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December 9, 2020

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
Salem, OR 97301-3398


Attn: Filing Center

**RE: UM 1631 – Petition for Partial Waiver of OAR 860-089-0500(2)**

PacifiCorp d/b/a Pacific Power submits for filing its petition for a partial waiver in the above referenced docket.

Informal inquiries may be directed to Cathie Allen, Manager, Regulatory Affairs, at (503) 813-5934.

Sincerely,



Etta Lockey  
Vice President, Regulation

Enclosure

Cc: Service list for UM 2059

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1631**

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

Petition for Partial Waiver of OAR 860-089-  
0500(2).

**PETITION FOR A PARTIAL WAIVER  
OF OREGON ADMINISTRATIVE  
RULE 860-089-0500(2)**

Pursuant to Oregon Administrative Rule (OAR) 860-001-0000(2) and OAR 860-089-0010(2), PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) respectfully asks the Public Utility Commission of Oregon (Commission) for a partial waiver of OAR 860-089-0500(2). Specifically, PacifiCorp is requesting a waiver of the requirement contained in OAR 860-089-0500(2) that it wait until the Company requests that the Commission acknowledge the final shortlist of bids resulting from the 2020 All-Source Request for Proposal (2020AS RFP) before the Company begins power purchase agreement (PPA) negotiations with the developers on the final shortlist. The waiver is needed to allow PacifiCorp to begin PPA negotiations beginning in January 2021 with the developers on the initial shortlist. This will shorten the final contract negotiations with those bidders selected to the final shortlist and allow those successful bidders to move forward with development and construction sooner versus waiting several additional months through full term of the negotiations. Initiating contract negotiations early and ahead of the final shortlist selection will allow the Company to move promptly in attempting to execute the PPAs with those developers that have been selected to the final shortlist. The granting of the partial waiver request to allow early pre-negotiations will not impact the 2020AS RFP process,

the selection of the final short list, or otherwise prejudice the competitive solicitation process. Good cause exists to grant the Company's motion.

## **BACKGROUND**

On February 24, 2020, PacifiCorp filed with the Commission an application requesting the Commission open a docket for approval of a solicitation process for new resources and to appoint an Oregon independent evaluator (Oregon IE) to oversee the process and approval of the scoring and modeling for the draft 2020AS RFP. The 2020AS RFP process is responsive to the resource needs identified in the Company's 2019 Integrated Resource Plan (IRP) filing, which was acknowledged by the Commission in docket LC 70.<sup>1</sup> The Commission approved the Company's 2020AS RFP with conditions at a special public meeting held on July 2, 2020.<sup>2</sup>

As set forth in the schedule in Section 3.A. of the 2020AS RFP, bidders were notified that they had been selected to the initial shortlist on October 30, 2020. The following day bidders were to notify PacifiCorp transmission to enter into the transition interconnection cluster study. The cluster study is performed over the next six months with results being posted to OASIS and bidders notified by PacifiCorp transmission on April 15, 2021. During this period while the cluster study is in progress, the Company is performing additional due diligence on the initial shortlisted projects including an assessment of the net capacity factor by a third party consultant as required under OAR 860-089-400 (5)(a). It is proposed during this period of lower activity by the bidder and the Company, that the Company and the initial shortlist engage in contract discussions and preliminary negotiations to move the contract close to a near-final draft. The final shortlist will be selected and the Company will request that the Commission

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<sup>1</sup> *In re the Matter of PacifiCorp, dba Pacific Power, 2019 Integrated Resource Plan*, Order No. 20-186 (June 8, 2020).

<sup>2</sup> *In re the Matter of PacifiCorp, dba Pacific Power, Application for Approval of 2020 All-Source Request for Proposal*, Order No. 20-228 (July 16, 2020).

acknowledge the final shortlist in May 2021. Upon acknowledgment, the Company would re-engage the final shortlist to finalize the near-final draft contract and move to execution.

### **WAIVER REQUEST**

OAR 860-089-0500(2) provides that “[a]n electric company must request that the Commission acknowledge the electric company’s final shortlist of bids before it may begin negotiations. Acknowledgement of a shortlist has the same legal force and effect as a Commission-acknowledged IRP in any future cost recovery proceeding.” Thus, under OAR 860-089-0500(2), PacifiCorp cannot begin to negotiate with bidders until it requests that the Commission acknowledge the final shortlist of bids for the 2020AS RFP. OAR 860-089-0010(2) provides that “[u]pon request or its own motion, the Commission may waive any Division 089 rules for good cause shown. A request for waiver must be made in writing to the Commission prior to or concurrent with the initiation of a resource acquisition.”

In the 2020AS RFP schedule, to allow for the cluster study, there is approximately six months between the selection of bids for the initial shortlist in October 2020 and the Company’s request to the Commission to acknowledge the final shortlist of bids in May 2020. To take advantage of the time period during which the cluster study will be performed, PacifiCorp is requesting a partial waiver of OAR 860-089-0500(2) to allow it to begin PPA negotiations with bidders selected to the initial shortlist. Allowing the Company to begin negotiations in January 2021 with bidders on the initial short list results in a more expedient and efficient process to bring these resources online and has the support of the bidders selected to the initial shortlist. If the request is granted, the Company can engage in preliminary PPA negotiations with bidders on the initial shortlist, which it expects to conclude in March 2021. To the extent bidders on the initial shortlist are the same bidders on the final shortlist submitted to

the Commission, PacifiCorp will be in a position to quickly conclude negotiations and move to execute the PPAs. Good cause exists to grant PacifiCorp's request for partial waiver of OAR 860-089-0500(2) because allowing early negotiations can reduce months of negotiation time off the backend of the RFP process for those bidders included in the final shortlist; thereby, allowing bidders to move forward on development and financing, bringing these projects online sooner to the benefit of PacifiCorp customers. The 2020AS RFP process, the selection of the final short list, or the competitive solicitation process will not be prejudiced by the granting of the partial waiver, as the partial waiver will only expedite negotiations with those bidders included in the final shortlist.

### CONCLUSION

Based on the foregoing, PacifiCorp respectfully requests that the Commission grant PacifiCorp a partial waiver of OAR 860-089-500(2) to allow it to begin PPA negotiations with bidders prior to its request for acknowledgement of the final shortlist of bidders for its 2020AS RFP. Good cause exists to grant the Company's request as it will result in a more expedient and efficient process. The granting of the partial waiver will not prejudice the competitive solicitation process.

Respectfully submitted this 9th day of December, 2020, on behalf of PacifiCorp.



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## CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of PacifiCorp's **Petition for Partial Waiver** on the parties listed below via electronic mail and/or or overnight delivery in compliance with OAR 860-001-0180.

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Dated this 9<sup>th</sup> day of December, 2020.




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