company retaining an easement for maintenance of existing and construction of future facilities.

Of the \$540,000 sales price, \$162,000 is attributable to the utility portion. The book value of the utility portion is \$53,741. The net proceeds of the sale credited to customers, under FERC Account 421.1 will be \$104,658, which includes estimated administrative costs the Company will incur for performing the transaction and that are attributable to the utility portion.

The costs associated with relocating the existing storage and pole top rescue training facilities are estimated to be \$11,000, of which \$6,000 will be capitalized. These costs will not be counted against the gain on sale of the Property. The capital improvements required to accommodate the training facility at an alternate location will be recorded as utility property. The expenses associated with relocation of the existing poles and equipment from the current pole training yard to the new location will be expensed as incurred.

The Company and the Buyer have executed an agreement for sale and purchase of the Property, and the agreement is contingent on the Company receiving all necessary regulatory approvals prior to closing.

APPLICABLE LAW:

Under ORS 757.480(1)(a), a public utility doing business in Oregon must obtain the Commission's approval to "sell, lease, assign or otherwise dispose of the whole of the property of such public utility necessary or useful in the performance of its duties to the public or any part thereof of a value in excess of \$100,000..."

The utility must present sufficient facts to allow the Commission to determine whether the proposed property sale will be consistent with the public interest. OAR 860-027-0025(1)(l); see Docket No. UP 296, Order No. 14-037.

The Commission has reserved the right to review any or all financial aspects of a transaction in a general rate case or other proceeding, and may condition approval of a

sale on receiving notice in advance of any substantive changes to the sale and transfer of the property including any material change in price. See Docket No. UP 235, Order No. 06-651; Docket No. UP 57, Order No. 90-433.

In support of a request for approval of a property sale, the utility must provide the information and documentation listed in OAR 860-027-0025.

STAFF ANALYSIS:

Staff investigated the following issues:

1. Scope and Terms of the Asset Purchase Agreement
2. Appraisal History
3. Transfer Pricing and Allocation of Gain
4. Public Interest Compliance
5. Records Availability, Audit Provisions, and Reporting Requirements

Scope and Terms of the Asset Purchase Agreement

Staff reviewed the property Purchase Agreement, which was included in the Company's filing as Attachment A, and did not identify any unusual or restrictive terms or conditions. The purchase order contains the details of the transaction, as well as the accompanying terms and conditions. The Company's filing provides the required documentation under OAR 860-027-0025.

Appraisal History

There were no appraisal costs associated with this transaction, as the Company did not have the Property appraised for this transaction. Through a series of data requests, Staff investigated the circumstances surrounding the estimation of the Property's value.

The Company received an unsolicited offer for the Property that required the Company to respond within a week. The Company had no prior knowledge of the offer and did not have the Property listed for sale. In lieu of an appraisal, the Company obtained an independent third-party broker's opinion within that time. Staff obtained, through a confidential response to a data request, the independent third-party real estate broker's opinion on the value of the property. The broker provided a range for the valuation of the property, and the sale price of the property falls within that range. The Company believes that this provided a reasonable representation of fair market value, and also met the timeline requirement to respond to the offer. The Company also considered a prior appraisal from 2006, which placed the value of the Property at \$187,500.

Upon review of the discussion about the Property value from the third-party broker, and given the Company's explanation regarding the timing and circumstances of the sale, Staff is satisfied that appropriate measures were taken to ensure that the Company received fair value for the sale of the Property.

Transfer Pricing and Allocation of Gain

The Purchase Price of the Property is \$540,000. Expenses associated with selling the Property are recorded as \$12,000, resulting in \$528,000 net proceeds. Of that, \$158,400 is attributable to utility property. As the book value of the utility portion of the Property is estimated at \$53,741, the Company proposes recording \$104,659 as the utility gain on the property.

The Company's proposal adheres to the Commission's desired treatment of gain/losses on the sale of land for the purposes of the Property sale. The standard treatment by the Commission for transfer of the benefits of such gains to ratepayers is the addition to a balancing account with interest accruing at the utility's authorized rate of return until amortized and returned through an approved rate schedule. The gain from this Property sale is \$104,659, which the Company proposes to credit to the FERC Account 421.1 – utility gain on property sale.

Public Interest Compliance

The Property is not needed by the Company, as the existing transmission and distribution facilities can be accommodated by the easement that will be retained as part of the sale agreement. The easement will also allow for construction of future facilities as needed. The training and storage facilities can be moved to an adjacent property. The proposed sale will not affect the PacifiCorp's ability to provide safe and reliable electric service. Staff is satisfied that the Buyer is paying fair value for the Property, consistent with an independent third-party broker's valuation, and given that the Buyer is paying nearly three times the 2006 appraised value of \$187,500.

Because customers will not be harmed by this transaction, and because customers will realize the gain on the Property sale when it is amortized in a future rate schedule, Staff recommends that the Commission find this sale is in the public interest.

Records Availability, Audit Provisions, and Reporting Requirements

The Commission retains the ability to review all property sales of the Company through general rate case filings. Staff's recommended condition provides for documentation of this Property sale.

CONCLUSION:

Staff finds the proposed property sale to be in the public interest, as explained above, and recommends that the Commission approve the transaction with the following condition:

1. The Company shall notify the Commission in advance of any substantive changes to the transfer of property, including any material changes in price. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved shall be submitted for approval in an application for a supplemental order (or other appropriate form) in this docket.

PROPOSED COMMISSION MOTION:

PacifiCorp's application to sell the Property in Pendleton be approved, subject to Staff's recommended condition.