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March 28, 2008

***VIA ELECTRONIC FILING  
AND OVERNIGHT DELIVERY***

Oregon Public Utility Commission  
550 Capitol Street NE, Suite 215  
Salem, OR 97310-2551

Attn: Vikie Bailey-Goggins, Administrator  
Regulatory and Technical Support

RE: **Docket No. UM 1360** - PacifiCorp Request for Proposals  
Comments and Final Draft RFP

Pursuant to the scheduled adopted in Docket No. UM 1360, PacifiCorp submits its final draft request for proposal (RFP) and its comments in response to opening comments filed by parties. One original of a clean and redlined version of the RFP are included with this filing. The redlined version shows changes from the initial draft RFP filed February 14, 2008. Only documents that have been revised since the February 15, 2008 filing are being resubmitted. These revised documents will also be posted to PacifiCorp's website at: <http://www.pacificorp.com/Article/Article79153.html>.

If you have any questions about this filing, please contact Joelle Steward at 503.813.5542 or Stacey Kusters at 503.813.5351.

Very truly yours,

A handwritten signature in cursive script that reads "Andrea Kelly".

Andrea Kelly  
Vice President, Regulation

Enclosures

cc: Service List UM 1360 (w/ enclosures)

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1360**

In the Matter of PacifiCorp's Request for  
Approval of a Solicitation Process for a  
Flexible Resource for the 2012-2017 Time  
Period

**Comments of PacifiCorp**

1 Concurrent with the filing of these comments, PacifiCorp dba Pacific Power has  
2 submitted a revised, final draft All Source Request for Proposal (RFP). The final draft RFP  
3 incorporates changes based on feedback from the Oregon Independent Evaluators (IEs) and  
4 other parties at the bidders and stakeholders RFP conferences held in Oregon on March 13,  
5 2008 and in Utah on March 12, 2008, and opening comments received by the Oregon Public  
6 Utility Commission Staff (Oregon Staff) and the Industrial Customers of Northwest Utilities  
7 (ICNU), as well as stakeholders in Utah (Utah Committee of Consumer Services (CCS),  
8 Utah Division of Public Utilities (Division), and LS Power Associates, L.P. (LS Power)).  
9 The following comments outline the revisions PacifiCorp has made in the final draft RFP and  
10 address the comments in areas where changes have not been proposed at this time.

11 **Revisions to the Final Draft RFP**

12 1. *Title of the RFP:* In order to eliminate any confusion about the term of the  
13 RFP, PacifiCorp has deleted references to the years 2012-2017 and 2008 from the title of the  
14 RFP. The All Source RFP is soliciting resources available for dispatch or scheduling by June  
15 1, 2012, June 1, 2013, June 1, 2014, June 1, 2015 and/or June 1, 2016 ("Eligible Online  
16 Dates"). See RFP page 7.

17 2. *Resource Options:* PacifiCorp has revised the RFP to make it clear that  
18 capacity and energy resources being solicited pursuant to this RFP must be eligible to serve

1 PacifiCorp’s entire system. PacifiCorp has modified the language which previously excluded  
2 coal resources unless legislative or technological developments materially eliminated carbon  
3 risk. Instead, the final draft RFP contains language that allows Bidders the opportunity to  
4 propose new or existing coal resources only if such proposals are consistent with multi-state  
5 legal and regulatory requirements regarding new and existing coal resources. *See, e.g.*, RFP  
6 page 7, 21, and 24. Because PacifiCorp is subject to recently adopted laws in Washington  
7 and California regarding CO<sub>2</sub> emissions standards, any coal-based proposal must comply  
8 with these standards. Additionally, Oregon Staff has raised questions about the ability of  
9 sellers to securitize risks related to greenhouse gas emissions and cites to the Oregon IEs’  
10 recommendation that PacifiCorp state in the RFP that it will consider creative proposals by  
11 sellers to absorb the risk of regulatory costs associated with greenhouse gas emissions. *See*  
12 Oregon Staff Comments at 15. PacifiCorp has included such language in the RFP. As part  
13 of the bid evaluation process, PacifiCorp will take into account any existing legal or  
14 regulatory requirements regarding coal resources and CO<sub>2</sub> emissions standards, as well as its  
15 multi-state cost allocation protocol. Finally, the Division has raised the issue that the  
16 Company must demonstrate through its RFP evaluation and analysis that it has selected the  
17 resource that is “least-cost, least-risk.”<sup>1</sup> Division Comments at 3. Therefore, PacifiCorp has  
18 revised the RFP to address these concerns. *See* RFP page 57.

