

ORDER NO. 18-194

ENTERED MAY 24 2018

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UP 368

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Approval of Asset Exchange
Agreement with AAT Lloyd District, LLC.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on May 22, 2018, 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:




Michael Dougherty
Chief Operating Officer

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. CA8

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 22, 2018

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A

DATE: April 18, 2018

TO: Public Utility Commission

FROM: Kathy Zarate KZ

THROUGH: Jason Eisdorfer and John Crider

SUBJECT: PACIFICORP: (Docket No. UP 368) Requests Approval of an asset exchange Agreement.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve PacifiCorp's (or Company) Application for Approval of an Asset Exchange Agreement with AAT Lloyd District, LLC (Agreement), 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. 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 Commission reserves the right to review, for reasonableness, financial aspects of this arrangement in any rate proceeding.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's Application for Approval of an Asset Exchange Agreement with AAT Lloyd District, LLC.

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Applicable Rule or Law

ORS 757.480(1) requires public utilities doing business in 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 the lease or property. OAR 860-027-0025(1)(l) requires that the applicant show that the proposed lease 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 re PacifiCorp*, OPUC Docket No. UP 168, Order No. 00-112 at 6 (Feb. 20, 2000); *In re Portland General Electric*, OPUC Docket No. UP 165, Order No. 99-730 at 7 (Nov. 29, 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 this application on March 28, 2018, requesting approval from the Commission for an Asset Exchange Agreement with AAT Lloyd District, LLC (AAT).

PacifiCorp intends to convey to AAT the 15th floor of the Lloyd Center Tower (LCT 15) and, in exchange, acquire the AAT-owned 3rd floor (LCT 3). PacifiCorp is currently leasing LCT 3 for the Company's Portland call center operations. AAT has indicated that a new tenant is currently interested in leasing LCT 15. This provides PacifiCorp the opportunity to own LCT 3 and terminate the lease.

AAT is a full service, vertically integrated and self-administered real estate investment trust, headquartered in San Diego, California. PacifiCorp and AAT co-own the 20-floor LCT property located at 825 NE Multnomah in Portland, Oregon, via a condominium agreement. PacifiCorp owns 10 of the floors in the LCT. AAT owns the other 10 floors and is the management company for the LCT. PacifiCorp has been leasing LCT 3, which houses PacifiCorp's Portland Customer Contact Center, from AAT since October 1, 2014. The lease term is currently through September 30, 2024. The current annual rent is approximately \$548,000 and increases approximately three percent per year. At the closing of the exchange, AAT's lease of LCT 3 to PacifiCorp will be terminated, saving more than \$548,000 per year in rent cost.

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Under the terms of the Agreement, PacifiCorp will convey LCT 15 to AAT in exchange for LCT 3 plus a cash payment of \$410,000, which represents the difference in market value of the floors by the cost/square foot.

- AAT will pay \$326 per square foot for LCT 15.
- PacifiCorp will pay \$311 per square foot for LCT 3.
- The total square footage of LCT 3 is 22,105 and the total square footage of LCT 15 is 22,338.¹

In addition, the legal and sales cost associated with the transaction are estimated to be approximately \$50,000. The legal costs are estimated at \$16,000 and the other sales costs associated with the transaction are estimated at \$34,000.²

This transaction will not impair PacifiCorp's ability to continue the provision of reliable electric service to its customers.

In review of the Company's application, Staff issued seven 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 asset exchange is effective July 1, 2018, so that the tenant can complete tenant improvements that are required for the October 1, 2018 move-in date. The Agreement will not be executed until the Company receives approval for it from the Commission.

Transfer Pricing

Colliers International Valuation and Advisory Services (Colliers International) conducted an appraisal of LCT 3 and LCT 15 in November 2017, which determined that the fair market value of LCT 15 is \$7,290,000 and the fair market value of LCT 3 is \$6,880,000. Based on this appraisal, PacifiCorp and AAT agreed that AAT would pay the difference in fair market value, which is approximately \$410,000, or \$112,000 on an Oregon-

¹ PacifiCorp Response to OPUC Data Request 1.

² PacifiCorp Response to OPUC Data Request 5.

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allocated basis. Additionally, the terminated lease for LCT 3 will result in Oregon-allocated savings of \$149,000 annually.

The net proceeds, representing the cash payment received by AAT (\$410,000) less costs of removal, legal costs (\$16,000) and sales costs (\$34,000), will be recorded against the depreciation reserve general plant in accordance with group and composite methods of depreciation under U.S. GAAP.³

Public Interest Compliance

This transaction will not affect PacifiCorp's ability to perform its public duties, will not harm customers, and is consistent with the public interest.

Oregon customers will also benefit from the transaction due to the avoidance lease costs for LCT 3, which equals approximately \$149,000 annually (Oregon-allocated). Absent this agreement, these costs would have been included in a future rate case. Furthermore, Oregon customers will experience a slight decrease in rate base due to the difference in value between LCT 15 and LCT 3. The impact of the decreased rate base from this transaction will be included with all other rate base changes, both increases and decreases, which have occurred since Docket No. UE 263 in PacifiCorp's next general rate case.⁴

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 Asset Exchange Agreement 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 that the Asset Exchange Agreement between the Company and AAT Lloyd District, LLC, in accordance with terms of the agreement price, is reasonable. The public is not harmed because the Company will continue to be able to fulfill its obligation to provide safe, reliable electric service. Given that the terms of the agreement are reasonable, Staff determined that the public is not harmed by this transaction. The Commission should approve the Agreement, subject to the following conditions:

³ PacifiCorp Response to OPUC Data Request 3.

⁴ PacifiCorp Response to OPUC Data Request 2.

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1. PacifiCorp shall notify the Commission in advance of any substantive change to this Agreement, 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 Commission reserves the right to review, for reasonableness, financial aspects of this arrangement in any rate proceeding.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's Application for Approval of an Asset Exchange Agreement with AAT Lloyd District, LLC, subject to Staff's recommended conditions.

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