

ORDER NO. 15 182

ENTERED JUN 09 2015

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UP 323

In the Matter of

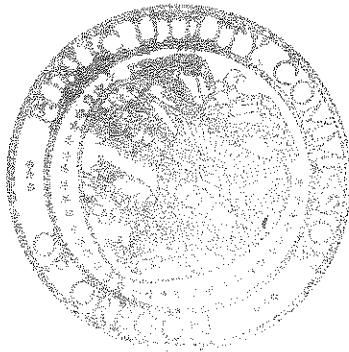
PACIFICORP, dba PACIFIC POWER,

Application for Authorization to Lease  
Certain Property in or near Montpelier, Idaho  
to Marvin and Valerie Robertson.

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:

A handwritten signature in cursive script, reading "Becky L. Beier", is written over a horizontal line.

**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. CA3

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 *W*

THROUGH: *AM for E* Jason Eisdorfer and Marc Hellman *J*

SUBJECT: PACIFICORP: (Docket No. UP 323) 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).

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## DISCUSSION:

PacifiCorp requests the Commission issue an order authorizing the Company to lease certain property located near Montpelier, Idaho to Marvin and Valerie Robertson (Lessee) for agricultural purposes. The Lessee intends to graze livestock and grow meadow hay. Additionally, PacifiCorp proposes to lease certain water rights to the Lessee to support the Lessee's agricultural purpose.

With the approval of this application, PacifiCorp intends to lease 1,442 acres to the Lessee. PacifiCorp purchased the property in the 1980s as mitigation for flooding. PacifiCorp has continued to hold this property as part of its efforts supporting the flood mitigation for the Bear River-Bear Lake hydroelectric system. 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 the Lessee 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 the Lessee, PacifiCorp selected Marvin and Valerie Robertson through a competitive bid process, which Staff has reviewed. As part of the original Agricultural Lease Agreement, Marvin and Valerie Robertson have first right of refusal to renew the 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.

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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 1,442 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.

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