19           3.           *Geothermal and Biomass Exceptions:* In response to comments from  
20 Oregon Staff and the Division, PacifiCorp has created a new “exception” category for  
21 geothermal and biomass power purchase agreements to allow proposals for 10 MW instead  
22 of the previously stated minimum of 100 MW. *See* RFP pages 7, 10, 14, and 23.

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<sup>1</sup> PacifiCorp notes that the appropriate standard should be “least cost, adjusted for risk.”

1           4.       *Self-Build Bids vs. Benchmark Resources:* In the 2012 RFP, benchmark  
2 resources were submitted by PacifiCorp. Based on feedback from bidders and questions  
3 regarding the fairness of the benchmark approach, PacifiCorp offered in this current RFP to  
4 simply become another bidder, submitting bids under which it would be the owner/operator  
5 (“self-build bids”) rather than submitting benchmark resources. *See* PacifiCorp Filing Letter  
6 dated February 15, 2008 at 5-6. PacifiCorp believed that this would encourage competition  
7 by third-party bidders and provide more comparability between company proposals and  
8 market proposals.<sup>2</sup> However, nearly all commenters objected to PacifiCorp becoming just  
9 another bidder, for various reasons. Although frankly surprised by the objections, PacifiCorp  
10 will nonetheless abandon its proposal to be treated as another bidder and instead submit a  
11 benchmark resource or resources.<sup>3</sup> *See* RFP page 8 and RFP Attachment 1. PacifiCorp does  
12 want to respond to several of the objections, however.

- 13           • One objection was that PacifiCorp’s self-build bids would not be subject to fixed  
14 price. While accurate, this is a necessary consequence of traditional cost-of-  
15 service regulation which only allows PacifiCorp to recover in rates its actual,  
16 prudently-incurred costs. As a result, if the actual costs of the project were *lower*  
17 than the “fixed price” offered during the RFP, PacifiCorp would not be entitled to  
18 seek recovery for the higher fixed price. *See, e.g.,* Order No. 06-446 at 13.

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<sup>2</sup> The Oregon IEs also provided preliminary comments in support of this concept if certain conditions were met. *See* Accion Group presentation dated March 13, 2008 at 7. The Division cites PacifiCorp’s proposal as providing an opportunity to increase competition and provide a benefit to the RFP process. *See* Division Comments at 6-7.

<sup>3</sup> PacifiCorp would note that none of those objecting to PacifiCorp becoming a bidder were, themselves, potential bidders. PacifiCorp will be interested in seeing whether potential bidders will now object if PacifiCorp submits a benchmark resource rather than self-build bids.

1           • CCS claims that a benchmark option is required under the Utah Energy Resource  
2 Procurement Act (Act) and that an own/operate bid would be prohibited by the  
3 Act. *See* CCS Comments at 2. PacifiCorp does not agree with CCS’s position and  
4 arguments. PacifiCorp first notes that CCS’s argument that the Act mandates a  
5 benchmark resource is premised upon interpreting the word “may” in the Act to  
6 mean “shall.” Second, if the Act, in fact, prohibits, PacifiCorp from proposing an  
7 own/operate option, then it is curious that the parties to the Utah settlement in the  
8 transaction by which MidAmerican acquired PacifiCorp, as well as the Utah  
9 Commission, approved General Commitment 39 which requires PacifiCorp to  
10 propose an own/operate option (which may be, but need not be, a benchmark  
11 resource) in all RFPs over 100 MW.

