

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
SPECIAL PUBLIC MEETING DATE: July 20, 2017**

REGULAR   X   CONSENT \_\_\_\_\_ EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: July 12, 2017

TO: Public Utility Commission

FROM: Geoffrey Ihle *GI*

THROUGH: Jason Eisdorfer *JE* and John Crider *JC*

**SUBJECT:** PACIFICORP, dba PACIFIC POWER: (Docket No. UM 1845) Commission selection of an Independent Evaluator to oversee PacifiCorp's request for proposal process related to resources identified in its 2017 Integrated Resource Plan.

**STAFF RECOMMENDATION:**

Staff recommends the Commission select Bates White, LLC (Bates White) to serve as an Independent Evaluator (IE) in the event PacifiCorp (Company) pursues any Requests for Proposals (RFP) in 2017 for renewable resources identified in its 2017 Integrated Resource Plan (IRP).<sup>1</sup>

**DISCUSSION:**

Issues

1. Whether the Commission should open a docket for approval of PacifiCorp's 2017R Request for Proposals.<sup>2</sup>
2. Whether the Commission should select a bidder to serve as an IE for PacifiCorp in the event the Company pursues any RFPs, and if so, whether the Commission should select Staff's recommended bidder to serve as IE.

Applicable Law

Under ORS 756.040(2), the Commission is "vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state,

<sup>1</sup> PacifiCorp 2017 IRP, Docket LC 67, Volume 1 pp. 265-266 (April 04, 2017). Staff's recommendation in this staff report should not be interpreted as a position, or a recommendation, on the outcome of PacifiCorp's IRP Docket, LC 67, any resource acquisition decision, or whether PacifiCorp may seek to recover any IE costs; rather, Staff is making an IE recommendation at this time to accommodate the timeline of the Company and stakeholders *should* PacifiCorp choose to issue the contemplated RFP in the future.

<sup>2</sup> *In the Matter of PacifiCorp d/b/a Pacific Power Application for Approval of 2017R Request for Proposals*, Docket UM 1845, Application, pp. 1.

and to do all things necessary and convenient in the exercise of such power and jurisdiction.”

As amended by Oregon Laws 2016 Ch. 28, Section 6, ORS 469A.075(4) reads:

- (4) The commission shall adopt rules:
- (a) Establishing requirements for the content of implementation plans;
  - (b) Establishing the procedure for acknowledgment of implementation plans under this section, including provisions for public comment;
  - (c) Providing for the integration of the implementation plan with the integrated resource planning guidelines established by the commission for the purpose of planning for the least-cost, least-risk acquisition of resources; and
  - (d) *Providing for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that generate qualifying electricity.*

(Emphasis added). The Commission has opened Docket AR 600 for the purpose of implementing this provision.<sup>3</sup>

The Commission has issued Competitive Bidding Guidelines (Guidelines) that provide a framework for, and expectations of, resource procurement of “Major Resources.” Under the Guidelines, a utility must issue an RFP for major resource acquisitions identified in its last acknowledged Integrated Resource Plan (IRP). Major Resources are “those resources with durations greater than five years and quantities greater than 100 MW.”<sup>4</sup> See Order No. 14-149.

The Guidelines call for the IE to “oversee the RFP process to ensure that it is conducted fairly and properly.”<sup>5</sup> The IE is involved in almost the entire RFP process, from the RFP design through the submission of a Closing Report to the Commission.

The Guidelines contemplate that an RFP will align with a Company’s acknowledged IRP (Guideline 7), the utility should base a non-price score in an RFP on resource characteristics identified in the utility’s acknowledged IRP Action Plan (Guideline 9), and that a request for acknowledgment of a final shortlist should “discuss the consistency of the final shortlist with the company’s *acknowledged* IRP Action Plan [emphasis added] (Guideline 13).”<sup>6</sup> See Order No. 14-149.

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<sup>3</sup> Dockets AR 598 and UM 1771, Order No. 16-188, p. 1.

<sup>4</sup> See *In the Matter of Public Utility Commission of Oregon Investigation Regarding Competitive Bidding*, Docket UM 1182, Order 14-149, Appendix A, p. 1.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

Guideline 5 of the Commission's competitive bidding order addresses the IE selection and contracting process:

"... Commission Staff, with input from the utility and interested, non-bidding parties, will recommend an IE to the Commission, which will then select or approve an IE for the RFP. The IE must be independent of the utility and likely, potential bidders and also be experienced and competent to perform all IE functions identified in these Guidelines. The IE will contract with and be paid by the utility. The IE should confer with Commission staff as needed on the IE's duties under these Guidelines. The utility may request recovery of its payments to the IE in customer rates."<sup>7</sup>

See Order No. 14-149, Appendix A.

