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June 30, 2009

***VIA ELECTRONIC FILING  
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Oregon Public Utility Commission  
5500 Capitol Street NE, Ste 215  
Salem, OR 97301-2551

Attn: Filing Center

**RE: Docket UM 1429 – PacifiCorp’s Request for Proposals 2009R  
Reply Comments**

Enclosed for filing by PacifiCorp d/b/a Pacific Power (“Company”) is the Company’s reply to comments filed by the Industrial Customers of Northwest Utilities, the Renewable Northwest Project and the Northwest and Intermountain Power Producers Coalition, filed on June 25, 2009. Additionally, these comments respond to the Oregon independent evaluator’s assessment of the 2009R RFP, dated June 19, 2009.

Please direct any informal inquiries to Joelle Steward, Regulatory Manager, at (503) 813-5542.

Sincerely,

A handwritten signature in black ink that reads "Andrea Kelly/MT".

Andrea L. Kelly  
Vice President, Regulation

Enclosures

cc: Service List – UM 1429

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document in Docket No. UM-1429 on the following named person(s) below by e-mail and U.S. Mail (if paper service has not been waived) addressed to said person(s) at his or her last-known address(es) indicated below:

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1429**

In the Matter PacifiCorp's Request for  
Approval of a 2009R Solicitation Process  
for New Renewable Resources

**PACIFICORP'S REPLY COMMENTS**

1           **I.       INTRODUCTION**

2           In anticipation of the Public Utility Commission of Oregon ("Commission")  
3 special public meeting scheduled in this docket on July 7, 2009, PacifiCorp d/b/a Pacific  
4 Power ("PacifiCorp" or "Company") respectfully provides the following reply comments  
5 to comments provided by the Industrial Customers of Northwest Utilities ("ICNU"),  
6 Renewable Northwest Project ("RNP") and the Northwest and Intermountain Power  
7 Producers Coalition ("NIPPC"), filed on June 25, 2009, and to the Oregon independent  
8 evaluator's ("IE") assessment of PacifiCorp's 2009R renewable resource request for  
9 proposal ("2009R RFP"), dated June 19, 2009 ("IE Assessment").

10           **II.       BACKGROUND**

11           As described in PacifiCorp's initial application, Action Item 1 of the Company's  
12 2007 integrated resource plan ("2007 IRP") calls for the acquisition of 2,000 MW of  
13 renewable resources by 2013, including 1,400 MW of cost effective renewable resources  
14 outlined in PacifiCorp's Renewable Energy Action Plan. Under this plan, the Company  
15 seeks to acquire 1,400 MW of cost effective new renewable resources by 2010, with an  
16 additional 600 MW in place by 2013. PacifiCorp's recently filed 2008 IRP calls for the  
17 procurement of up to an additional 500 MW of cost effective renewable resources in the  
18 2012 to 2018 time frame.

1           To achieve the ambitious goal of 2,000 MW of cost effective renewable resources  
2 by 2013, the Company has issued a series of successive renewable energy RFPs in recent  
3 years. The Company has acquired, as a result of those RFPs, several renewable resources  
4 from bidders. Most recently, PacifiCorp issued its 2008R-1 RFP, which solicited up to  
5 500 MW of renewable resources with commercial operation dates between 2009 and  
6 2011. On June 16, 2009, the Commission acknowledged the Company's Final Shortlist  
7 of bidders in the 2008R-1 RFP. The Company advised the Final Shortlist bidders on June  
8 2, 2009 that the Company is currently completing upfront due diligence to validate each  
9 bidder's forecasted capacity factor and wind turbine suitability for each project site. The  
10 Company anticipates reviewing the results of its analysis with the IE and Utah  
11 Consultant the week of July 6, 2009; with next steps subsequently determined.