12           • Oregon Staff opposes the use of self-build bids as proposed by PacifiCorp finding  
13 no benefits, but identifying several disadvantages. Oregon Staff Comments at 10.  
14 Specifically, Oregon Staff concludes that PacifiCorp’s request for waiver of  
15 Guidelines 4 and 8 would not achieve the Commission’s objective of providing to  
16 the Oregon IE and Staff the detailed score for self-build bids in advance of market  
17 bids and would not provide bidders, intervenors and the public any information  
18 about the self-build bids. PacifiCorp believes that a process could readily be  
19 designed to accommodate these concerns.

20           5.       *Timing of Submission of Benchmark Resources:* PacifiCorp agrees with the  
21 comments proposing that the Benchmark Resources should be submitted to the IEs one day  
22 in advance of other bids. PacifiCorp has added this language to the RFP. *See* RFP page 8  
23 and 28.

1           6.       *Blinding of Bids:* Following the blinding process used in the 2012 RFP, the  
2 IEs and the Division questioned whether the blinding process materially improved the  
3 evaluation process; or whether it was overly burdensome to both bidders and the IEs without  
4 any commensurate level of benefit. PacifiCorp originally proposed blinding based on its  
5 self-build option proposal; however, in light of the comments from the Division (at 4), and  
6 preliminary comments from the Oregon IEs during the March 13 presentation (at 10)  
7 recommending that the blinding process should be eliminated, PacifiCorp has removed the  
8 blinding requirements in the RFP from both the Intent to Bid process and the RFP response  
9 process. *See* RFP page 27. Conforming changes were also made to Attachments 4 and 20.

10           7.       *Resource Need:* The RFP solicits up to 2,000 MW of resources. Parties  
11 requested clarification in this RFP as to how PacifiCorp would modify the 2,000 MW  
12 amount in the event a resource(s) is selected from the 2012 RFP. PacifiCorp specifically  
13 added language in the RFP indicating that the total resource need will be adjusted in the  
14 event a resource(s) is selected from the 2012 RFP. *See* RFP page 9. Oregon Staff and ICNU  
15 have both raised issues about whether the RFP solicits the right quantity of resources. *See*  
16 Oregon Staff Comments at 7-9 and ICNU Comments at 2-3. As Oregon Staff and ICNU  
17 correctly note, PacifiCorp is waiting for an acknowledgement order on its 2007 IRP in  
18 Oregon. Oregon Staff offers that based on PacifiCorp's updated load and resource balance  
19 and using the same planning margin and Front Office Transactions in the 2007 IRP preferred  
20 portfolio, PacifiCorp needs to acquire at most 1,119 MW of thermal resources in 2012,  
21 increasing to 2,067 MW in 2016. *See* Oregon Staff Comments at 9 (noting additional  
22 reductions may also be appropriate). PacifiCorp believes that its RFP is aligned with this  
23 identified resource need and that its proposal to acquire "up to 2,000 MW" of cost-effective

1 resources is consistent with its demonstrated need. Moreover, generation planning in the  
2 current environment requires that PacifiCorp recognize the following new conditions:

- 3 • Representatives of the states of Oregon and California, as well as other litigants, have  
4 demanded that PacifiCorp cease using approximately 160 MW of hydropower from  
5 the Klamath dams;
- 6 • Federal climate change legislation such as the Lieberman-Warner bill would require  
7 PacifiCorp to begin reducing CO<sub>2</sub> emissions by as early as 2012;
- 8 • Increases in the generation portfolio in the amount of non-dispatchable, intermittent  
9 resources such as wind will require that PacifiCorp maintain sufficient capacity  
10 reserves to serve peak load when those intermittent resources are not available or are  
11 available at lower than average output.

12 Recognition that the third condition is occurring, some variant of the second condition is  
13 likely, and the first is possible supports the prudence of conducting the proposed RFP to  
14 determine the cost of available resources in the 2012-2016 timeframe.

