

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 2193**

In the Matter of  
  
PacifiCorp, dba Pacific Power,  
  
Application for Approval of 2022 All-  
Source Request for Proposals

NORTHWEST & INTERMOUNTAIN  
POWER PRODUCERS  
COALITION’S FINAL COMMENTS  
ON PACIFICORP’S DRAFT 2022  
RFP

**I. INTRODUCTION**

The Northwest & Intermountain Power Producers Coalition (“NIPPC”) hereby respectfully submits these final comments on PacifiCorp’s Draft 2022 All-Source Request for Proposals (“AS RFP”) and the Oregon Public Utility Commission (the “Commission” or “OPUC”) Staff’s Report. NIPPC is pleased PacifiCorp has proposed this RFP to meet its needs for significant energy, capacity, and renewable resources. As explained below, NIPPC recommends that the Commission require revisions and clarifications identified in these comments to PacifiCorp’s Draft 2022 AS RFP. NIPPC recommends the Commission adopt NIPPC’s previous recommendations, several recommendations from Staff’s Report, the conditions the Washington Utilities and Transportation Commission (“WUTC”) placed on approval of the 2022 RFP, some of the Oregon Independent Evaluator’s (“IE’s”) recommendations, and several of the recommendations from PacifiCorp’s Utah IE.

## II. COMMENTS

### A. **The Commission Should Direct PacifiCorp to Update its Draft RFP Consistent with NIPPC’s Previous Recommendations**

NIPPC recommends the Commission direct PacifiCorp to make changes to its Draft 2022 AS RFP so that a broad number and type of bids are allowed, to ensure the least cost and least risk resources are selected. PacifiCorp is planning to submit benchmark bids (utility-owned proposals) into the 2022 AS RFP.<sup>1</sup> Thus, it is important to ensure a wide variety of resource bids are allowed in the 2022 RFP so that the least cost and least risk resources are identified.

NIPPC recommends the Commission direct PacifiCorp to adopt NIPPC’s prior recommendations. NIPPC has not repeated most of its arguments herein, but refers the Commission to its earlier comments:

- Extend commercial operation date (“COD”) until the end of 2028 for all projects if Cluster Study results show the time to interconnect the generating facilities will extend beyond the end of 2026;<sup>2</sup>
- Allow co-located renewable energy plus storage bids for alternating current (“AC”) coupled storage resources and direct current (“DC”) coupled storage resources;<sup>3</sup>
- Accept conditional firm transmission;<sup>4</sup>

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<sup>1</sup> PacifiCorp Application to Open Independent Evaluator Selection Docket at 8 (Sept. 2, 2021).

<sup>2</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Draft RFP at 2-4 (Feb. 18, 2022).

<sup>3</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Draft RFP at 4-5.

<sup>4</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Draft RFP at 5-6. NIPPC supports Staff’s more limited recommendation on this issue.

- Allow different configurations of bids per project site without requiring the bidder to pay additional bid fees;<sup>5</sup>
- Clarify what is meant when the nameplate capacity must be consistent and supported by an interconnection;<sup>6</sup>
- Allow off-system build-transfer agreement (“BTA”) proposals if the BTA bids can secure firm transmission service to move the energy to PacifiCorp’s system;<sup>7</sup>
- Require PacifiCorp to use a price/non-price score ratio of 80/20 instead of 75/25 as currently proposed;<sup>8</sup>
- Require PacifiCorp to provide additional clarification on how bids will be assigned price score points especially the treatment of different term duration through “term-normalization;”<sup>9</sup> and
- Replace the 90 percent out-put based performance guarantee in the Pro Forma Power Purchase Agreement (“PPA”) with an availability guarantee.

The Commission Should also adopt the following additional recommendations of the Oregon PUC Staff:

- Provide the Oregon IE with access to modeling and benchmark scoring;
- PacifiCorp work with Staff to provide in the next RFP and Integrated Resource Plan (“IRP”) dockets a list and detailed map of all publicly available data and information from the 2020 and 2022 RFPs regarding large generator interconnection agreements (“LGIAs”) on PacifiCorp’s system; and
- PacifiCorp work with Staff on sensitivity definitions and additional data.

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<sup>5</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Draft RFP at 6-7. NIPPC supports Staff’s more limited recommendation on this issue.

<sup>6</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Draft RFP at 7-8.

<sup>7</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Draft RFP at 8.

<sup>8</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Scoring and Methodology at 3-6 (Nov. 22, 2021).

<sup>9</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Scoring and Methodology at 6-7.

The Commission should also adopt the following additional recommendations of the Oregon IE that PacifiCorp provide clarification regarding use of generic resources as market proxy bids.

The Commission should also adopt the additional recommendations of the Utah IE (as explained below, the Utah IE also raised many of the same concerns as the Oregon Staff and NIPPC on other issues including the required COD and access to bid review and evaluation model):

- Conduct a Technical Workshop;
- Require benchmark resources to use the same information as listed in the benchmark bids for the 2017 Renewable RFP;
- Provide additional clarification regarding benchmark resource information, templates, scoring methodologies, and augmentation costs;
- Provide more guidance on long-lead time resources;
- Remove certain operational requirements for battery energy storage bids;
- Provide clarifications related to non-price scoring, ranking methodology, and treatment and assessment of capacity contribution values; and
- Update the RFP to include responses to IE regarding compliance with the Code of Conduct.

## **B. Output Guarantee**

Renewable Northwest (“RNW”) recommended the Commission require PacifiCorp to replace the 90 percent output-based performance guarantee in the Pro

Forma PPA with an availability guarantee.<sup>10</sup> NIPPC raised a similar argument in PacifiCorp's 2020 RFP.<sup>11</sup> The Commission did not adopt NIPPC's recommendation, and NIPPC did not address this issue in this RFP. However, NIPPC re-raises the issue and is supportive of RNW's recommendation. A 90 percent performance guarantee is unreasonably high where resource availability can vary significantly from year-to-year. This performance guarantee will make it harder for projects to obtain financing, which could discourage bidders and not allow the least cost and least risk resources to bid into the 2022 RFP. Thus, the Commission should adopt RNW's recommendation to require PacifiCorp to replace the 90 percent performance guarantee with an availability guarantee.

**C. The Commission Should Adopt Many of Staff's Recommendations**

Staff submitted its Report on April 5, 2022 and made seven RFP Conditions recommendations and twelve General Recommendations.<sup>12</sup> Generally, NIPPC is supportive of several of Staff's Conditions and General Recommendations and recommends the Commission adopt many of Staff's Conditions and General Recommendations.

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<sup>10</sup> Renewable Northwest's Comments on PacifiCorp's 2022 All-Source RFP at 8 (Feb. 18, 2022).

<sup>11</sup> *In re PacifiCorp Application for Approval of 2020 All-Source RFP*, Docket No. UM 2059, NIPPC's Comments on PacifiCorp's Draft RFP at 8-10 (May 22, 2020).

<sup>12</sup> Staff Report at 1-3 (Apr. 5, 2022).

## 1. IE Access to Modeling and Benchmark Scoring

Two of Staff's Conditions relate to modeling and scoring of benchmark bids.

Staff's Condition 1 and General Recommendation 1 relates to the IE's access to PacifiCorp's Plexos model.<sup>13</sup> Staff Condition 2 relates to benchmark bid scoring.<sup>14</sup> Staff recommends the IE have full access to PacifiCorp's Plexos model so that the IE can fully and independently evaluate benchmark bids in accordance with Commission competitive bidding rules.<sup>15</sup> The Utah IE makes a similar recommendation as described below.

NIPPC is supportive of Staff's Condition 1 and General Recommendation 1. Staff also recommends PacifiCorp not be allowed to change the benchmark bid modeling inputs and assumptions after filing benchmark bid scores prior to receiving market bids.<sup>16</sup>

Oregon's competitive bidding rules require the IE to "independently score the affiliate bids and bids with ownership characteristics or options, if any, and all or a sample of the remaining bids."<sup>17</sup> Further, the rules require the utility to "provide the IE and Commission with full access to its production cost and risk models and sensitivity analyses."<sup>18</sup> When an RFP includes a benchmark bid or build-transfer bid, the role of the IE is to "independently review, rather than merely 'validate,' the utility's bid scoring."<sup>19</sup>

Thus, the IE needs to have full access to a utility's modeling system in order to

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<sup>13</sup> Staff Report at 7-10.

<sup>14</sup> Staff Report at 10-12.

<sup>15</sup> Staff Report at 7-10.

<sup>16</sup> Staff Report at 10-12.

<sup>17</sup> OAR 860-089-0450(5).

<sup>18</sup> OAR 860-089-0400(6).

<sup>19</sup> *In re Investigation Regarding Competitive Bidding*, Docket No. UM 1182, Order No. 06-446 at 13 (Aug. 10, 2006).

independently review the RFP results, especially when the utility is bidding a benchmark resource or accepting build-transfer bids.

NIPPC supports Staff's Conditions 1 and 2 and General Recommendation 1. These recommendations will help protect the competitive bidding process and ensure the least cost and least risk resources are selected. A role of the IE is to independently evaluate the RFP results, which the IE cannot do unless it has full access to the modeling PacifiCorp uses to score bids. NIPPC also supports Staff's recommendation related to benchmark scoring. These recommendations will protect the competitive process of the RFP and help reduce the bias of utility-owned resource bids. Thus, the Commission should adopt Staff's Conditions 1 and 2 and General Recommendation 1.

