

ITEM NO. CA5

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 30, 2017

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: May 11, 2017

TO: Public Utility Commission

FROM: Kathy Zarate KZ

THROUGH: Jason Eisdorfer and Marc Hellman

SUBJECT: PACIFICORP: (Docket No. UP 350) Requests an Order Approving Lease Agreement with Lake Merwin Campers Hideaway (LMCH).

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve Pacific Power's (PacifiCorp or Company) application for approval of a Lease agreement (Agreement) with Lake Merwin Campers Hideaway (LMCH), subject to the following conditions:

1. PacifiCorp shall notify the Commission in advance of any substantive change to this Agreement, including any material changes in price.
2. 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:

Issue

Whether the Commission should approve PacifiCorp's application to enter into a Lease Agreement with Lake Merwin Campers Hideaway (LMCH). Under the Agreement, LMCH wishes to continue its operation of providing recreation facilities to its members, including but not limited to boat docks, swimming and picnic areas, bathhouses, and parking areas.

Applicable Rule or Law

PacifiCorp filed this application on April 6, 2017, pursuant to ORS 757.480 and OAR 860-027-0025. The Company's application is reviewed 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."¹

Analysis

PacifiCorp requests approval from the Commission of its agreement to lease 35.51 acres (Property) located along the Lewis River in Clark County, Washington to Lake Merwin Campers Hideaway (LMCH or Lessee), a non-affiliate, for recreational purposes.

LMCH intends to continue its operation of providing recreational facilities in Clark County, Washington. LMCH has leased the Property from PacifiCorp since 2006 and has maintained it in good condition.

Further, as provided in the Agreement, PacifiCorp will continue to have access and use of the Property for the provision of reliable electric service to its customers.

In review of the Company's application, Staff issued five data requests.

Staff investigated the following issues:

1. Terms and Conditions of the Agreement
2. Transfer Pricing
3. Public Interest Compliance
4. Records Availability, Audit Provisions, and Reporting Requirements

Terms and Conditions of the Agreement

Staff's review of the Agreement did not identify any unusual or restrictive terms or conditions. The Lease is effective June 1, 2017, and is set to last ten years, ending on May 31, 2027. The Agreement will not be executed until the Company receives approval for it from the Commission, and has an effective date of June 1, 2017.

¹ 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).

Pricing

PacifiCorp was not able to locate comparable contemporary lease rates for other existing waterfront recreational facilities in the area. However, PacifiCorp selected the winning bidder through a competitive bid process. The transaction has value of \$9,785 the first year, with a three percent (3%) increase each year, for a total of \$112,173.99 over the ten-year term. Further, according to the Company, the Property crosses four separate county tax parcels. Based on the Clark County tax assessor's market value, the portion of tax lots leased to LMCH is valued at approximately \$198,798.99. The property is located in Washington State and is not included in Oregon revenue requirements. Correspondingly, any revenues are also assigned to Washington.

After the Company receives payment from the Lessee, the 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 over the ten-year term. The Agreement will result in additional revenue to PacifiCorp for property that would otherwise sit vacant.

Public Interest Compliance

The proposed Lease will not harm customers. Additionally, the Lease of the Property will do not impede the Company's ability to provide safe and reliable service in the area. 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

Staff further notes that the Commission retains the ability to review all property sales and lease agreements entered by the Company through general rate case filings. Staff Recommendation affords the Commission the ability to exam PacifiCorp's books and records concerning the Lease as necessary. PacifiCorp has reviewed this memo and has not communicated any objections or concerns.

Conclusion

Based on the review of PacifiCorp's application, Staff concludes:

1. The application involves an Lease Agreement that contains no unreasonable terms, the pricing is fair and reasonable, and the transaction is not contrary to the public interest, with the inclusion of Staff's recommended ordering conditions; and

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2. Necessary records are available.

The Company was provided a draft copy of this memo and has no concerns.

PROPOSED COMMISSION MOTION:

Approve Pacific Power's application for approval of a lease agreement with Lake Merwin Campers Hideaway, subject to Staff's recommended condition.

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