

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: June 9, 2015**

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: May 19, 2015

TO: Public Utility Commission

FROM: Linnea Wittekind *LW*

THROUGH: *MTGE* Jason Eisdorfer and *A* Marc Hellman

SUBJECT: PACIFICORP: (Docket No. UP 322) Requests an Order Authorizing the Lease of Certain Property near Montpelier, Idaho.

**STAFF RECOMMENDATION:**

The Public Utility Commission of Oregon (Commission) should approve Pacific Power's (PacifiCorp or Company) application for authority to lease property near Montpelier, Idaho, subject to the following condition:

1. PacifiCorp shall notify the Commission in advance of any substantive change to this lease, 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.

**STANDARD OF REVIEW**

PacifiCorp filed this application on March 20, 2015 pursuant to ORS 757.480 and OAR 860-027-0025. These are the laws governing the sale or lease of utility property. ORS 757.480 provides, in relevant part, that a utility shall obtain the Commission's approval prior to selling property used to provide utility service. OAR 860-027-0025(1)(l) requires the applicant to show that the property sale will be consistent with the public interest. The Commission has interpreted the phrase "consistent with the public interest" to require a showing of "no harm to the public." See, e.g. *In the Matter of the Application of PacifiCorp*, Order No. 00-112 at 6 (2000); *In the Matter of the Application of Portland General Electric*, Order No. 99-730 at 7 (1999).

**DISCUSSION:**

PacifiCorp requests the Commission issue an order authorizing the Company to lease certain property located near Montpelier, Idaho to Wollstenhulme Farms (Lessee) for agricultural purposes. The Lessee intends to graze livestock and growing agricultural crops.

PacifiCorp owns property near Montpelier that was purchased in the 1980s as part of flood mitigation efforts in the area. The property is considered part of the hydroelectric generation projects and is included in the Company's ratebase.

PacifiCorp proposes to lease 749 acres property it holds as part of its flood mitigation efforts supporting the Bear River-Bear Lake hydroelectric system. Additionally, PacifiCorp proposes to lease certain water rights to the Lessee to support the Lessee's agricultural purpose. There are no PacifiCorp facilities located on the property and the property is not otherwise used in operations. PacifiCorp does not need the water rights to support its operations.

The lease agreement that is the subject of this proceeding is the result of Woolstenhulme Farms exercising its first right of refusal to lease, for another five years (January 1, 2015 to December 31, 2020), the same property already being leased for five years (January 1, 2010 to December 31, 2014) with new terms and conditions.

In review of the application, Staff issued two data requests.

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 Lease Agreement

Staff's review of the Agricultural Lease Agreement did not identify any unusual or restrictive terms or conditions. When PacifiCorp originally leased the property in this application to Woolstenhulme Farms, PacifiCorp selected Woolstenhulme Farms through a competitive bid process, which Staff has reviewed. As part of the original Agricultural Lease Agreement, Woolstenhulme Farms had first right of refusal to renew its lease for another five years. The new lease is effective January 1, 2015, and is set to last five years ending on December 31, 2020. Though the lease has an effective

date of January 1, 2015, the lease agreement will not be executed until the Company receives approval from the Commission.

#### Allocation of Gain

The transaction has a total value of \$125,000 with \$32,600 total being allocated to Oregon over five years. After the Company receives payment from the Lessee, Lessee's Account Receivable account will be credited the payment amount and a debit will be made to Main Depository-Deposit Clearing Account in the same amount.

#### Public Interest Compliance

The proposed Lease will not harm customers. No PacifiCorp facilities are located on the 749 acres of property in this application. Additionally, the Lessee's use will not interfere with PacifiCorp's use of the property. PacifiCorp retains the right to use the property for utility purposes if needed. Because customers are not harmed by this transaction, Staff concludes that the lease is in the public interest.

#### Records Availability, Audit Provisions, and Reporting Requirements

Order Condition Number 1 listed above in the Staff Recommendations afford the Commission necessary examination of PacifiCorp's books and records concerning the lease. Staff notes that the Commission retains the ability to review all property sales and lease agreements of the Company through general rate case filings.

### **PROPOSED COMMISSION MOTION:**

PacifiCorp's application for authority to lease property near Montpelier, Idaho be approved subject to the condition stated in Staff's Recommendation set forth in this memorandum.