12           Continuing in the line of the 2008R-1 RFP, PacifiCorp filed its draft 2009R RFP  
13 in this docket on June 5, 2009. The 2009R RFP will solicit up to 500 MW of cost  
14 effective renewable resources with commercial operation dates between 2010 and 2012.  
15 In its initial application, PacifiCorp indicated that the 2009R RFP may run in parallel  
16 with the 2008R-1 RFP for a period of time to allow the Company to compare the costs of  
17 2010 and 2011 resources from the 2008R-1 RFP with those submitted in the 2009R RFP;  
18 the purpose being to ensure that PacifiCorp makes prudent resource decisions that result  
19 in the procurement of least-cost resources for Oregon customers consistent with the least-  
20 cost planning requirements. *See Order 89-507.*

21           PacifiCorp's strategy of successive and ongoing renewable RFPs is intended to  
22 provide the Company with the necessary flexibility in the procurement process to result  
23 in the selection of least-cost renewable resources. The Company strongly believes that

1 the 2009R RFP will aid that objective by enabling the Company to secure potential  
2 renewable generation and construction cost advantages for customers stemming from the  
3 current economic climate. The Company and the Commission should not merely accept  
4 RNP's generalized representation about the current status of the market; but rather should  
5 engage in active testing of the market. In so doing it will be determined if benefits for  
6 customers are present. Indeed, the Company's most recent experience in contracting for  
7 balance of plant renewable resource construction services<sup>1</sup> indicates that cost efficiencies  
8 can reasonably be expected.

9 PacifiCorp has advised the 2008R-1 RFP Final Shortlist bidders of the option to  
10 submit proposals in the 2009R RFP while negotiating via the 2008R-1 RFP. This is a no  
11 regrets opportunity for the finite number of 2008R-1 Final Shortlist bidders as it gives  
12 them a second chance to provide a more cost effective alternative for customers via the  
13 2009R RFP process should their 2008R-1 proposal be found uneconomic or otherwise  
14 not in the best interest of customers. On June 9, 2009, PacifiCorp held a well attended  
15 2009R RFP bidder's conference, during which the Company informed prospective  
16 bidders of the potential that the 2008R-1 RFP Final Shortlist bidders could find  
17 themselves in an overlap situation with the 2009R RFP. PacifiCorp plans to issue the  
18 2009R RFP to the market in mid-July 2009. The 2009R RFP will be accepting proposals  
19 from qualified bidders who are new entities to the PacifiCorp RFP process and from  
20 2008R-1 RFP bidders who remain qualified.

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<sup>1</sup> As used herein, balance of plant construction services means all necessary construction services to construct a wind-powered generation resource; less owner-supplied equipment (e.g., wind turbine generators, collector substation transformer, other long lead-time equipment) and scope for which the interconnecting transmission provider has reserved for themselves via the applicable large generator interconnection agreement. The Company has recently secured balance of plant construction services for the High Plains and McFadden Ridge I wind resources.

1           **III.    REPLY COMMENTS**

2           In general, parties’ comments and the IE Assessment focus primarily on concerns  
3 over PacifiCorp’s strategy of having RFPs that overlap for 2010 and 2011 resources.  
4 Some parties assert that the Company’s issuance of the 2009R RFP, while continuing  
5 negotiations with the 2008R-1 Final Shortlist bidders, is an attempt to gain valuable  
6 competitive information, harm the competitive market for renewable energy, and  
7 substitute a Company-owned benchmark<sup>2</sup> for lower cost alternatives. Others assert that,  
8 irrespective of PacifiCorp’s intent, the mere perception associated with overlapping RFPs  
9 chills market participation.

10          With respect to concerns that PacifiCorp’s intent in issuing the RFP 2009R is to  
11 obtain competitive information in order to benefit the cost-based alternative, PacifiCorp  
12 replies by pointing to the process established by the Commission in UM 1182. In that  
13 docket, the Commission issued competitive bidding requirements for certain new supply-  
14 side resource acquisitions applicable to Oregon’s investor-owned utilities. *See* Order No.  
15 06-446 (“Guidelines”). Guideline 5 requires that an IE must be used to help ensure that  
16 all offers are treated fairly. Guideline 10 requires that an IE oversee the RFP process to  
17 ensure that it is conducted fairly and properly. To that end, PacifiCorp has retained an IE  
18 (subject to the Commission’s approval) for the 2008R-1 and 2009R RFPs to ensure that  
19 the overall process comports with the Guidelines and provides a fair and transparent  
20 process.

