

ORDER NO. 15 180

ENTERED JUN 09 2015

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UP 321

In the Matter of

PACIFICORP, dba PACIFIC POWER,

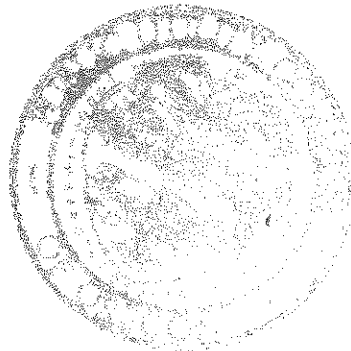
Application for Authorization to Lease
Certain Generation Property in or near
Kemmerer, Wyoming.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on June 9, 2015, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



Becky L. Beier

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

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ITEM NO. CAL



**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 

THROUGH:  Jason Eisdorfer and Marc Hellman 

SUBJECT: PACIFICORP: (Docket No. UP 321) Requests an Order Authorizing the Lease of Certain Generation Property near Kemmerer, Wyoming.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve Pacific Power's (PacifiCorp or Company) application for authority to lease generation property near Kemmerer, Wyoming, 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. 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)(I) 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." 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).

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DISCUSSION:

PacifiCorp is requesting approval from the Commission for an order authorizing the lease of certain property located near Kemmerer, Wyoming by Fox Ranches, Inc. (Lessee) for agricultural purposes. The Lessee intends to graze livestock and grow meadow hay.

PacifiCorp owns property near Kemmerer that supports its Naughton Plant. PacifiCorp proposes leasing a portion of the Naughton Property to the Lessee. According to the Company, the Lessee's use of the Naughton Property will not interfere with PacifiCorp's ability to operate the Naughton Plant.

With the approval of this application, approximately 1,025 acres will be leased to Fox Ranches, Inc. In the Agricultural Lease Agreement, which Staff has reviewed, PacifiCorp will continue to use the Naughton Property for construction, operation, maintenance, repair, and replacement of transmission and distribution lines and other facilities normally associated with the generation and distribution of power. PacifiCorp has used, and will continue to use, the Naughton Property to access adjoining properties and facilities.

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. PacifiCorp selected the winning bidder through a competitive bid process. The 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 value of \$108,000 with \$21,600 being allocated to Oregon.

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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. Through the competitive bid process, PacifiCorp received four bids which Staff has reviewed. Fox Ranches, Inc. was the highest bidder.

Public Interest Compliance

The proposed Lease will not harm customers. No PacifiCorp facilities are located on the Naughton Property. Additionally, the Lessee's use will not interfere with PacifiCorp's ability to operate the Naughton Plant or any other facilities 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

Order Condition Number 1, listed above in the Staff Recommendations, affords 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 Kemmerer, Wyoming be approved subject to the condition stated in Staff's Recommendations in this memorandum.

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