In its initial discussion of this guideline, the Commission stated: "We believe the utility and non-bidders should participate in the process and provide input to Staff. Staff, however, should make a final recommendation to the Commission for approval, which could be accomplished at a public meeting." See Order No. 06-446.<sup>8</sup>

## Analysis

### *Background*

On April 4, 2017, PacifiCorp filed its 2017 Integrated Resource Plan (IRP) with the Commission. In the IRP, PacifiCorp identifies an economic opportunity to procure up to 1,100 MW (nameplate) of wind resources interconnecting to its Wyoming transmission system, coupled with a new, 140 mile, 500 kV transmission line between the Aeolis substation and the Jim Bridger power plant in Wyoming.<sup>9</sup> In PacifiCorp's RFP pre-issuance bidders' conference, PacifiCorp indicates it will seek up to 1,270 MW of these wind resources in the 2017R RFP.<sup>10</sup>

On June 1, 2017, PacifiCorp filed an application requesting the Commission (1) open a docket for approval of PacifiCorp's 2017R RFP, which it describes as "a solicitation process for up to approximately 1,270 MW of new wind resources capable of interconnecting to, and/or delivering energy and capacity across, PacifiCorp's transmission system in Wyoming", and (2) appoint an IE to oversee the process. The Company anticipates that the RFPs will be issued prior to acknowledgement of PacifiCorp's 2017 Integrated Resource Plan (IRP), currently under review with the Commission. PacifiCorp proposes in its petition to conduct the solicitation process concurrently with the Commission's review of the Company's IRP.

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<sup>7</sup> *Ibid.*

<sup>8</sup> *In the Matter of Public Utility Commission of Oregon Investigation Regarding Competitive Bidding*, Docket UM 1182, Order No. 06-446.

<sup>9</sup> PacifiCorp 2017 IRP, Docket LC 67, Volume 1 pp. 2 (April 04, 2017).

<sup>10</sup> See

[http://www.pacificorp.com/content/dam/pacificorp/doc/Suppliers/RFPs/2017R\\_RFP/2017R\\_RFP\\_Pre-Issuance\\_Bidders\\_Conference\\_May\\_31\\_2017.pdf](http://www.pacificorp.com/content/dam/pacificorp/doc/Suppliers/RFPs/2017R_RFP/2017R_RFP_Pre-Issuance_Bidders_Conference_May_31_2017.pdf), slide 4.

*Staff does not Support the Commission opening a docket for approval of PacifiCorp's 2017R Request for Proposals*

PacifiCorp requests that the Commission open a docket for approval of the Company's RFP before the Commission acknowledges PacifiCorp's IRP, and, alternatively requests a waiver of Guideline 7. Staff does not find either action to be necessary at this time. Guideline 7 merely requires a final draft RFP to be filed for review and approval after the RFP design process. Whether the Commission may acknowledge the 2017 IRP or approve an RFP for issuance are matters that are not yet before the Commission for a decision. PacifiCorp is not obligated to proceed with development of an RFP with the IE. Whether or not to proceed with the contemplated RFP is a matter for the Company to consider.

*Staff Supports Selection of an IE*

Staff recommends the Commission select an IE for PacifiCorp to use in the event it chooses to proceed with RFP development. Approval of an IE has no bearing on whether the Commission may later approve an RFP for issuance or acknowledge any resulting short-list. Staff has contemplated developing a pre-qualified list of IEs in the past. Approval of an IE at this time will allow PacifiCorp to proceed in a timely manner, *should* PacifiCorp choose to issue this contemplated RFP in the future. In supporting selection of an IE, Staff is not taking any position on the outcome of PacifiCorp's IRP Docket (LC 67), any resource acquisition decision, or the appropriateness of cost recovery for IE expenses.

With the current timing between the IRP and potential issuance of resource RFPs, Staff recommends that the Company include language in its contract with any selected IE that clarifies the Company, by entering into an agreement with the IE, is not obligated to proceed with development of an RFP or engage in the RFP process.

*Staff Review of IE Bids*

Because Staff supports making an IE selection in advance of any RFP development process, Staff has reviewed the 14 bids for IE services that PacifiCorp received and recommends the Commission select the bidder that is a preferred bidder of the utility and Staff.