21          PacifiCorp believes the IE's participation in the RFP process (as provided in the  
22 Guidelines) is intended to identify issues, such as inappropriate use of market

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<sup>2</sup> The “benchmark” is a cost-based alternative available to customers wherein resource costs are included in rates based on established prudence determination and ratemaking principles.

1 information, *if* they occur and to assist with process design such that a fair, transparent  
2 and impartial process results. In past RFPs (and in the current 2008R-1 and 2009R RFP  
3 processes), PacifiCorp has made its actions transparent to the IE to allow vigorous  
4 oversight and the IE has dutifully reported to the Commission its comments, concerns  
5 and compliments.

6 In addition to such oversight, the Company abides by a self-imposed code of  
7 conduct to guard that information is not shared between PacifiCorp's RFP evaluation  
8 team and the generation team assembling the cost-based alternative. Consistent with the  
9 Guidelines, PacifiCorp ensures that the costs associated with the cost-based alternative  
10 are reviewed by the IE, locked down by the generation team and reviewed by the RFP  
11 evaluation team *prior to* the receipt of bids. To date, no IE has identified an instance of  
12 unfair or biased treatment of bidders or a violation of the Company's self-imposed code  
13 of conduct. If such treatment occurred, PacifiCorp is confident that the IE would identify  
14 such an issue and inform the Commission.

15 Furthermore, it is not a credible argument that information from the market is of  
16 benefit to the Company in assembling the cost-based alternative for the 2009R RFP since  
17 the cost of the wind turbines<sup>3</sup> are contractually established and the Company already has  
18 the benefit of balance of plant construction information from the construction market as a  
19 result of its recent construction activities. Balance of plant construction is not a service  
20 being sought via the 2009R RFP. Notwithstanding the fact that the IE will review the  
21 Company's costs components and report to the Commission as to reasonableness, the  
22 generation team will not obtain commercial information from the market via the 2008R-1

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<sup>3</sup> The cost of wind turbine generators is generally understood to be the largest component of cost associated with wind-powered generation resources.

1 RFP that would alter how the Company estimates *its* cost to construct the cost-based  
2 alternative<sup>4</sup>. Neither NIPPC nor ICNU provides the Commission with any details to  
3 support the concern about potential harm to customers. Indeed, just the opposite is true,  
4 customers could be harmed if bidders knew too many details about the cost-based  
5 alternative; not vice versa.

6 In previous RFPs, the Company has submitted quality, cost-based alternatives,  
7 inclusive of supporting documentation for underlying costs, that were vetted and  
8 reviewed positively by the IE. For example, in its July 2, 2007 memorandum to  
9 Commission staff regarding the analysis of the PacifiCorp benchmark bids in the 2012  
10 RFP, the IE found “that all of the capital costs were properly included and that the capital  
11 costs for the [b]enchmarks were not lowballed.” *Id.* at p. 14. The IE further concluded  
12 that the benchmark O&M costs were reasonable. *Id.* These conclusions were based on  
13 a “thorough examination of PacifiCorp’s submissions and detailed supporting  
14 documentation, including the company’s backup cost sheets, which contained the detailed  
15 line item inputs that were rolled up into the total cost estimates.” *Id.* at 2. The IE also  
16 made its conclusion regarding the Company’s benchmark after conducting “lengthy  
17 discussions with PacifiCorp staff, in order to determine whether or not PacifiCorp had, in  
18 fact, included these costs in their estimates.” *Id.* Based on past experience, there is no  
19 reason or evidence presented by any party that could lead to the conclusion that the  
20 Company would do anything different in the 2009R RFP.