## **2. Conditional Firm**

Staff's Condition 3 recommends allowing bids with conditional firm transmission rights to participate in the RFP but allow PacifiCorp to model maximum curtailment at peak hours to reduce reliability risk.<sup>20</sup> NIPPC is supportive of allowing bids with conditional firm transmission rights to participate in the RFP and proposed greater usage than Staff's more limited recommendation on conditional firm, but is willing to accept Staff's recommendation for the purposes of this RFP.

A project developer that has long-term transmission rights or that demonstrates a strong likelihood that it can obtain those rights and transfer them to PacifiCorp, should be able to sell its project to PacifiCorp without restriction. Doing otherwise could eliminate

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<sup>20</sup> Staff Report at 12-13.

least cost and least risk resources. Thus, the Commission should adopt Staff Condition 3 and require PacifiCorp to accept bids with conditional firm transmission rights.

### **3. Free Alternative Bid**

Staff's Condition 4 recommends requiring PacifiCorp to allow the submission of one free alternative bid for project at the same location and technology type but different project attributes.<sup>21</sup> NIPPC made a similar and broader recommendation, but NIPPC supports Staff Condition 4 for the purposes of this RFP. Allowing alternative bids at the same location without requiring bidders pay additional fees will help ensure PacifiCorp receives the least cost and least risk resources. If bidders were required to pay bid fees for every single alternative, then bidders would likely be discouraged from submitting alternatives. Thus, the Commission should adopt Staff's Condition 4 and require PacifiCorp to accept a free alternative bid at the same location for the same technology type.

### **4. Large Generator Interconnection Agreements**

Staff's General Recommendation 10 recommends PacifiCorp work with Staff to provide in the next RFP and Integrated Resource Plan ("IRP") dockets a list and detailed map of all publicly available data and information from the 2020 and 2022 RFPs regarding large generator interconnection agreements ("LGIAs") on PacifiCorp's system.<sup>22</sup> NIPPC support this recommendation as it could help provide clarity on the RFP selection process, especially related to cluster studies, ability to bid into the RFP,

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<sup>21</sup> Staff Report at 13-14.

<sup>22</sup> Staff Report at 28-29.



and potential success of winning an RFP if a party does not have a LGIA. Thus, the Commission should adopt Staff's General Recommendation 10 and require PacifiCorp to work with Staff to provide a list and detailed map of LGIAs from the 2020 and 2020 RFPs.

## **5. Sensitivities and Additional Analysis**

Staff's General Recommendations 11 and 12 recommends PacifiCorp work with Staff before the final shortlist selection to define the sensitivities and additional data that PacifiCorp will be expected to run and provide with the final shortlist, and PacifiCorp must file those sensitivities, additional data, and workpapers at least two weeks before the IE's Closing Report on the final shortlist.<sup>23</sup> NIPPC supports these General Recommendations as the recommendations will increase transparency of the RFP process and provide stakeholders with information on various sensitivities. Thus, the Commission should adopt Staff's General Recommendations 11 and 12 and require PacifiCorp to work with Staff to conduct sensitivities and file those sensitivities and data in the docket for transparency.

## **6. COD**

Staff's Condition 5 recommends the COD be pushed out to December 31, 2027 to match the WUTC's approval condition of PacifiCorp's RFP.<sup>24</sup> NIPPC continues to

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<sup>23</sup> Staff Report at 29-31.

<sup>24</sup> Staff Report at 16-18. The WUTC extended the COD from December 31, 2026 to December 31, 2027. *See In re PacifiCorp for an Order Approving Proposed RFP*, WUTC Docket No. UE-210979, Order 02 at 5 (Mar. 11, 2022); WUTC Docket No. UE-210979, Errata to Order 02 at 1.

recommend the Commission extend the COD until December 31, 2028 for all resources for the reasons articulated in previous comments.<sup>25</sup> However, if the Commission is not inclined to extend the COD until 2028, then NIPPC supports Staff’s Condition 5 to extend the COD until December 31, 2027.

**D. The Commission Should Adopt Some of the Oregon IE’s Recommendations**

The Oregon IE, PA Consulting (“PA”), made several recommendations on PacifiCorp’s 2022 Draft RFP. The Oregon IE’s recommendations were less supportive of ensuring a broad and competitive RFP than Staff, NIPPC, the Washington Commission, or the Utah IE. However, NIPPC recommends the Commission adopt the following recommendations of the Oregon IE:

- PacifiCorp should clarify its use of generic resources as market proxy bids for use in the initial Benchmark Bid scoring; PA is not comfortable that the scoring resulting from this method will accurately represent the Benchmark Bid scores.<sup>26</sup>
- PacifiCorp should work with Staff and PA in facilitating PA’s use of the Plexos software to independently score all Benchmark Bids and some third-party bids.<sup>27</sup> NIPPC understands that this essentially the same as Staff’s Condition 1 and General Recommendation 1.

While the Oregon IE did not recommend improvements in this RFP regarding alternative bids and PacifiCorp’s 2026 COD, the Oregon IE recommended analysis for future RFPs.

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<sup>25</sup> See NIPPC’s Comments on PacifiCorp’s 2022 Draft RFP at 2-4.

<sup>26</sup> IE’s Assessment of Final Draft 2022AS RFP at 19.

<sup>27</sup> IE’s Assessment of Final Draft 2022AS RFP at 19.

The Oregon IE recommended that PacifiCorp should explore alternate bid fees for the 2022AS RFP, potentially including reduced bid fees for alternate bids relative to base bids.<sup>28</sup> If the Commission does not adopt Staff and NIPPC’s recommendation that alternative bids be accepted in this RFP, then at least the Commission should adopt the Oregon’s IE recommendation.

The Oregon IE recommended the Commission maintain PacifiCorp’s 2026 COD, but “explore ways to evaluate lengthy interconnection timeline estimates which may cause bids to be ineligible with PacifiCorp Transmission.”<sup>29</sup> NIPPC continues to recommend a COD of December 31, 2028 for all resources, but if the Commission is inclined to maintain the 2026 COD, then at the very least the Commission should adopt the IE’s recommendation to “explore ways to evaluate lengthy interconnection timeline estimates which may cause bids to be ineligible with PacifiCorp Transmission.”

**E. The Commission Should Adopt Many of the Utah IE’s Recommendations**

PacifiCorp also filed its 2022 RFP in Utah in Docket No. 21-035-52. The IE in Utah, Merrimack Energy Group, Inc., made a series of recommendations for changes to PacifiCorp’s 2022 Draft RFP. The Utah IE generally proposed more recommendations in favor of the competitive process than the Oregon IE. Many of the Utah IE’s recommendations are more pro-ratepayer and independent power producer, than the Oregon IE’s recommendations. NIPPC recommends the Commission adopt these

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<sup>28</sup> IE’s Assessment of Final Draft 2022AS RFP at 19.

<sup>29</sup> IE’s Assessment of Final Draft 2022AS RFP at 19.

recommendations as the recommendations will protect the competitive bidding process and better ensure utility-ownership bias in the RFP is reduced.

Regarding the Utah IE’s recommendation to direct PacifiCorp to conduct a Workshop or Technical Conference for bidders regarding the interconnection process and transmission assessment shortly after issuance of the RFP,<sup>30</sup> NIPPC notes this could help address bidders’ concerns regarding the RFP and cluster study processes. One problem with the current cluster study, PacifiCorp’s Open Access Transmission Tariff, and RFP process is that utility owned resources, but not PPA bids, will have an advantage of already meeting the commercial readiness requirements, and the benchmark bids will not face the same deposit and potential withdrawal fees. Thus, hosting a conference or workshop to go over the overlap between the RFP and interconnection processes will better enable bidders to make cost effective bids and be more cost competitive compared to benchmark bids.

The Utah IE made the following recommendations on PacifiCorp’s 2022 Draft RFP that NIPPC supports:<sup>31</sup>

- Bidder Assistance
  - To assist potential bidders to meet commercial readiness criteria, Merrimack Energy recommends that PacifiCorp conduct a Workshop or

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<sup>30</sup> *In re Application of Rocky Mountain Power for Approval of a Solicitation Process for 2022 All Source RFP*, Utah Public Service Commission Docket No. 21-035-52, Task A7 Report of the Utah Independent Evaluator, Regarding PacifiCorp’s 2022 Draft All Source RFP (2022AS RFP) at 11 (Mar. 22, 2022) [hereinafter “Utah IE Report”].

<sup>31</sup> The Utah IE had a much longer list of 20 recommendations. Utah IE Report at 10-13 . NIPPC has included the most important that it specifically recommends that the Oregon Commission adopt. A copy of the Utah IE Report is attached to these comments as Attachment A.

Technical Conference for bidders regarding the interconnection process and transmission assessment shortly after issuance of the RFP.<sup>32</sup>

- Benchmark Resources
  - Require that the benchmark resource proposals include all the same information as included in benchmark bids for the 2017 Renewable RFP, which is consistent with the same level of detail and format as all other proposals are required to provide in Appendix B-2 and sections of C-1, C-2, and C-3 as applicable.<sup>33</sup>
  - Clearly identify in the RFP document the information and templates that benchmark resources will be required to provide consistent with the requirements of other resources.<sup>34</sup>
  - Provide clarification on the benchmark scoring methodology PacifiCorp intends to implement to ensure fairness and consistency in the evaluation process.<sup>35</sup>
  - Merrimack Energy agrees with Utah Association of Energy Users<sup>36</sup> request and recommendations regarding augmentation and recognizes that the cost of augmentation and timing for adding capacity for BTA or benchmark bids will have to be carefully scrutinized by the IE to ensure all projects are treated fairly and consistently, whether a PPA or utility-owned resource. Merrimack Energy suggests that PacifiCorp include augmentation costs in its benchmark cost analysis should the Company propose any collocated renewable and energy storage resources in its benchmark proposals.<sup>37</sup>

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<sup>32</sup> Utah IE Report at 11.