PacifiCorp evaluated the 14 bids it received for IE services, and PacifiCorp identified its top three scoring bidders to Staff. The Company also provided its recommended bidder: Bates White. Using a combination of price and non-price criteria, PacifiCorp gave each of the three bidders a high combined score. PacifiCorp used the following general criteria<sup>11</sup> to score the bids:

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<sup>11</sup> PacifiCorp's internal scoring process appears robust, and was discussed with stakeholders at the July 10, 2017 workshop with non-bidding stakeholders who had signed the protective order in this docket.

- Level of understanding of the scope of work to be performed;
- The ability to perform the work;
- Soundness, professionalism, and feasibility of their proposed methodology; and
- Completion of the project proposal at a reasonable price.

Staff independently analyzed the 14 bids received in response to PacifiCorp's IE RFP, using the same categories as PacifiCorp. Staff's top three scoring bidders were the same as PacifiCorp's, in the same order.<sup>12</sup> There were some differences in the remainder of the rankings, which Staff does not find significant.

Staff held a workshop on July 10, 2017 with PacifiCorp, the Industrial Customers of Northwest Utilities (ICNU) and Northwest & Intermountain Power Producers Coalition (NIPPC). At the workshop, NIPPC expressed its comments and concerns related to the IE selection process in general, which does not require stakeholder input at the beginning of the process, and also shared the outcome of its evaluation process for the bidders. NIPPC shared that its preferred bidder is Bates White. ICNU participated in a monitoring role in this workshop. ICNU later confirmed that while it has significant concerns with the Company's investment plans, it does not oppose the recommendation of Bates White.

Upon Staff's independent review of the IE proposals and consideration of the input from interested parties at the July 10, 2017 workshop, Staff recommends Bates White to the Commission for selection as the IE. Staff finds Bates White to be a firm that is independent of the utility and likely, potential bidders. Additionally, the firm has experience in Oregon and other jurisdictions, and is competent to perform all IE functions. Bates White provided a listing of over ten RFPs in which it has served as the monitor. In Oregon, Bates White has served as the IE in PacifiCorp's 2008 R-1 Renewables RFP and 2012 Baseload RFP. Staff is satisfied that Bates White understands what is required of the IE and that the firm is able to deliver such services, given its obligations in the region.

#### *IE-Related Costs*

Given the timing of PacifiCorp's application for Commission approval of an IE prior to a Commission decision in LC 67 on PacifiCorp's 2017 IRP, Staff has considered cost-recovery implications. As noted above, Staff encourages PacifiCorp to include language in its contract with the selected IE expressly stating that PacifiCorp is not obligated to proceed with development of an RFP with the IE. Further, whether or not customers would bear the costs of the IE is to be determined at a later date. Staff notes that simply selecting an IE does not immediately indicate a rate impact; rather, the

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<sup>12</sup> See Confidential Attachment A for detail on Staff's rankings.

Commission has discretion to determine whether IE-related costs should be borne by customers when the prudence determination of the resource acquisition is determined. Should the Company request a deferral for IE-related costs, the Commission will have an opportunity at that time to determine whether deferral is an acceptable approach, and if so, whether or not such deferred costs should be amortized. Staff takes no position on such a filing at this time. Staff notes that if such costs are deferred, when PacifiCorp requests amortization of the deferred costs, an earnings review would occur and Staff would review the costs to determine if they are reasonable and prudent before recommending amortization.

#### Conclusion

Staff's independent analysis resulted in Bates White being Staff's recommended IE to the Commission. Staff believes that Bates White's experience in similar resource RFPs meets the project requirements and covers the scope of work indicated in PacifiCorp's RFP at a reasonably low price.<sup>13</sup> Staff believes that if Bates White is selected, it has an excellent chance of executing its IE duties in a way that significantly furthers the goals of having a fair and transparent resource RFP. The Company, Staff, and NIPPC all support the selection of Bates White. ICNU also does not find Bates White to be an objectionable IE, with the aforementioned caveat regarding the organization's concerns about PacifiCorp's investment needs.

#### **PROPOSED COMMISSION MOTION:**

Select Bates White, LLC to serve as the IE in the event PacifiCorp pursues any Requests for Proposals in 2017 relating to the new renewable resources contemplated in PacifiCorp's 2017 IRP.

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<sup>13</sup> See Confidential Attachment B: Expected Independent Evaluator Costs.

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Attachment A contains information that is protected under Protective Order No. 17-281.

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Attachment B contains information that is protected under Protective Order No. 17-281.