

ORDER NO. 16 100

ENTERED MAR 08 2016

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UP 338

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Approval of a Lease
Agreement with T. and S. Watkins Family
LLC.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on March 8, 2016, 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:




Kristi Collins
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.

ITEM NO. CA10

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT

PUBLIC MEETING DATE: March 8, 2016

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A

DATE: February 29, 2016

TO: Public Utility Commission

FROM: Mitchell Moore *mm*THROUGH: *E* Jason Eisdorfer and *E for MH* Marc HellmanSUBJECT: PACIFIC POWER: (Docket No. UP 338) Requests approval of property lease agreement.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve the application by PacifiCorp dba Pacific Power (Company) to lease certain property to the T. and S. Watkins Family LLC (Watkins), subject to the following condition:

1. The Company 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:

Whether the Commission should approve PacifiCorp's application seeking authority to lease a portion of its 90th-Camp Williams transmission corridor property to Watkins, a non-affiliated company.

APPLICABLE LAW:

PacifiCorp filed this application on January 26, 2016, 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 that a utility shall obtain the Commission's approval prior to selling or leasing property used to provide utility service.

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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 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).

DISCUSSION AND ANALYSIS:

PacifiCorp proposes to lease a 4.718 acre portion of its 90th-Camp Williams transmission corridor in Jordan, Utah (Property) to Watkins, a non-affiliated company.

Watkins owns the Southtowne Volkswagen car dealership, which is located adjacent to the Property. Watkins intends to use the Property for parking vehicles to be sold at the dealership. The Company states that Watkins use of the Property will not interfere with its ability to operate and maintain its transmission assets in the corridor.

The parties negotiated the proposed lease (Lease) with a 40-year term, with an option to extend the Lease by two consecutive 10-year terms. The value of the Lease over its term is \$4,512,910. PacifiCorp will receive \$24,000 in rent for the first year, and \$62,143.80 per year beginning in year two, with an annual increase of three percent each year thereafter. The Property is classified as transmission property and is system-allocated. The value of the Lease to Oregon is approximately \$1,152,000 over the 40-year term.

In its application, the Company states that it determined the Lease value by comparing it to an appraisal of a nearby property, and taking into account the restrictions placed on the development of the Property. The book value of the Property is \$16,463.

The Lease contains provisions that allow the Company to continue to use the Property to operate and maintain the electrical distribution and transmission lines and related facilities that traverse the Property.

Issues

Staff investigated the following issues:

1. Scope and Terms of the Lease Agreement
2. Allocation of Gain
3. Public Interest Compliance
4. Records Availability, Audit Provisions, and Reporting Requirements

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Scope and Terms of the Lease Agreement

In reviewing the Lease Agreement and accompanying exhibits, Staff did not identify any unusual or restrictive terms or conditions. Watkins will be able to develop the Property for use as a parking lot for vehicles to be sold through its adjacent dealership. The portion of the Property to be used by Watkins does not contain any PacifiCorp facilities. Watkins' use and development of the Property will not impair the Company's ability to operate and maintain existing facilities located on the Property, nor impair its ability to construct additional facilities as needed.

Allocation of Gain

The transaction has a total value of approximately \$4.5 million, with approximately \$1.2 million allocated to Oregon over the 40-year term. The rent received by the Company for the Lease will be credited to Rent Revenue Transmission Lands (FERC Account 4541000).

Public Interest Compliance

The Commission customarily applies a no harm standard to determine public interest compliance for property sales and leases. Based on Staff's review, the proposed Lease will not harm customers as the Company will retain its current ability to maintain existing facilities and construct new facilities. If anything, customers benefit from the Lease because the additional revenue generated will be incorporated in future ratemaking proceedings. Staff concludes that the Lease is in the public interest.

Records Availability, Audit Provisions, and Reporting Requirements

Order condition number 1, listed in Staff's Recommendation, affords the Commission the ability to re-examine the terms of the Lease if there are substantive changes. Staff notes that the Commission retains the ability to review all property sales and lease agreements of the Company through general rate case filings.

The Company reviewed this memo and has stated no objections.

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CONCLUSION:

For the reasons discussed above, Staff finds that the Company's application for authority to lease certain Property meets the public interest standard set forth in 860-027-0025 and should be approved.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's application for authority to lease certain Property in Jordan, Utah, subject to Staff's recommended condition number 1.

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