<sup>33</sup> Utah IE Report at 10.

<sup>34</sup> Utah IE Report at 10.

<sup>35</sup> Utah IE Report at 10.

<sup>36</sup> UAE is a non-profit organization comprised of industrial and commercial companies, with a large and diversified base of support from which to develop and influence energy policies and regulations. In Utah, the large industrial customer advocates actively participates in RFPs, unlike Oregon in which the Oregon large industrial customer advocate no longer participates in RFPs.

<sup>37</sup> Utah IE Report at 12.

- COD
  - Merrimack Energy has recommended that the COD for projects bidding into the 2022AS RFP be extended to at least December 31, 2027. This should facilitate the ability of additional projects to be able to achieve interconnection in time to meet the later COD. The IE views that completion of all major tasks in time to allow for projects to meet a December 31, 2026 COD could be challenged by the lengthy project development process due to supply chain issues and major equipment and production input constraints, contract negotiation process with a large number of contracts to execute, and the associated regulatory requirements.<sup>38</sup>
    - As explained above, NIPPC continues to support a December 31, 2028 COD.
  
- Merrimack Energy recommends that PacifiCorp provide more guidance and/or specific criteria to define which types of resources qualify as long-lead time resources. Merrimack Energy feels it is preferable to identify the definition and characteristics of such resources in the RFP and also state that bidders of such resources, who may have questions about resource eligibility, should submit a question to PacifiCorp for clarification along with documentation supporting their contention that the resource would qualify as a long-lead time resource.<sup>39</sup>
  
- Batteries
  - Merrimack Energy agrees with UAE’s comments on PacifiCorp’s operational requirements for battery energy storage bids including size of the battery relative to the nameplate rating of the renewable facility and duration for the battery. Merrimack Energy notes that the final portfolio from the 2020 AS RFP contained a range of operational characteristics for the battery options which led to a diverse and flexible portfolio. Based on a response to a question from Merrimack Energy, PacifiCorp has apparently agreed to remove the proposed restrictions.<sup>40</sup>

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<sup>38</sup> Utah IE Report at 10-11.

<sup>39</sup> Utah IE Report at 11.

<sup>40</sup> Utah IE Report at 11-12.

- Scoring
  - Merrimack Energy found PacifiCorp’s response to Office of Consumer Services<sup>41</sup> data request 1.19h to be different than what it expected and to be troubling overall for the potential implications on the importance of accurate non-price scoring and the ultimate impact on bid ranking and selection. Similar to OCS, Merrimack Energy requests clarification of the bid scoring and ranking methodology as well as a response on how capacity contribution values will be treated and assessed.<sup>42</sup>
  - Merrimack Energy agrees with the Division of Public Utilities (“DPU”)<sup>43</sup> regarding the evaluation of demand-side and supply-side resources from the RFPs. It is not clear to us how the evaluation and scoring of the resources is going to take place. Merrimack Energy requests that PacifiCorp clarify in more detail how the results of the two RFPs will be integrated and the methodology for evaluating (price and non-price) and selecting the final demand-side and supply-side resources will be implemented.<sup>44</sup>
  - With regard to the discussion on non-price scoring Merrimack Energy suggests revising the language in Section 6B in the RFP under Table 3 to read – “Bidders will have, as part of their bid, self-scored their bids using the non-price scorecard, which will be audited and verified by PacifiCorp prior to giving each bid a non-price score. PacifiCorp reserves the right to contact a bidder to seek clarification and support for the bidder’s self-score, if required. Bidders will have two-days to provide information requested by PacifiCorp to verify the self-scores.”<sup>45</sup>
  - While Merrimack Energy has concerns about a self-scoring process, the use of more objective criteria is preferable in cases where benchmark or

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<sup>41</sup> The OCS is Utah’s utility consumer advocate, representing residential, small commercial and agricultural consumers of natural gas, electric and telephone service before the Utah Public Service Commission. In Utah, the small consumer advocate actively participates in RFPs, unlike in Oregon in which the Oregon small consumer advocate does not participate in RFPs.

<sup>42</sup> Utah IE Report at 12.

<sup>43</sup> The DPU is the Utah Public Service Commission equivalent of the Oregon PUC Staff.

<sup>44</sup> Utah IE Report at 12.

<sup>45</sup> Utah IE Report at 12-13.

self-build options are competing. As a result, the IE does not oppose use of the scorecard and the self-scoring process but parties should monitor the process to assess whether the self-scoring process and scorecard are effective in distinguishing the viability of bids and are reasonable for future solicitations.<sup>46</sup>

- OCS raised comments about the Code of Conduct, including whether PacifiCorp intended to implement code of conduct training for affected employees. Merrimack Energy asked questions of PacifiCorp on the code of conduct, as well. PacifiCorp responded that it will identify members of the teams who will be required to sign code of conduct acknowledgement forms. PacifiCorp will hold training sessions for affected personnel similar to previous solicitations. The IE suggests that PacifiCorp update the RFP Appendix I to include its responses to the IE regarding the code of conduct, as noted above.<sup>47</sup>
- Modeling
  - Merrimack Energy suggests that the IEs should, at a minimum, be provided access to the output files for the PLEXOS model to be able to fulfill the IE's requirements for bid review and evaluation as identified in Utah Statutes.<sup>48</sup>
    - NIPPC understands that this is similar to Staff's Condition 1 and General Recommendation 1, and the Commission should adopt Staff's condition and recommendation.

### III. CONCLUSION

For the reasons stated above, the Commission should direct PacifiCorp to make the revisions articulated above and provide additional clarification were requested.

Dated this 11th day of April 2022.

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<sup>46</sup> Utah IE Report at 13.

<sup>47</sup> Utah IE Report at 12.

<sup>48</sup> Utah IE Report at 13.



Respectfully submitted,

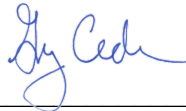
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Intermountain Power Producers Coalition

**Attachment A**

**Report of the Utah Independent Evaluator,  
Regarding PacifiCorp's 2022 Draft All Source RFP**

# PUBLIC SERVICE COMMISSION OF UTAH

3/22/2022

## Report of the Utah Independent Evaluator (Task A7) Regarding PacifiCorp's 2022 Draft All Source Request for Proposals (2022AS RFP) Docket No. 21-035-52

prepared by



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## 1. Executive Summary

Merrimack Energy Group, Inc. (“Merrimack Energy”) was retained by the Public Service Commission of Utah (“Commission”) to serve as Independent Evaluator (“IE”) for PacifiCorp’s 2022 All Source Request for Proposals (“2022AS RFP”). One of the tasks (Task A7) required the IE is to provide a written evaluation including recommendations to the Commission regarding the results of Tasks A1 through A4 of the IE Scope of Work as well as recommendations on approval of the proposed solicitation or modifications required for approval and the bases for the recommendations.<sup>1</sup> This report, often referred to as the IE RFP Design Report, is intended to meet that requirement.

Utah Code Section 54-17-101, known as the Energy Resource Procurement Act, requires that an affected electric utility seeking to acquire or construct a significant energy resource shall conduct a solicitation process that is approved by the Commission. The Commission shall determine whether the solicitation process complies with this Chapter and whether it is in the public interest taking into account whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electric utility located in the state.

The overall objective of the IE in this process is to ensure the solicitation process could reasonably be expected to be undertaken in a fair, consistent and unbiased manner and is expected to result in the selection of the best resource option(s) for customers in terms of price and risk. As a component of the first phase of the solicitation process (Solicitation Process Approval), which includes detailed review and assessment of the draft RFP and related documents, the objective of the IE is to ensure the RFP will lead to a fair, equitable and transparent process and that the key aspects of the RFP are consistent with Utah Admin. Code and industry standards. To accomplish these objectives the IE has undertaken the following activities:

1. Reviewed the Application For Approval of Solicitation Process, Direct Testimony of Heather Eberhardt, and Draft RFP documents submitted by PacifiCorp on January 26, 2022 and posted to the Commission’s website on

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<sup>1</sup> Task A7 also states that the IE should provide input on the development of screening and evaluation criteria, ranking factors, evaluation methods, and interconnection processes. Ensure that screening and evaluation criteria take into consideration the assumptions included in PacifiCorp’s most recent IRP, any recently filed IRP Update, and any PSC order on the IRP or IRP Update.

January 26, 2022;<sup>2</sup>

2. Attended several presentations by PacifiCorp in both Utah and Oregon regarding the 2022AS RFP, including the January 11, 2022 Utah Pre-Issuance Bidder's Conference and the February 17, 2022 PacifiCorp 2022 All Source RFP Bid Evaluation, Bid Selection, Models and Assumptions Virtual Technical Conference<sup>3</sup>;
3. Submitted comments and questions to PacifiCorp on the Draft 2022AS RFP and related Appendices associated with the 2022AS RFP on February 16, 2022 and received a response from PacifiCorp on the 32 questions prepared by Merrimack Energy on March 9, 2022;
4. Reviewed PacifiCorp Transmission's interconnection queue and Open Access Tariff and webpage for any updated information on the interconnection process. Also reviewed sections from the 2021 Integrated Resource Plan regarding transmission issues to gain a perspective on any changes to transmission and interconnection considerations;
5. Reviewed the comments filed by all interested parties in Utah and select comments filed in Oregon and Washington;
6. Based on our overall industry experience in serving as IE or a related role in other power procurement processes, assessed PacifiCorp's competitive procurement approach in the 2022AS RFP relative to Utah Admin. Code and industry practices.