21 Turning to comments regarding the potential chilling affect to market  
22 participation caused by perceptions associated with a RFP that overlaps a previous RFP’s

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<sup>4</sup> Market information provided via the 2008R-1 RFP is limited to the types of transaction structures allowed under the RFP (i.e., power purchase agreement, build own transfer or asset transfer).



1 Final Shortlist stage; PacifiCorp finds no evidence of market chilling in its experience. In  
2 fact, as discussed above, the Company’s initial 2009R RFP application fully informed the  
3 market of the overlap potential for a small number of bidders. Notwithstanding this  
4 disclosure, participation in PacifiCorp’s June 9, 2009, potential bidders’ conference was  
5 extremely high. Moreover, none of the many potential bidders in attendance expressed  
6 concern or raised questions regarding PacifiCorp’s overlapping strategy.

7 **IV. PROPOSED CONDITIONS FOR APPROVAL**

8 The Oregon IE proposes the following three conditions for approval of the 2009R  
9 RFP to address concerns raised in its IE Assessment:

- 10 i. We recommend that the Commission condition approval of this  
11 RFP on the Company’s pledge to work in good faith toward a  
12 conclusion of negotiations with shortlisted bidders in the 2008R-1  
13 RFP within three to six months from issuance of this RFP  
14 (assuming an early July issuance) as promised by the Company.
  
- 15 ii. The Commission should further require notification and  
16 justification from the Company as soon as the Company has any  
17 indications that (a) it will not make this negotiating deadline or (b)  
18 that it intends to drop from consideration all bids in the 2008R-1  
19 final shortlist.
  
- 20 iii. The Commission should also make clear to the Company that,  
21 should it drop all 2008R-1 shortlisted bids in favor of a Company  
22 benchmark, it will face substantial public skepticism and must be  
23 ready to demonstrate that the Company benchmark was a clearly  
24 superior choice to those bids. To further address overlap, the  
25 Company should encourage shortlisted bidders in the 2008R-1  
26 RFP to place bids in this RFP so that their offers are not lost if  
27 negotiations fall through.

28 *See IE Assessment at p.3*

29 PacifiCorp continues to strongly believe that the combination of finalizing its  
30 negotiations with the 2008R-1 RFP Final Shortlist and issuance of the 2009R RFP will  
31 result in the procurement of least-cost resources for the benefit of customers. Contrary to

1 the claim by NIPPC, the potential for overlap benefits customers. The Company is not  
2 issuing the 2009R RFP to “test the market” for the benefit of the Company, as claimed by  
3 ICNU and NIPPC; but rather, the Company believes it is in the best interest of customers  
4 to be in the market as often as reasonably possible. The benefit of being in the market  
5 will accrue to customers in the form of least-cost resources, not to the cost-based  
6 alternative.

7 Moreover, the Company is confident that the combination of its self-imposed  
8 code of conduct and the vigorous oversight of the IE provide sufficient safeguards to  
9 ensure fairness, impartiality and that customers receive the best deal from a market who  
10 understands it is being compared on a cost-basis instead of purely against other market  
11 participants. Notwithstanding this strong belief, and understanding that some parties  
12 disagree that customers will benefit from the Company issuing the 2009R RFP with a  
13 cost-based alternative included, PacifiCorp is committed to working collaboratively with  
14 the Commission, parties and the IE in developing its RFP process and desires to be  
15 responsive to concerns to ensure that customers are not harmed.

16 To this end, the Company is willing to adopt the three conditions proposed in the  
17 IE Assessment with one caveat. The IE’s third condition proposes that, if the Company  
18 fails to select a 2008R-1 RFP shortlisted bidder, and instead selects the Company  
19 benchmark, it will face substantial public skepticism and must be ready to demonstrate  
20 that the Company benchmark was a clearly superior choice to the rejected bid or bids.  
21 PacifiCorp does not question its burden of ultimately demonstrating acquisition prudence  
22 in an appropriate and subsequent ratemaking proceeding. However, UM 1429 is not a  
23 ratemaking proceeding and consistent with prior RFP dockets, the Company does not

