

ORDER NO. 15 340

ENTERED OCT 20 2015

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UP 330

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Authorization to Lease  
Certain Generation Property near Glenrock,  
Wyoming.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on October 20, 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 Court of Appeals in compliance with ORS 183.480 through 183.484.

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ITEM NO. CA12

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: October 20, 2015**

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

DATE: October 5, 2015

TO: Public Utility Commission

FROM: Linnea Wittekind LW

THROUGH: Jason Eisdorfer and Marc Hellman A

SUBJECT: PACIFICORP: (Docket No. UP 330) Requests an Order Authorizing the Lease of Certain Property near Glenrock, Wyoming.

**STAFF RECOMMENDATION:**

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

**ISSUE:**

Should the Commission approve PacifiCorp's request to approve a lease of land agreement?

**RULE:**

PacifiCorp filed this application on August 7, 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*

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*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 associated with the Dave Johnson Plant near Glenrock, Wyoming to Wollstenhulme Farms (Lessee) for agricultural purposes. The Lessee intends to graze livestock.

Since 1998, PacifiCorp has leased property near Glenrock in Converse County, Wyoming to Lessee for livestock grazing. The most recent lease between PacifiCorp and the Lessee expired in April 2014 (Lease). The Lessee desires to enter into a new lease with PacifiCorp covering 11,800 acres (the Leased Property) for livestock grazing. The Leased Property would include PacifiCorp owned property (11,160 acres) and 640 acres in which PacifiCorp will sublet under the Grazing and Agricultural Lease No. 1-8189. The additional 640 acres are currently leased by the State of Wyoming to PacifiCorp.

During the term of the proposed Lease, PacifiCorp will continue to use the Leased Property for the construction, operation, maintenance, repair and replacement of transmission and distribution lines and other facilities and equipment normally associated with the generation and distribution of power and/or the use or leased use of the Leased Property for communication structures, facilities, and equipment. The Company will also continue to use the Leased Property to access adjoining properties and facilities as it does currently.

Over the course of the five-year term of the Lease, the Lessee will pay PacifiCorp \$28,100 per year for a total of \$140,500 in five years. The Leased Property is classified as generation property and is system allocated. The value of the Lease to Oregon will be approximately \$36,500 over the five year term of the Lease.

PacifiCorp's Property Management's current procedure is that if a third party expresses interest in leasing a particular parcel, PacifiCorp staff will open the lease up for competitive bid, and mail applications to all interested parties. According to the Company, in this case, when the most recent lease term expired in April 2014, and no other parties had notified PacifiCorp of their interest in leasing the land, it was determined by PacifiCorp's Property Management to proceed with renewing the lease with Wollstenhulme Farms for market value. In addition to the lease rental amount which total \$140,500 over five years, the Lessee is obligated to maintain all fences,

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gates, canals, and other improvements to the property. These costs would otherwise be borne by PacifiCorp.

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. The Lessee approached PacifiCorp with an offer to lease the Lease Property after the Lessee identified as suitable for livestock grazing. The Lessee has leased this land from PacifiCorp since 1998, with each party subsequently renewing the lease as the prior terms have expired.

#### Allocation of Gain

The transaction has a total value of \$140,500 with \$36,500 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.

Staff has verified that lease revenues were included in the Company's most recent rate case (Docket No. UE 263).

#### Public Interest Compliance

Based on Staff's review, the proposed Lease will not harm customers. Though certain PacifiCorp facilities cross the Leased Property, PacifiCorp will continue to be able to operate and maintain those facilities. 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's 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.

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**PROPOSED COMMISSION MOTION:**

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

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