Merrimack Energy has prepared its comments and recommendations on major issues identified by the IE and multiple parties and recognized by the IE as important to the fairness and transparency of the process as well as other issues identified by the IE that pertain to the development and implementation of an effective and fair competitive bidding process consistent with Utah Statutes. Chapter 6 of this report contains a discussion of these issues<sup>4</sup> and rationale for the recommendations provided below. These issues include:

1. Benchmark Resources
2. RFP Schedule
3. Bid Blinding
4. Bid Eligibility – Required COD
5. Long-Lead Time Resources
6. Bid Evaluation Fees and Alternatives

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<sup>2</sup> In its review of PacifiCorp's Application and Draft RFP documents posted to the Commission's website under Docket No. 21-035-52, Merrimack Energy identified that PacifiCorp failed to include several Appendices in its initial filing. After being informed by Merrimack Energy, PacifiCorp updated its filing and included the missing documents.

<sup>3</sup> The Technical Conference focused on two separate issues: (1) Scoring and Modeling; and (2) Storage Valuation.

<sup>4</sup> In response to the questions and comments submitted by Merrimack Energy to PacifiCorp regarding the Draft RFP, PacifiCorp agreed to make revisions to the RFP or address issues identified by Merrimack Energy.

7. AC/DC Coupling
8. Battery Energy Storage System Requirements
9. Ranking of Bids
10. Demand-Side Resources
11. Code of Conduct
12. Non-Price Criteria and Scoring
13. Credit Requirements
14. Webpage
15. Models and Input Assumptions
16. Reasonableness of the Evaluation Process

Several parties raised issues with regard to components of the RFP. If these issues can be resolved to the satisfaction of the parties and the Commission, it is our view that approval of PacifiCorp's 2022AS RFP, with conditions, is a reasonable result after resolution of these issues or acceptance of suggested modifications for addressing key issues.

Based on Merrimack Energy's review of the RFP and related information, the conclusions and recommendations of the IE are presented as follows.

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## 1.1 CONCLUSIONS

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- PacifiCorp's Application including the RFP documents and processes are generally consistent with the Utah Admin. Code, Regulations and Statutes pertaining to the requirements for the design and development of the competitive bidding process. The IE believes that PacifiCorp has adequately addressed the requirements listed in the Statutes, including the following:
  - Utah Admin Code R746-420-1(1) to R746-420-1(3)
  - Utah Admin Code R746-420-3(7);
- Based on Merrimack Energy's review and assuming many of the suggestions of stakeholders and the IE are addressed in the final RFP, the IE believes that PacifiCorp's 2022 solicitation process is reasonable and is likely to result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to PacifiCorp's retail customers taking into consideration long-term and short-term impacts, risks, reliability and financial impacts;



- Under the current structure of the RFP as an All-Source solicitation process, along with the suggestion to allow existing projects to submit proposals under certain conditions, and to also include Demand-side resources in the overall assessment, it can reasonably be expected that the solicitation process would lead to the acquisition and delivery of electricity at the lowest reasonable cost to retail customers. The IE and others have suggested revisions to the RFP which should hopefully result in a more competitive process for the benefit of customers;
- The market response to PacifiCorp's 2020As RFP was incredibly robust with over 575 offer variants submitted from 141 unique projects submitted by 44 counterparties. While we would expect fewer options and projects from this RFP based on the proposed revisions to the sequencing of the schedule with proposals submitted after completion of the Cluster Study interconnection process, the IE still expects that there will be a very robust market response based on the resource requirements identified and the number of active suppliers in the market. As a result, the IE expects there will be significant interest in the 2022AS RFP that will result in a robust and competitive response from the market;
- The PacifiCorp 2022AS RFP is a reasonably transparent solicitation process, with a significant amount of information provided to bidders on which the bidders could base their proposals via draft RFP documents submitted, bidder workshops and technical conferences, and Question and Answer responses;
- The 2022AS RFP is designed to provide the same information to all bidders at the same time;
- The products sought in this RFP are clearly defined and the information required for each type of resource alternative is specified in the RFP in a clear and concise manner;
- PacifiCorp has included a number of "safeguards" in the process designed to demonstrate to bidders that the process would be fair and equitable to bidders. These include: (1) the use of three Independent Evaluators to oversee the solicitation process; (2) the development of separate teams for the development of the benchmark resources and for undertaking the evaluation of bids and management of the solicitation process; (3) a Code of Conduct for which members of the teams must execute acknowledgement forms and attend code of conduct training sessions; (4) submission and evaluation of benchmark bids prior to submission of third-

party bids; and (5) a requirement that the benchmark resources provide all the same information in the same general format as third-party bids;<sup>5</sup>

- Perhaps the most significant change to the 2022AS RFP relative to the 2020AS RFP that could affect the solicitation process is the expected presence of potentially a large number of benchmark resources which are resources that PacifiCorp will offer into the RFP and own if selected. The presence of benchmark or self-build resources raise a number of fairness and equity issues from the IE perspective to ensure all resource options have an equal and fair opportunity to compete. From the IEs perspective, this also requires assessment and monitoring of “safe-guards” which are in place to ensure competitive market information is not available to benchmark bidders. In PacifiCorp's case, the IE feels there are adequate safeguards in place to ensure that a fair and equitable solicitation process can be maintained, including the schedule which requires benchmark resources to be submitted before third-party proposals are submitted and the use of a single-phase evaluation process, with no best and final offers;
- The RFP documents clearly describe the products requested, the requirements of bidders, the evaluation and selection process, eligibility and evaluation criteria and the risk profile of the buyer. In this regard, there is sufficient information to allow bidders to assess whether or not to compete, the product of choice to bid to be most competitive, and the process by which their proposals will be evaluated;
- While the RFP documents provide a significant amount of information, the IE and stakeholders have identified cases where clarification of the information presented needs to be provided in the final RFP documents. Proposed areas for clarification are identified in Sections 5 and 6 of this report;
- Parties have raised the issue of ensuring comparability for resource evaluation, notably ensuring that third-party PPA bids, Build Transfer (BTA) bids and Benchmark resources are required to compete based on the same set of rules or on a level playing field. The IE also views comparability to be the most challenging issue in a solicitation process in which utility-owned resources compete with third-party resources. PacifiCorp has included provisions in the process to ensure fairness and has adopted a number of provisions which place all proposals on a level playing field (i.e.,

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<sup>5</sup> Merrimack Energy has noted in this report that in previous PacifiCorp RFPs in which benchmark bids were allowed to compete, the benchmark bids provided the same general information required to be provided by other bidders. Merrimack Energy requested PacifiCorp to confirm that this will be case with for the 2022AS RFP as well.

PPAs can be offered for terms up to 30-years; benchmark bids are required to be submitted before other bids; and benchmark bids should be required to provide the same information as third-party bids as PacifiCorp has done in previous solicitations). As identified in Section R746-420-3, the IE is also required to verify that all necessary cost information is provided for the benchmark bids to ensure all proposals are placed on as level a playing field as possible and that benchmark resources are not unduly advantaged;

- The evaluation process and quantitative methodologies developed and expected to be utilized by PacifiCorp for undertaking the evaluation process, including utilizing the PLEXOS model as the key quantitative evaluation tool, are applicable for modeling the range of the proposals expected in this RFP. Furthermore, the model methodology is consistent with and likely exceeds industry standards applied by others for conducting the quantitative analysis for an All-Source RFP. The portfolio evaluation and risk assessment methodology utilizing the PLEXOS model is reasonable and consistent with industry practices. The PLEXOS model is very detailed, has been used for development of PacifiCorp's IRP and has been vetted through the IRP process, is utilized by other utilities and entities for similar processes, and is generally applicable for addressing the requirements of the Energy Procurement Resource Act;
- The evaluation and selection process is a reasonably comprehensive process designed to evaluate the net cost implications associated with different resource options and portfolios, includes non-price factors and criteria required in the Act that influence project viability, and assessment of risk parameters associated with the various portfolios;
- At this point, PacifiCorp has not met the specific requirements of Utah Admin. Code R746-420-1 (2) to provide the IE with data, information and models necessary for the IE to analyze and verify the models. PacifiCorp indicated that it could not provide the PLEXOS model to the IEs. In Merrimack Energy's recommendation section in this report, the IE requests access to the inputs and outputs from the PLEXOS model. From an informational perspective, PacifiCorp did hold a Technical Conference on February 17, 2022 to review PacifiCorp's bid evaluation, bid selection, models and assumptions as well as describe the storage valuation methodology;
- Part 2 of the Energy Resource Procurement Act includes requirements for a solicitation process. The intent of Part 2 and the Rules implementing it is to

ensure a robust array of bids from all available resource types and from varying owners/developers. Only if a robust set of bids for market resources is received can bids be fairly compared and evaluated. The ultimate goal of the Act and Rules is to ensure that the resources with the lowest reasonable cost to customers can be identified and procured, regardless of the nature or ownership of the resources. Merrimack Energy believes PacifiCorp's Draft 2022 All Source RFP, combined with suggestions made by the Stakeholders and IE, will lead to a robust response from the market with a range of resource options and contract types for several reasons:

1. The RFP is an All-Source supply-side RFP with a range of eligible resource options and contract structures;
  2. Merrimack Energy expects a very robust response based on the response to the 2020AS RFP;
  3. PacifiCorp's evaluation process for final shortlist selection is designed to evaluate bids for all resource types which should ensure that all eligible resource options will have the opportunity to compete;
  4. There is no restriction on minimum size bid which should encourage a wide range of resource types from a broad list of bidders/developers;
  5. The PacifiCorp RFP is a reasonably transparent process with a significant amount of information for bidders to assess to inform their decisions regarding resource selection and proposal options;
  6. PacifiCorp has included a number of "safeguards" in the process designed to demonstrate to bidders that the process would be fair and equitable to bidders;
- As a final conclusion, PacifiCorp has agreed to make revisions to the Draft RFP based on several suggestions and comments raised by Merrimack Energy in its list of questions submitted to PacifiCorp including:
    - PacifiCorp agreed to clarify the qualification for long-lead time resources in a footnote in the RFP;
    - PacifiCorp agreed to update the RFP to reflect no preference for or minimum requirements related to storage duration or storage energy capacity as compared to renewable resource generating capacity;
    - PacifiCorp indicated it will consider hosting a Transmission Workshop;
    - PacifiCorp revised all references with regard to the time for bidders to respond to questions to two business days;
    - PacifiCorp agreed to add a Section 11 to the information provided in the Bidder's proposal to reflect the Bidder's tax credit strategy in Appendix B-2;

- PacifiCorp clarified the proposed role of PacifiCorp and the IE in reviewing and validating non-price self-scores provided by the bidders.

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## 1.2 SUMMARY OF RECOMMENDATIONS

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Chapter 6 of this report contains a detailed review of the RFP issues identified by Merrimack Energy based on review of the RFP as well as the comments submitted by the Stakeholders and the underlying rationale for the recommendations. Provided below is a list of the recommendations prepared by the IE to ensure the solicitation process meets the requirements and objectives of Utah Statutes.

1. With regard to the benchmark resources, the IE therefore has the following recommendations:

- Require that the benchmark resource proposals include all the same information as included in benchmark bids for the 2017R RFP, which is consistent with the same level of detail and format as all other proposals are required to provide in Appendix B-2 and sections of C-1, C-2, and C-3 as applicable;
- Clearly identify in the RFP document the information and templates that benchmark resources will be required to provide consistent with the requirements of other resources;
- Provide clarification on the benchmark scoring methodology PacifiCorp intends to implement to ensure fairness and consistency in the evaluation process;
- Explain why it is not feasible to conduct non-price scoring after submission of benchmark bids but defer the price evaluation to coincide with the quantitative evaluation of non-benchmark bids;

2. Merrimack Energy does not object to the implementation of a single stage pricing process, particularly given that a potentially large number of benchmark options will be allowed to compete. Since there is a single pricing process and benchmark bids will be submitted prior to third-party bids there is no opportunity for any market information associated with third-party bids to affect benchmark pricing;

3. Merrimack Energy has recommended that the COD for projects bidding into the 2022AS RFP be extended to at least December 31, 2027. This should facilitate the ability of additional projects to be able to achieve interconnection in time to meet the later COD. The IE views that completion of all major tasks in time to allow for projects to meet a December 31, 2026 COD could be challenged by the lengthy project development process due to supply chain issues and major

equipment and production input constraints, contract negotiation process with a large number of contracts to execute, and the associated regulatory requirements;

4. Merrimack Energy has also recommended that PacifiCorp should probably state in the RFP that it prefers projects that can achieve an earlier COD (i.e., by December 31, 2026);

5. To assist potential bidders to meet commercial readiness criteria, Merrimack Energy recommends that PacifiCorp conduct a Workshop or Technical Conference for bidders regarding the interconnection process and transmission assessment shortly after issuance of the RFP;

6. Merrimack Energy has no objections to PacifiCorp's request that the Commission grant PacifiCorp's request for a waiver of the bid blinding requirements in the Statute (Utah Admin. Code R746-420-3(10)(a)). However, should Merrimack Energy be required by the Commission to establish a webpage for the RFP similar to previous RFPs, the IE still suggests that questions and answers will be blinded such that PacifiCorp will not know the identity of the participant when the questions from the participants are provided to PacifiCorp for a response by the IE. Merrimack Energy will remove the name or reference to the participant asking the question prior to submitting the question to PacifiCorp;

7. Merrimack Energy recommends that PacifiCorp provide more guidance and/or specific criteria to define which type of resources qualify as long-lead time resources. Merrimack Energy feels it is preferable to identify the definition and characteristics of such resources in the RFP and also state that bidders of such resources, who may have questions about resource eligibility, should submit a question to PacifiCorp for clarification along with documentation supporting their contention that the resource would qualify as a long-lead time resource;

8. Merrimack Energy does not oppose the increase in the base bid fee to \$15,000, but only if two alternatives are allowed to be submitted associated with different contract term options (e.g., 15, 20, 25, or 30 years) and pricing structures (fixed and/or fixed escalation pricing);

9. Merrimack Energy does not oppose PacifiCorp's proposal to accept bids from only AC-coupled systems. However, PacifiCorp should re-asses allowing proposals for both AC and DC coupled systems in future RFPs;

10. Merrimack Energy agrees with UAE's comments on PacifiCorp's operational requirements for battery energy storage bids including size of the battery relative

to the nameplate rating of the renewable facility and duration for the battery. Merrimack Energy notes that the final portfolio from the 2020AS RFP contained a range of operational characteristics for the battery options which led to a diverse and flexible portfolio. Based on a response to a question from Merrimack Energy, PacifiCorp has apparently agreed to remove the proposed restrictions;

11. Merrimack Energy agrees with UAEs request and recommendations regarding augmentation and recognizes that the cost of augmentation and timing for adding capacity for BTA or benchmark bids will have to be carefully scrutinized by the IE to ensure all projects are treated fairly and consistently, whether a PPA or utility-owned resource. Merrimack Energy suggests that PacifiCorp include augmentation costs in its benchmark cost analysis should the Company propose any collocated renewable and energy storage resource in its benchmark proposals.

12. Merrimack Energy found PacifiCorp's response to OCS 1.19h to be different than what we expected and to be troubling overall for the potential implications on the importance of accurate non-price scoring and the ultimate impact on bid ranking and selection. Similar to OCS, Merrimack Energy requests clarification of the bid scoring and ranking methodology as well as a response on how capacity contribution values will be treated and assessed;

13. Merrimack Energy agrees with the Division regarding the evaluation of demand-side and supply-side resources from the RFPs. It is not clear to us how the evaluation and scoring of the resources is going to take place. Merrimack Energy requests that PacifiCorp clarify in more detail how the results of the two RFPs will be integrated and the methodology for evaluating (price and non-price factors) and selecting the final demand-side and supply-side resources will be implemented;

14. OCS raised comments about the Code of Conduct, including whether PacifiCorp intended to implement code of conduct training for affected employees. Merrimack Energy asked questions of PacifiCorp on the code of conduct, as well. PacifiCorp responded that it will identify members of the teams who will be required to sign code of conduct acknowledgement forms. PacifiCorp will hold training sessions for affected personnel similar to previous solicitations. The IE suggests that PacifiCorp update the RFP Appendix I to include its responses to the IE regarding the code of conduct, as noted above;

15. With regard to the discussion on non-price scoring Merrimack Energy suggests revising the language in Section 6B in the RFP under Table 3 to read – “Bidders will have, as part of their bid, self-scored their bids using the non-price scorecard,

which will be audited **and verified by PacifiCorp prior to giving each bid a non-price score. PacifiCorp reserves the right to contact a bidder to seek clarification and support for the bidder's self-score, if required. Bidders will have two-days to provide information requested by PacifiCorp to verify the self-scores;**

16. While Merrimack Energy has concerns about a self-scoring process, the use of more objective criteria is preferable in cases where benchmark or self-build options are competing. As a result, the IE does not oppose use of the scorecard and the self-scoring process but parties should monitor the process to assess whether the self-scoring process and scorecard are effective in distinguishing the viability of bids and are reasonable for future solicitations;

17. With regard to the credit assurance requirement levels, the IE's view is that these credit requirements are reasonable and consistent with industry standards. If the credit assurance levels listed in Appendix D are contractual amounts, for consistency purposes, PacifiCorp may want to consider asking bidders to include the cost of this level of security in their bid pricing;

18. Task B3 of the IE Scope of Work as listed in the Commission's RFP for Independent Evaluator Services requires the IE to set up and maintain a webpage or database for information exchange between bidders/potential bidders and PacifiCorp **only if directed by the PSC in its Approval of the Solicitation Process.** Merrimack Energy proposed to establish a webpage on its website to accommodate this requirement similar to the webpages we established for previous PacifiCorp RFPs, including the 2017 Renewable RFP and the 2020AS RFP:

19. Merrimack Energy suggests that the IEs should, at a minimum, be provided access to the output files<sup>6</sup> for the PLEXOS model to be able to fulfill the IE's requirements for review of bid evaluation results as identified in Utah Statutes;

20. Merrimack Energy agrees with OCS that at a minimum, PacifiCorp should explain all its modeling techniques, such as the use of micro-resources in more detail. We request that PacifiCorp hold regular meetings with the IEs both in the preparation process for preparing model inputs and analyses and after proposals are received during the evaluation and selection process.