1 believe that conditions for a future cost recovery proceeding should properly be  
2 considered as part of a RFP approval process.<sup>5</sup>

3 In addition, the Company strongly opposes the suggestion made by NIPPC that  
4 the Commission require the Company to demonstrate in a future ratemaking proceeding  
5 that the present value of the cost of a benchmark resource represented a ten percent  
6 savings to customers when compared to the present value of the cost of any shortlist from  
7 the 2008R<sup>6</sup> RFP. *See* NIPPC Comments at p.4. Such a standard has no legal basis, could  
8 result in a resource that is not least cost, is contrary to the purpose of the Commission-  
9 prescribed competitive bidding process—to achieve the best value for customers—and,  
10 taken on its face, represents a new ratemaking principle where customers would be  
11 willing to pay up to a 9.9 percent premium depending on the legal entity supplying the  
12 resource. Given these facts and consistent with the Commission’s prior orders affirming  
13 that cost recovery principles are properly the subject of future proceedings, it is difficult  
14 for the Company to see how NIPPC’s suggestion is in the best interest of customers.

15 Fair competition for the benefit of customers includes having the benefit of a cost-  
16 based alternative when possible. To do otherwise will expose customers 100 percent to  
17 the renewable resource market. In the Company’s view, it is not in customers’ best  
18 interest to remove from consideration a resource that may very well be among the least  
19 cost alternatives to customers, is based on cost and for which the only component of

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<sup>5</sup> The Commission has indicated that ratemaking determinations are not made within the context of the resource planning or acquisition approval process. *See, e.g., Re Investigation Regarding Competitive Bidding*, Docket UM 1182, Order No. 06-446 at p. 10 (commenting with regard to the RFP approval process that, “[a]ny ratemaking determinations would occur at a later time”); *See also, Re Investigation into Least-cost Planning in Oregon*, Docket UM 180, Order No. 89-507 at p. 6 (“[r]atemaking decisions will not be made in the Least-Cost Planning process”). Instead, the Commission has chosen to address cost recovery issues in a prudence review through a rate proceeding, rather than through the RFP process.

<sup>6</sup> NIPPC says 2008R RFP; however, PacifiCorp assumes this was intended to be a reference to the 2008R-1 RFP.

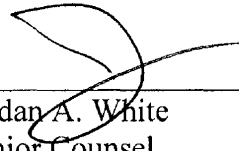
1 profit is a regulatory determined equity component. To date, no bidder has been willing  
2 to make that same offer to customers and it is unlikely that any bidder ever will. The  
3 Company does not see how depriving customers of a viable resource alternative simply  
4 on the basis of it being cost-based is an appropriate approach. Issues of prudence and  
5 cost recovery treatment should be addressed within an appropriate ratemaking process;  
6 where parties have an opportunity to fully litigate issues and complete the record  
7 pursuant to established ratemaking principles.

## 8 VI. CONCLUSION

9 The Company strongly believes that its issuance of the 2009R RFP as proposed  
10 will result in the procurement of least cost resources for customers. Notwithstanding, the  
11 Company is sensitive to the concerns expressed by the IE, NIPPC, RNP and ICNU and is  
12 willing to adopt, subject to the caveat noted above, the reasonable conditions for approval  
13 as presented in the IE Assessment. It is the Company's view that these conditions strike  
14 a fair balance of ensuring that customers are provided with a cost-based alternative and  
15 satisfying the requirements to procure least-cost resources while concerns about fairness  
16 and transparency raised by the parties are addressed as intended by the Commission  
17 Guidelines and the utilization of the IE.

18 PacifiCorp appreciates the opportunity to submit these reply comments and the  
19 Commission's willingness to hear this matter on an expedited basis. The Company looks  
20 forward to working with the Commission, its Staff, the IE and the parties to complete a  
21 successful 2009R RFP.

DATED: June 30, 2009.

A handwritten signature in black ink, appearing to read "Jordan A. White". The signature is written over a horizontal line that extends across the page.

Jordan A. White  
Senior Counsel  
Pacific Power  
PacifiCorp