15 8. *Resource Alternatives and Resource Diversity:* PacifiCorp has revised the  
16 resource alternatives to allow for additional resource diversity in duration and fuel source.  
17 For power purchase agreements, tolling service agreements or qualifying facility proposals  
18 not backed by assets, bidders may propose a transaction *up to* a maximum term of five (5)  
19 years. *See* RFP pages 11, 14, 16, 22, and 23. PacifiCorp believes this addresses some of  
20 Oregon Staff's concern about the lead time associated with front-office type transactions and  
21 provides for additional resource diversity in duration. As a result, Bidders have the  
22 opportunity to propose short-term (less than 5 years) to long-term (greater than 5 years)  
23 transactions depending on the Resource Alternative and Bid Category proposed. PacifiCorp

1 believes its final draft RFP satisfies Guideline 9(a) on resource diversity.

2           9.     *Load Curtailment:* Oregon Staff requested that PacifiCorp modify the load  
3 curtailment exception to allow for the aggregation of load by a single supplier. Oregon Staff  
4 Comments at 15. PacifiCorp has clarified that load curtailment may be aggregated by a  
5 single supplier in order to meet the 25 MW minimum requirement. Any proposals for  
6 aggregated load curtailment are subject to the same conditions as individual load curtailment.  
7 *See RFP pages 13 and 22.*

8           10.    *Schedule:* PacifiCorp has modified the time period to complete the evaluation  
9 process from 45 days to 60 days. *See RFP page 24.* The Division has also proposed that  
10 PacifiCorp develop a consistent policy for granting time extensions, if any, to bidders prior to  
11 bids being received. PacifiCorp supports this concept and will work with the IEs to develop  
12 a proposed time extension policy that can be applied in a consistent and fair manner to all  
13 bidders.

14           11.    *Bid Fees:* Oregon Staff supports PacifiCorp’s request that the Commission not  
15 apply Guideline 5 as it relates to bidders’ fees for the RFP. Oregon Staff Comments at 11.  
16 However, Oregon Staff has requested feedback from the company and bidders on a “success  
17 fee” approach proposed by the Oregon IEs. PacifiCorp is open to considering a success fee  
18 approach but did not make any modifications to the RFP at this time pending further  
19 comment from the IEs, bidders and other interested parties on this issue. ICNU proposes  
20 using bid fees to defray some of the costs of the both the Oregon and Utah IEs. Although  
21 PacifiCorp does not believe that other Oregon stakeholders support this approach based on  
22 the Commission’s adoption of Oregon Guideline 5, if Oregon Staff and stakeholders support  
23 a deviation from Guideline 5, PacifiCorp would be willing to pursue this approach.



1           12.     *Credit:* PacifiCorp has made several modifications to the credit sections in the  
2 RFP to address the concerns raised during the 2012 RFP and to clarify language in the RFP  
3 documents consistent with PacifiCorp's expectations. *See* RFP pages 29-30, Appendix B,  
4 and Attachment 21. PacifiCorp is still developing revised credit matrices for the  
5 Intermediate Load and Summer Purchases – Q3 Purchases Bid Categories and will submit  
6 the revised matrices shortly. The Division recommends that bidders be allowed to offer  
7 different prices for different security requirements to assess what the cost of security adds to  
8 the bid price. *See* Division Comments at 4. Part of the reason PacifiCorp has defined the  
9 credit assurance amounts up front in the RFP is because PacifiCorp expects bidders to  
10 determine the cost of security and price it into any bids. LS Power provides additional  
11 comments on the level of the credit requirements. *See* LS Power Comments at 2-4.  
12 PacifiCorp would like to address the example provided by LS Power. LS Power provides an  
13 illustrative example of PacifiCorp's proposed credit requirements, stating that the worst case  
14 security requirement could be \$120/MWh for every potential MWh delivered over a five year  
15 term for a non-asset-backed resource beginning in 2016, with the implication that  
16 replacement power prices would be above \$210/MWh on average for all on-peak summer  
17 hours for five years. LS Power Comments at 3. PacifiCorp's proposed credit requirements  
18 are based on potential power price movements using an 84% confidence level, which is not a  
19 worst case assumption. Worst case price movements would require a much higher  
20 confidence level and result in credit security requirements much higher than those stated in  
21 the RFP. Additionally, LS Power used a 5x16 product in its calculations rather than a 7x16  
22 product as stated in Attachment 21 of the RFP. Using the correct delivery pattern results in a  
23 replacement power price that is significantly less than replacement power price calculated by