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<sup>6</sup> In the February 17, 2022 Technical Conference on Bid Evaluation, Bid Selection, Models and Assumptions, PacifiCorp listed Bid Selection and Net Benefits for each bid as PLEXOS outputs. Merrimack Energy would expect that these and other output files from the PLEXOS model should be available to the IEs for their review of the evaluation results even if the IE does not have access to the model itself.





## 2. INTRODUCTION

Merrimack Energy Group, Inc. (Merrimack Energy) was retained by the Public Service Commission of Utah (“Commission”) to serve as Independent Evaluator for PacifiCorp’s 2022 All Source RFP (“2022AS RFP”). The scope of work for the assignment requires the Independent Evaluator (IE) to participate in all three phases of the solicitation process: (1) RFP design and solicitation process approval; (2) Solicitation process bid monitoring and evaluation and (3) Energy resource decision approval process. The objective of the IE is to actively monitor the solicitation process for fairness and to render an opinion as to whether PacifiCorp’s solicitation process is fair and in the public interest, and in compliance with Utah Code and Regulations and Commission Orders. The specific tasks for the Independent Evaluator under each phase of the solicitation process included in the Scope of Work for the IE as listed in Merrimack Energy’s contract with the Commission are identified below. The specific tasks outlined will guide the activities of the Independent Evaluator throughout the solicitation process. The tasks listed in Section 2.1 below pertain to the requirements for this report.

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### 2.1 SOLICITATION PROCESS APPROVAL

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- Review PacifiCorp’s proposed solicitation process to ensure the solicitation, including the interconnection process, will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to PacifiCorp’s retail customers taking into consideration long-term and short-term impacts, risk, reliability and the financial impacts on PacifiCorp;
- Review PacifiCorp’s proposed solicitation process, including the associated interconnection process and requirements, to ensure the evaluation criteria, methods and computer models are sufficient to evaluate the prospective bids in a manner that is fair, unbiased and comparable between bids to the extent practicable. Review PacifiCorp’s proposed evaluation tools to ensure the tools will be sufficient to determine the best alternative for PacifiCorp’s retail customers;
- Review the adequacy, accuracy and completeness of all proposed solicitation materials to ensure that paragraph 1 objectives are

achieved. The solicitation materials include: disclosure information, bid templates, disclosure of evaluation criteria, methods, models, contracts, and documents relating to the modification to the interconnection process;

- Understand PacifiCorp Transmission's Interconnection Queue Reform and how the Queue Reforms will affect the solicitation process and bid evaluation;
- Provide input on the development of screening and evaluation criteria, ranking factors, and evaluation methods. Ensure that screening and evaluation criteria take into consideration the assumptions included in PacifiCorp's most recent IRP;
- Attend PacifiCorp's Bidder/Stakeholder Workshops and Technical Conferences;
- Facilitate and monitor communications between PacifiCorp and bidders;
- Provide confidential monthly status reports to the Commission, Division of Public Utilities ("DPU" or "Division"), and PacifiCorp on all aspects of the solicitation approval process as it progresses;
- File a written evaluation including recommendations with the Commission regarding the results of the above tasks. Include recommendations on approval of the proposed solicitation or modifications required for approval and the bases for recommendations;
- Testify before the Commission regarding approval of the proposed solicitation, if necessary.

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## 2.2 SOLICITATION PROCESS MONITORING AND EVALUATION

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- Monitor, observe, validate, and offer feedback to PacifiCorp, the PSC and the DPU on all aspects of the solicitation process, including: the content of the solicitation; communications between bidders and PacifiCorp; evaluation and ranking of bid responses; PacifiCorp Transmission interconnection cluster study process; creation and selection of the "short list" of bidders for more detailed analysis and negotiation; negotiations

between short list bidders and PacifiCorp; ranking of the final list of alternatives; negotiation of proposed contracts with successful bidders; and selection of energy resource(s);

- Document all substantive correspondence and communications with PacifiCorp and bidders;
- Attend and participate in PacifiCorp's pre-bid conferences;
- If directed by the PSC in its Approval of the Solicitation Process, set up and maintain a webpage or database for information exchange between bidders or potential bidders and PacifiCorp. This webpage or database must include all solicitation materials and questions submitted by bidders along with the corresponding responses;
- Administer the solicitation process by receiving bids and issuing bid numbers before submittal to PacifiCorp for evaluation and ensure all bids are treated in a fair and non-discriminatory manner;
- Review and evaluate benchmark costs and the treatment of benchmark bids and assess whether the benchmark bids are considered and evaluated in the same way as all other bids. File report on benchmark costs and treatment with the PSC and provide copies to the DPU and PacifiCorp;
- If required, serve as the primary conduit for bidders to submit pre-blinded bids; ensure all bids are appropriately blinded as required before submittal to PacifiCorp for evaluation;
- Monitor all communications with bidders after receipt of bids and monitor negotiations conducted by PacifiCorp and any short-listed bidders;
- Monitor and audit the evaluation process and validate that evaluation criteria, methods, models and other solicitation processes, including interconnection queue reform, have been applied as approved by the Commission and consistently and appropriately applied to all bids. Audit the bid evaluations to verify that assumptions, inputs, outputs and results are appropriate and reasonable. Analyze, operate, and validate all important models, modeling techniques, assumptions and inputs;
- Advise the Commission, DPU, and PacifiCorp of any issue that might reasonably be construed to affect the integrity of the solicitation process and provide PacifiCorp an opportunity to remedy the defect identified.

Advise the Commission and DPU of significant changes or unresolved issues as they arise;

- Provide monthly status reports to the PSC, the DPU and PacifiCorp on all aspects of the solicitation process as it progresses noting any deficiencies in the preparation of solicitation materials, maintenance of records, communications with bidders, in evaluating or selecting bids, or negotiations with bidders;
- Within approximately two weeks of PacifiCorp's selection of the final short list, provide a draft report to the Commission and DPU detailing the methods and results of PacifiCorp's initial screening and full evaluation of all bids. Include a description of the bids, selection criteria including the interconnection process, the basis for the selection of the short-listed bids and rationale for eliminating bids. Within approximately one week of receipt of comments on the report, modify and file the report with the PSC and provide a copy to the DPU;
- Monitor all aspects of the negotiation process, including: communications between short list bidders and PacifiCorp; and proposed contract revisions. Provide input to PacifiCorp on the negotiation of proposed contracts with successful bidders or on other matters, consistent with the statute.

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### 2.3 PARTICIPATION IN THE ENERGY RESOURCE DECISION APPROVAL PROCESS

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- File a detailed final report (confidential and public versions) with the Commission and provide a copy to the Division within 21 days of PacifiCorp's final ranking of bids and identification of its Energy Resource Decision;
- If requested, meet with the Commission to discuss the Final Report;
- Participate in any Utah technical conferences related to the Energy Resource Decision Approval Process;
- Testify during the Energy Resource Decision Approval Process in Utah.

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## 2.4 UTAH LAW REGARDING COMPETITIVE BIDDING

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Utah Code Subsection 54-17-101, known as the Energy Resource Procurement Act (2005) requires that an affected electric utility seeking to acquire or construct a significant energy resource<sup>7</sup> shall conduct a solicitation process that is approved by the Commission. The Commission shall determine whether the solicitation process complies with this chapter and whether it is in the public interest taking into consideration whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electric utility located in the state. Utah Code Subsection 54-17-203 requires the participation of an Independent Evaluator, appointed by the Commission, to actively monitor the solicitation process for fairness and compliance with the Utah Code.

Rule R746-420 – Requests for Approval of a Solicitation Process outlines in detail the requirements of a solicitation process with regard to implementation of the Energy Resource Procurement Act. Among other issues, Rule R746-420-1 provides general provisions regarding the filing requirements for the soliciting utility in seeking approval of the solicitation, a description of the solicitation process and associated requirements, and the roles and responsibilities of an Independent Evaluator to oversee the solicitation process.<sup>8</sup>

According to R746-420-3, all aspects of the Solicitation and Solicitation Process must be fair, reasonable and in the public interest. A proposed Solicitation and Solicitation Process must be reasonably designed to:

- Comply with all applicable requirements of the Act and Commission Rules;
- Be in the public interest taking into consideration:
  - Whether they are reasonably designed to lead to the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of the Soliciting Utility located in the state
  - Long-term and short-term impacts
  - Risk
  - Reliability
  - Financial impacts on the Soliciting Utility; and
  - Other factors determined by the Commission to be relevant;

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<sup>7</sup> A significant energy resource is defined as a resource that consists of a total of 100 MW or more of new generating capacity that has a dependable life of ten years or more.

<sup>8</sup> The testimony of PacifiCorp witness Heather Eberhardt references Sections in R746-420-1 and Utah Code 54-17-201 to demonstrate that PacifiCorp’s application filed under the Utah Energy Resource Procurement Act complies with Utah Statutes and Rules.

- Be sufficiently flexible to permit the evaluation and selection of those resources or combination of resources determined by the Commission to be in the public interest;
- Be designed to solicit a robust set of bids to the extent practicable; and
- Be commenced sufficiently in advance of the time of the projected resource need to permit and facilitate compliance with the Act and the Commission rules and a reasonable evaluation of resource options that can be available to fill the projected need.

The specific requirements for the solicitation process are included in Section R746-420-3 of the Rules. The key provisions by topic area in the rules are identified and briefly summarized below.

