

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT

PUBLIC MEETING DATE: July 22, 2014

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: July 14, 2014

TO: Public Utility Commission

FROM: Brian Bahr 
   

THROUGH: Jason Eisdorfer, Maury Galbraith, and Marc Hellman

SUBJECT: PACIFICORP: (Docket No. UP 298) Requests approval to lease a communications site to the State of Oregon through the Oregon Department of Transportation.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve the application by PacifiCorp dba Pacific Power (PacifiCorp or Company) to lease a communications site located on Mt. Isabelle, located in Jackson County, Oregon (Site), to the State of Oregon (State) through the Oregon Department of Transportation (ODOT), subject to the following condition:

1. Company shall notify the Commission in advance of any substantive changes to the transfer of properties, 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 herein shall be submitted for approval in an application for a supplemental order (or other appropriate form) in this docket.

DISCUSSION:

The Company filed a notice of property disposition on May 2, 2014, in accordance with ORS 757.480(2), which states:

A public utility that sells, leases, assigns or otherwise disposes 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 \$25,000, but less than \$100,000 shall notify the commission of the sale within 60 days following the date of sale.

Under the lease agreement, PacifiCorp will receive \$185,820 over the course of the five-year initial term. The portion of lease revenue allocable to Oregon rates is \$50,886.

ORS 757.480 does not state explicitly whether the \$25,000 and \$100,000 thresholds refer to total-company or state-allocated amounts. In filing this notice, PacifiCorp interpreted the statute as referring to only the state-allocated value, which in this case is \$50,886, and therefore filed notice of the property disposition. Subsequent to the Company's filing, the Commission determined the thresholds refer to total-company amounts.¹ Staff has treated the original filing as an application rather than a notice.

PacifiCorp is licensed by the US Bureau of Land Management (US BLM) to own and operate a communications site on Mt. Isabelle, located in Jackson County, Oregon (Site), which was constructed in 2013. The Company entered into a Non-Exclusive Communication Site Lease Agreement (Agreement) with the State of Oregon through the Oregon Department of Transportation (ODOT) on behalf of the "State Radio Project."

With this application, PacifiCorp requests Commission approval to lease unused space on the Site to State of Oregon through ODOT on behalf of the "State Radio Project" at an amount of approximately \$185,820 over five years, \$50,886 of which is allocable to Oregon. Staff's review included examination of the Company's application, applicable laws and rules, and the Company's responses to 21 data requests from Staff.

Issues

Staff investigated the following issues:

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

Scope and Terms of the Asset Purchase Agreement

Staff's review of the Agreement did not identify any unusual or restrictive terms or conditions. The Agreement is for five years, during which time upkeep and maintenance of the property, other than the fueling and maintenance of a shared generator on the Site, will primarily be the responsibility of the Company.² The cost of such maintenance is yet undetermined as the site is new and has not required maintenance to date.³

¹ See Commission Order No. 14-254 in Docket No. DR 47.

² See Company's response to Staff Data Request No. 14.

³ See Company's responses to Staff Data Requests No. 11 and No. 12.

Allocation of Gain

The Site was constructed in 2013 at an original cost of \$1,676,947. Accounting for depreciation, the net book value as of April 30, 2014 was \$1,607,789.⁴ The market and book values of the land on which the Site is located is unknown to the Company, as the land is owned by US BLM, not PacifiCorp.⁵ The lease price was negotiated between the State and the Company, and considered factors such as comparable lease rates, location of antenna placement on the tower, the cost to build the tower and building, the amount of space available after the Company's needs are met and the amount of space required by the State to meet its needs.⁶

Though the Company currently uses only approximately 15 percent of the tower and 36 percent of the equipment rack,⁷ 100 percent of the construction costs were included in rate base, embedded in the major plant additions adjustment, in the Company's most recent general rate case, Docket No. UE 263.⁸ The allocation rate used to allocate these construction costs to Oregon was the System Overhead (SO) factor. The cost was included according to the Company because communication sites are limited and no other location effectively covers southwestern Medford, Oregon, thus rendering this location the most cost effective.⁹

Oregon's portion of the revenue from the lease will be allocated and reflected in future rate proceedings through FERC account 454, Rent From Electric Property.¹⁰ The allocation rate to be used is the SO allocation factor of 27.3843 percent, as approved in Docket No. UE 263.¹¹

Public Interest Compliance

Leasing the Site to the State does not impede the Company's ability to provide safe and reliable service. Currently, the Company occupies only 15 percent of the tower capacity and 36 percent of the equipment rack capacity at the Site, thereby allowing excess capacity to be leased out.¹² Additionally, the Company can require the lessee to perform certain compatibility studies prior to installing antennas, and can terminate the use of any of the lessee's equipment that causes interference with the Company's until such time as the interference is resolved.

⁴ See Company's response to Staff Data Request No. 2.

⁵ See Company's responses to Staff Data Requests No. 5 and No. 6.

⁶ See Company's response to Staff Data Request No. 13.

⁷ See Company's response to Staff Data Request No. 7.

⁸ See Company's response to Staff Data Request No. 8.

⁹ See Company's response to Staff Data Request No. 18.

¹⁰ See Company's response to Staff Data Request No. 15.

¹¹ See Company's response to Staff Data Request No. 10.

¹² See Company's response to Staff Data Request No. 7.

Docket No. UP 298
July 14, 2014
Page 4

The Commission customarily applies a no harm standard with regard to the public interest compliance of property sales. Because customers are not harmed by this transaction, Staff concludes that the sale is in the public interest.

Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that 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. The Company has reviewed this memo and has no objections or concerns.

PROPOSED COMMISSION MOTION:

PacifiCorp's application for approval to lease a communications site to the State of Oregon be approved subject to Staff's recommended condition.

UP 298