1 LS Power. PacifiCorp welcomes the opportunity to discuss in detail the estimate of  
2 replacement power prices with LS Power to improve the accuracy of the example they  
3 provided. PacifiCorp welcomes any additional feedback from the IEs on credit issues,  
4 including comments on the forms of commitment letters and the level of credit requirements.

5 13. *Transmission:* PacifiCorp has expanded its identification of potential delivery  
6 areas; however, it should be noted that the addition of potential transmission delivery points  
7 may result in potential transmission constraint implications which will need to be considered  
8 as part of any proposal. See RFP page 43 and Attachment 13. PacifiCorp agrees with the  
9 Division's recommendation that the IEs should meet with PacifiCorp Transmission to ensure  
10 a full understanding of transmission cost development and will facilitate this effort.  
11 PacifiCorp also directs bidders to PacifiCorp's OASIS site which has detailed and specific  
12 information about its transmission expansion plans  
13 (<http://www.oasis.pacificorp.com/oasis/ppw/main.htmlx>). In order to comply with the FERC  
14 Standards of Conduct imposed on Transmission Providers, the PacifiCorp RFP Team  
15 encourages Bidders to contact PacifiCorp Transmission directly with any transmission  
16 related questions or concerns.

17 14. *Term Sheets:* The Division requested that PacifiCorp document its practice of  
18 providing "term sheets" to bidders during the evaluation process. PacifiCorp has included  
19 this modification at page 47 of the RFP. As in the 2012 RFP, PacifiCorp intends to exchange  
20 input sheets with Bidders in order to ensure that all inputs entered into the price evaluation  
21 are validated by the bidders.

22 15. *Flexibility of Proposals and Indexing:* The Division suggests modifications to  
23 the Form 2 to allow Bidders to respond with pricing if specific milestones are identified.

1 PacifiCorp will consider including this modification following further discussion with the IEs  
2 on this issue. The Division also suggests reversing the percentages to allow for 60% indexed  
3 and 40% fixed pricing. At this time, PacifiCorp is not recommending this modification.

4 16. *Evaluation Process:* Oregon Staff requested that PacifiCorp respond to the  
5 Oregon IEs' request for clarification in defining "top performers" that proceed to the final  
6 short list. The Division has raised concerns about the price evaluation provisions.  
7 PacifiCorp has added language to provide further clarification in response to these concerns  
8 on pages 47-48 of the RFP. PacifiCorp has also updated the comparison metric table on page  
9 51 of the RFP.

10 **Conclusion**

11 PacifiCorp understands the importance of developing a transparent and fair process  
12 consistent with the Commission's Guidelines and believes that the final draft RFP  
13 accomplishes these goals. PacifiCorp appreciates the comments provided by the parties to  
14 date and looks forward to receiving the IEs' assessment of the final draft RFP.

DATED: March 28, 2008

/s/ Natalie L. Hocken  
Natalie L. Hocken  
Vice President & General Counsel,  
Pacific Power

Counsel for PacifiCorp

## CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of March, 2008, I caused to be served, via Overnight Delivery, a true and correct copy of PacifiCorp's Comments and Final Draft Request for Proposals in Docket No. UM 1360, along with a CD containing electronic files. Parties who have waived paper service will receive a copy of the Final Draft RFP on CD. A complete copy of the filing will also be available at <http://www.pacificorp.com/Article/Article79153.html> or by contacting Joelle Steward at (503) 813-5542.

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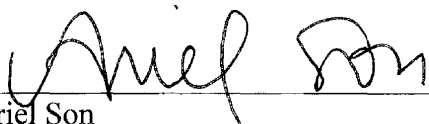
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