- **General Objectives and Requirements of the Solicitation Process** – Requires that the solicitation process must be fair, reasonable and in the public interest and be designed to lead to the acquisition of electricity at the lowest reasonable cost to retail customers in the state;
- **Screening Criteria – Screening in a Solicitation Process** – The utility shall develop and utilize screening and evaluation criteria, ranking factors and evaluation methodologies that are reasonably designed to ensure the solicitation process is fair, reasonable and in the public interest in consultation with the IE and Division;
- **Screening Criteria – Request for Qualification and Request for Proposals** – The soliciting utility may use a Request for Qualification (RFQ) process;
- **Disclosures – Benchmark Option** - If a solicitation includes a Benchmark Option the utility is required to identify whether the Benchmark is an owned option or a purchase option. If the benchmark is an owned option, the utility should provide a detailed description of the facility, including operating and dispatch characteristics. The utility should also provide assurances that the Benchmark Option will be validated by the IE and that no changes to any aspect of the Benchmark Option will be permitted after the validation of the Benchmark Option by the IE and prior to the receipt of bids under the RFP and that the Benchmark option will not be subject to changes unless updates to other bids are permitted;
- **Disclosures – Evaluation Methodology** – The solicitation shall include a clear and complete description and explanation of the methodologies to be used in the evaluation and ranking of bids including all evaluation

procedures, factors and weights, credit requirements, proforma contracts, and solicitation schedule;

- **Disclosures – Independent Evaluator** – The solicitation should describe the role of the IE consistent with Section 54-17-203 including an explanation of the role, contact information and directions for potential bidders to contact the IE with questions, comments, information and suggestions;
- **General Requirements** – The solicitation must clearly describe the nature and relevant attributes of the requested resource. The solicitation should identify the amounts and types of resources requested, timing of deliveries, pricing options, acceptable delivery points, price and non-price factors and weights, credit and security requirements, transmission constraints, etc.;
- **Process Requirements for a Benchmark Option** – The benchmark team and evaluation team must have no direct communications; All relevant costs and characteristics of the Benchmark option must be audited and validated by the IE prior to receiving any of the bids; All bids must be considered and evaluated against the Benchmark option on a fair and comparable basis;
- **Issuance of a Solicitation** – The utility shall issue the solicitation promptly after Commission approval;
- **Evaluation of Bids**– The IE shall have access to all information and resources utilized by the utility in conducting its analyses. The utility shall provide the IE with access to documents, data, and models utilized by the utility in its analyses; The IE shall monitor any negotiations with short listed bidders;

In addition to the Introduction, the report is presented in five other sections. Section II provides a brief background on the key issues associated with an effective competitive procurement process. Section III describes the key provisions of the initial Draft 2022 All Source RFP. Section IV provides a summary of the positions of the parties in the case as presented in the comments filed by each party. Section V provides a discussion of RFP issues identified by the IE and recommendations for addressing these issues. Finally, Section VI provides Merrimack Energy's conclusions and recommendations.



## 3. BACKGROUND

When evaluating and assessing the design of a competitive procurement process, Merrimack Energy, as Independent Evaluator, generally conducts its assessment relative to a number of factors, including the following:

- Regulatory statutes or rules underlying the competitive procurement process in a specific state. For this solicitation, Utah Code and Regulations pertaining to competitive solicitation processes apply;
- The types of resources, products, and contract structures solicited;
- The objectives of the process;
- The fairness and transparency of the process; and
- The consistency with industry standards for similar types of solicitations.

For this type of solicitation (i.e., All Source Solicitation), it is important that the RFP is structured such that all types of eligible resources have a reasonable opportunity to compete.

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### 3.1 CRITERIA FOR AN EFFECTIVE PROCUREMENT PROCESS

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In assessing whether a competitive procurement process is likely to lead to a positive outcome which benefits customers, meets the objectives and criteria established, and is consistent with regulations and statutes, Merrimack Energy considers the following questions:

- Is the solicitation process fair, equitable, unbiased, and comprehensive for all bidders?
- Is the solicitation process reasonably transparent to Bidders?
- If applicable, does the solicitation process allow for a reasonably level playing field with regard to the evaluation of utility-ownership options and third-party proposals
- Will the process likely lead to positive benefits for utility customers?
- Is the process adequately designed to encourage broad participation from eligible bidders?
- Do the RFP documents adequately define the products solicited, the objectives of the process, bidding guidelines, the bidding requirements to guide bidders in preparing their bids, the bid evaluation and selection criteria of importance, and the risk factors important to the utility issuing the RFP?
- Are the contracts designed to provide a reasonable balance of risk relative to the objectives of the counterparties, seeking to minimize risk to utility

customers while ensuring that projects can reasonably be financed and developed?

- Does the evaluation methodology identify how qualitative and quantitative measures are considered and are consistent with the defined metrics for evaluation and selection?
- Are there differences in the evaluation methods for different technologies that cannot be explained in a technology neutral manner?
- Does the quantitative evaluation methodology allow for consistent evaluation of bids of different sizes, technologies, products and in-service dates?

The application of a fair and transparent competitive procurement process is important for creating competition for the overall benefit of customers. Fairness generally means that all bidders are treated similarly, have access to the same information at the same time, and have equal opportunity of being successful in the process. A reasonable level of transparency<sup>9</sup> is also another important element leading to a successful solicitation process. Transparency means that there is a reasonable amount of information to guide bidders in preparing a complete proposal to meet utility requirements. Transparency is important with regard to the requirement that no party, particularly an affiliate or self-build option, should have an informational advantage in any part of the solicitation. Reasonably transparent processes are those that provide information guidance and direction to bidders on the information required by the utility to evaluate their proposal, provide guidance on the bid evaluation criteria, and bid evaluation and selection process. Fair and reasonably transparent processes should encourage competition among potential bidders who can adequately determine if they have the ability to effectively compete in the process and lead to more complete and comprehensive proposals. The greater the level of competition for all products sought by the utility the greater the chance for competitive options and lower prices for consumers.

Along with fairness and transparency, another issue of importance to bidders is the possibility for bias in the procurement process. Bias can take several forms such as design of a competitive procurement process in which bidders feel that the process unduly favors one type of resource over another. Bias can also come into play with regard to the application of the quantitative and qualitative evaluation processes such as quantitative methodologies that favor projects of different terms, sizes or in-service dates or different transaction types.

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<sup>9</sup> Merrimack Energy always uses the term “a reasonable level of transparency” because a competitive procurement process is very rarely fully transparent. Bidders, for example, don’t have access to the utility’s models and data used to evaluate other proposals. Likewise, the utility generally doesn’t provide the detailed back-up information for all the criteria used to evaluate bids from a qualitative perspective.

Another consideration in assessing the integrity of the solicitation process is to assess whether the risk allocation associated with contracts for different types of resources or product types is reasonable. Ideally, all contract types and resource types would include provisions/conditions that allow for the same or very similar risk allocation to allow for a completely level playing field. However, in practice this is not inherently practical since different transaction types and resource types have different characteristics. For example, solar projects may have different characteristics than geothermal projects. Placing all of these options on a level playing field in terms of risk allocation and in evaluating bids is a challenge.

Lastly, one of the key considerations is the level of comparability included in the evaluation process to ensure that all bids are evaluated fairly and placed on a level playing field. This principle is particularly important in cases where a utility-ownership option is competing against third-party options. This report will address the comparability issue in more detail later in the report.

## 4. SUMMARY OF THE KEY PROVISIONS OF PACIFICORP'S 2022 ALL SOURCE RFP

This Chapter of the Report will provide a high-level description of the Draft 2022AS RFP and the associated Appendices and Attachments.

On January 26, 2022, PacifiCorp (d/b/a Rocky Mountain Power) filed an application with the Utah Public Service Commission in Docket No. 21-035-52 requesting approval of the Company's 2022 All Source Request for Proposals, seeking to procure resources confirmed by PacifiCorp's 2021 Integrated Resource Plan ("IRP") preferred portfolio. The 2021 IRP preferred portfolio identified a resource need for 1,345 MW of new renewable wind and solar generation resources and 600 MW of collocated energy storage resources with a commercial operation date ("COD") by the end of 2026, as well as 274 MW of new demand-side resources. The 2022 AS RFP has a required resource in-service date of December 31, 2026. However, the Company will accept certain long-lead time resource types in the 2022AS RFP, such as nuclear and pumped storage hydro, which require a longer development and construction schedule, so long as those resources can reach commercial operations by a December 31, 2028 in-service date.

Based on the Schedule in this Docket, initial comments on the draft RFP are due on March 14, 2022 and the Report/comments of the Independent Evaluator on the draft RFP are due on March 22, 2022. Reply comments by all parties are due on April 1, 2022. The scope of the draft 2022 All Source RFP is focused on PacifiCorp's proposal to issue an All- Source RFP to acquire resources consistent with its 2021 IRP Action Plan that can achieve commercial operations no later than December 31, 2026.

On August 31, 2021, pursuant to Utah Administrative Rule R746-420-1(3)(a) and Utah Code section 54-17-203, PacifiCorp notified the Public Service Commission of Utah of its intent to seek approval of a solicitation process under Part 2 of the Energy Resource Procurement Act for 1,345 MW of renewable and non-renewable resources and approximately 600 MW of battery energy storage systems, all capable of delivering capacity and energy to PacifiCorp's system for service on or before December 31, 2026. PacifiCorp noted the 2022 All Source RFP would permit qualified bidders to submit bids under power purchase agreements, build transfer agreements, and tolling agreements. PacifiCorp anticipated that it would submit self-build (i.e., benchmark) bids or bids from PacifiCorp's affiliates.

