ITEM NO. CA10

PUBLIC UTILITY COMMISSION OF OREGON
CONFIDENTIAL STAFF REPORT
PUBLIC MEETING DATE: September 26, 2017

REGULAR ____ **CONSENT** __X__ **EFFECTIVE DATE** ______N/A______

DATE: September 14, 2017

TO: Public Utility Commission

FROM: Scott Gibbens SG

THROUGH: Jason Eisdorfer and Marc Hellman

SUBJECT: PACIFIC POWER: (Docket No. UP 348) Requests Approval for the Exchange of Property in Salt Lake County, Utah to Monarch Development of Salt Lake.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve the exchange of property by PacifiCorp DBA Pacific Power (PacifiCorp or Company) to Monarch Development of Salt Lake (Monarch) subject to the following conditions:

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.

2. The final journal entry recording the transaction shall be submitted to the Commission within 60 days after the transaction closes.

3. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or earnings review under an alternate form of regulation.

4. The gain on the property sale should be placed into the Property Sales Balancing Account until such time as it can be returned to customers.

DISCUSSION:

Issue

Whether the Commission should approve the exchange of certain property along a transmission corridor, located in Salt Lake County, Utah, as set forth in PacifiCorp and Monarch's agreement.

Applicable Rule or Law

ORS 757.480(1) requires public utilities doing business in the Oregon to seek Commission approval prior to the sale, lease, assignment or disposal of property valued in excess of $100,000 that is necessary or useful in the performance of its duties to the public.

OAR 860-027-0025 sets forth the information required to support a request for the approval of a property sale. OAR 860-027-0025(1)(l) requires that the applicant show that the property sale will be consistent with the public interest. The Commission has interpreted the phrase "consistent with the public interest" as used in this rule 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).

Finally, the Commission's authority, broadly speaking, is to obtain adequate service for customers at fair and reasonable rates while at the same time balancing the interests of the utility's investors. *See* ORS 756.040.

Analysis

PacifiCorp filed its Application for Approval of the Sale of Property (Application) on March 14, 2017. The Application was docketed as UP 348. Monarch desired to acquire approximately 2.92 acres of property (PacifiCorp Property) located adjacent to, but outside of, a transmission corridor. In exchange, PacifiCorp would receive approximately 3.65 acres of property (Monarch Property) adjacent to the PacifiCorp Property and within the same transmission corridor.

The Company states that the Monarch Property will be more conducive to meeting the current and future needs for the provision of electric service because it helps perfect its transmission corridor rights. The PacifiCorp Property is part of a larger 6.3 acre parcel. The majority of the parcel is located inside of the transmission corridor but because the 2.92 acres are not within the corridor, this portion is not considered necessary to providing safe and reliable power. The exchange will allow PacifiCorp to widen the transmission corridor from 110 feet to 184 feet.

As part of the terms of the agreement, Monarch would pay PacifiCorp $37,875 in cash. This amount is the difference between the values of the two properties based on a $3.00 per square foot valuation and the value of an existing easement held by PacifiCorp within the Monarch Property. The net book value of the PacifiCorp Property was $4,033. The book value of the retired easement was $10,037.

Staff investigated the following issues:

1. Scope and terms of the Property Exchange Agreement;
2. Transfer pricing and allocation of gain;
3. Public interest compliance; and
4. Records availability, audit provisions, and reporting requirements

Staff's review of these issues included an examination of the Company's Application, the applicable laws, the Company's responses to nine information requests (IRs) from Staff, and discussions with Company representatives. Staff requested the following information in its IRs:

1. Clarification of the benefit to customers;
2. Further description of a private road access easement included in exchange;
3. A list of all the structures on the properties;
4. Narrative description of the valuation;
5. Further explanation of valuation;
6. Appraisal report used in valuation;
7. Clarification of easements on properties;
8. Zoning differences considerations; and
9. Environmental risk assessment considerations and documentation.

PacifiCorp was thorough in its responses and Staff has identified no unresolved issues.

Scope and Terms of the Property Exchange Agreement
PacifiCorp included the Property Exchange Agreement (Agreement) between the Company and Monarch with its Application as Attachment C. The Agreement specifies the liabilities, property, contingencies, and process of the transaction. Of note, the properties are sold as-is, however PacifiCorp has 30 days from the effective date for environmental inspection and review. The Agreement has no terms which Staff found unusual or extraordinary. Staff does not that the execution of the terms of the Agreement should pose any harm or risk to customers.

Transfer Pricing and Allocation of Gain
Determination of a market price for the property being exchanged was based on an appraisal performed by two state certified appraisers from the Cook Group, Inc. They are a third-party appraisal company which performs real estate appraisals in Utah, Wyoming, California, and Idaho. The appraisal is thorough and complete, and the resulting valuation is commensurate with similar transactions in the area based on Staff's analysis. A 50 percent discount was taken off of the $/sq ft valuation found in the appraisal when considering the value of the easement being retired on the Monarch Property. This discount is potentially on the low end of possible valuations, as the presence of a large transmission line on a particular property severely limits the other possible uses. However, a 50/50 shared use valuation is not extraordinary and within the reasonable range. Staff does note that the agreed upon valuation method and the eventual settlement price do not exactly match up. PacifiCorp stated in a response to a Staff Information Request that the error was the result of an inadvertent miscalculation that was so small, the cost to correct would have outweighed the error itself. After review of the fair-market pricing estimation, Staff finds the agreed upon pricing to be fair and reasonable.

Public Interest Compliance
The Commission applies a "no harm" standard with regard to the public interest compliance of property sales. Because the property being sold to Monarch is not part of the transmission corridor, Staff agrees with the Company that the delivery of safe and reliable energy to the Company's customers is not affected by the loss of property.

There were potential risks to customers with the purchase of the Monarch Property. Environmental risk is a main concern, which PacifiCorp reviewed via a Phase-I Environmental Study. Staff reviewed the report and feels comfortable that the environmental risks to customers are minimal. Another risk is the potential increased liability of owning new structures. Apart from electrical transmission equipment, there are no structures located on the Monarch Property.

Finally, Staff analyzed the benefit to the public. While there is no harm to PacifiCorp's ability to provide safe and reliable power, PacifiCorp has not asserted benefits to providing safe and reliable power, and has paid Monarch for property that it currently has the right to use for transmission. In response to an information request from Staff, PacifiCorp noted that fee simple ownership provides greater control over the future of the property. Namely, improvements can be made without first getting approval from another land owner. The transaction also provides a larger width to the transmission corridor in order to accommodate the existing overhead transmission lines and correct any potential deficiency that existed before the transaction. This becomes of greater importance as the surrounding area begins to be further developed. Lastly, PacifiCorp notes that the exchange results in an elimination of liability associated with owning surplus property located outside of the transmission corridor.

As a result of Staff's analysis, Staff finds the property exchange to be in the best interest of the public.

Records Availability, Audit Provisions, and Reporting Requirements
Staff notes that the Commission retains the ability to review all property sales of the Companies through general rate case filings. Staff's recommended conditions provide for documentation of this property sale.

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

Conclusion

Based on the review of this application, Staff concludes:

1. The Agreement did not contain any unusual or restrictive terms or conditions;
2. The transfer pricing and allocation of gain is fair and reasonable;
3. The transaction is in the public interest; and
4. Necessary records are available.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's application to buy and sell certain property with Monarch Development subject to Staff's recommended conditions.