The initial draft of the 2022AS RFP was posted on the Commission's website in Docket No. 21-035-52 on January 26, 2022. The draft RFP provided a detailed description of the resource alternatives sought by PacifiCorp, the logistics for submitting a bid including the information, forms, templates and schedules required with each type of resource alternative proposed, a description of the bid evaluation process and a description of the evaluation criteria to be used to evaluate and select bids. The draft RFP contains twenty-seven Appendices. In addition, there are Forms in the document for bidders to fill out and submit with their proposal. Finally, the draft RFP contains a description of the role of the Independent Evaluator in the bidding process, and a FERC Standard of Conduct.

Subsequent to submission of the draft RFP, the IE reviewed the RFP and associated Appendices and prepared a list of questions regarding the RFP and associated documents and sent the questions to PacifiCorp for review and response. On February 17, 2022, PacifiCorp held a Technical Conference for members of the Commission and Division staff, interested parties and the IE to discuss PacifiCorp's proposed bid evaluation, scoring and modeling process and storage valuation to prepare for the evaluation process. PacifiCorp provided a response to the IE's questions on March 9, 2022.

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#### 4.1 SUMMARY OF THE KEY PROVISIONS FROM THE 2022AS DRAFT RFP

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In addition to posting the draft RFP Main document, PacifiCorp provided a number of Appendices and Exhibits to the RFP with its filing. The Appendices and Exhibits to the RFP are listed below.

1. RFP Main Document
2. Appendix A – 2022AS RFP Technical Specifications and Required Submittals
3. Appendix B-1 – Notice of Intent to Bid
4. Appendix B-2 – Bid Proposal Instructions and Required Information
5. Appendix C-1 – Bid Summary and Pricing Input Sheet Instructions
6. Appendix C-2 – Bid Summary and Pricing Input Sheet
7. Appendix C-3 – Energy Performance Report
8. Appendix D – Bidder's Credit Information
9. Appendix E-1 – PPA and Tolling Agreement Instructions to Bidders
10. Appendix E-2 – Power Purchase Agreement (PPA) Documents
11. Appendix E-3 – Battery Storage Agreement (BSA) Documents
12. Appendix F-1 – BTA Instructions to Bidders
13. Appendix F-2 – BTA Documents
14. Appendix G-1 – Confidentiality Agreement

15. Appendix G-2 - Non-Reliance Letter
16. Appendix H-1 – 2021 PacifiCorp IRP Preferred Portfolio Transmission Upgrade Selections
17. Appendix H-2 – 2021 PacifiCorp IRP Preferred Portfolio Proxy Resource Selections
18. Appendix H-3 – PacifiCorp Transmission: Summary of Oasis Queue Positions
19. Appendix I – Standards of Conduct; Separation of Functions
20. Appendix J – PacifiCorp Transmission Waiver
21. Appendix K – Operations and Maintenance Services
22. Appendix L – Non-Price Scoring Matrix
23. Appendix M – Role of the Independent Evaluator
24. Appendix N – PacifiCorp’s Organization for RFP Process
25. Appendix O – PacifiCorp’s Company Alternative (Benchmark Resources)
26. Appendix P – Equity Questionnaire
27. Appendix Q – 2021 Demand Response RFP – Requirements for Demand-Side Bids
28. Appendix Q-1 – Professional Services Contract

Exhibits posted include RFP Owners Standards and Specs and Requirements for Demand-Side Bids.

Table 1 lists the key provisions of the 2022AS Draft RFP included in Docket No. 21-035-52 on the Commission website.

**Table 1  
Summary of Key Provisions of the Draft 2022AS RFP**

<b>RFP Characteristics</b>	<b>All Source RFP</b>
Resource Requirements	PacifiCorp’s Resource Requirements are based on an action item from the 2021 IRP to conduct an All-Source RFP in 2022. The 2021 IRP preferred portfolio includes the following incremental resources: 1,345 MWs of new proxy supply-side solar and wind generation resources and 600 MW of collocated energy storage resources with a commercial operation date (“COD”) by December 31, 2026 and 274 MW of new proxy demand-side resources.
Resource Timing – On-line Date	The 2022As RFP will consider new and existing resources so long as they can achieve commercial operation and/or begin deliveries to PacifiCorp by December 31, 2026. PacifiCorp will also consider bids for long-lead time resources so long as commercial operations can be achieved by December 31, 2028.

Eligibility	The 2022AS RFP will accept and evaluate all resource types which meet the minimum criteria of this RFP listed in Section 3.1. The following resource types were identified as eligible in the RFP: Renewable resources, Renewable plus battery storage, Non-Renewable, Standalone battery storage, pumped storage hydro, nuclear, and Demand-Side resources. Bids will be acceptable for both new and existing operating facilities.
Transaction Structures/Resource Alternatives	PacifiCorp will consider proposals for the following transaction structures: (1) Power Purchase Agreement with a term from 5 to 30 years for a generation-only resource only or a generation-only resource collocated with a battery energy storage system ("BESS"); (2) Build-Transfer Agreement whereby the bidder develops the project, assumes responsibility for construction and ultimately transfers the operating asset to PacifiCorp in accordance with the terms of the BTA Agreement; (3) Tolling Agreement Transaction whereby PacifiCorp controls the output of a standalone storage resource (BESS, pumped storage hydro or other). PacifiCorp will consider Tolling Agreement terms between 5 and 30 years or pumped storage bids up to the term of the operating license; (4) Professional Services Contract for Demand-Side bids; and (5) Benchmark Resources whereby the utility proposes to develop, construct, own and operate a bid project. Under this transaction structure, PacifiCorp will be responsible for all required development, design, equipment supply, construction, commissioning, and performance testing.
Bid Evaluation Fees	All Bidders proposing bids greater than 5 MW, including benchmark bids, must pay a bid fee of \$15,000 for each proposal. All bidders proposing bids less than or equal to 5 MW must pay a Bid Fee of \$1,000 per MW for each proposal. A bidder may submit more than one Bid per project site subject to the following caveats and limitations. Each Bid requires a separate fee. Each combination of different Bid Attributes is considered a separate Bid and subject to the bid fee requirement.

<p>Bidding Process/Bidding Requirements</p>	<p>The Company will conduct a multi-stage bid process. In the first stage, the bidder must submit a Notice of Intent to Bid Form, the Bidder’s Credit Information, and Confidentiality Agreement. In the second stage, benchmark and third-party bidders are required to submit their proposals and respond to the requirements for the type of transaction structure/resource alternative they are proposing. All bidders must submit Appendix B-2 – Bid Proposal Instructions and Requested Information, Appendix C-2 – Bid Summary and Pricing Input Sheet, Appendix C-3 – Energy Performance Report, and redlines or comments to the applicable contract document. The Intent to Bid Form is due to be submitted on June 16, 2022 with Benchmark bids due on November 21, 2022 and RFP Bids due on January 16, 2023.</p>
<p>Utility Bid Options/Benchmark Resources</p>	<p>PacifiCorp intends to submit up to thirty-one individual benchmark resources. In addition, Bidders could submit Build Transfer Agreement options for eligible resources. In both cases, PacifiCorp will own the resources in question.</p>
<p>Interconnection Study Requirements</p>	<p>Bids must include at least a completed interconnection study by the applicable interconnection provider which may include: (1) a completed fast track interconnection study; (2) completed PacifiCorp Transmission cluster study; or (3) signed interconnection agreement.</p>
<p>Cluster Study Process</p>	<p>Bidders seeking an interconnection study via the 2022 PacifiCorp Transmission Cluster Study shall be responsible for working with PacifiCorp Transmission to ensure that all cluster study requirements included in the Open Access Transmission Tariff (OATT) have been met by May 16, 2022 when, according to the current OATT as of the date of this issuance, the Cluster Request Window closes. Cluster study results are expected to be posted to Oasis and bidders notified by PacifiCorp Transmission on November 12, 2022.</p>
<p>Evaluation Process</p>	<p>PacifiCorp proposes a multi-phase evaluation and selection process, as will be described in more detail below.<sup>10</sup> The phases include (1) Minimum criteria and</p>

<sup>10</sup> The stages identified in this section refer to the evaluation and selection process beginning after receipt of proposals in January 2023. The Cluster Study phase was initiated and completed prior to submission of proposals which allows the Bidders the opportunity to reflect proposed interconnection costs in their proposals.



	<p>bid eligibility – Conformance to Minimum Requirements (2) Due diligence and non-price scoring; (3) PLEXOS modeling including bid selection and portfolio optimization; (4) Combination of price and non-price scoring and ranking of preferred resources; (5) Sensitivities; and (6) State-specific resource analyses to comply with existing regulations.</p>
<p>Conformance to Minimum Requirements</p>	<p>Benchmark and market bids will initially be screened after receipt against minimum requirements to determine RFP conformance and eligibility. After IE review and consultation, non-conforming bids will be notified to correct their bid within two business days or be removed from the RFP.</p>
<p>Non-Price Scoring and Evaluation</p>	<p>After screening for eligibility, conforming bids will be evaluated according to the non-price criteria. The non-price rubric is designed to be objective, intuitive and self-scoring. Bidders are required to score themselves based on the completeness of RFP bid requirements, the ability to contract with the resource, and the maturity of the project and ability of the bidder to deliver the resource by the commercial operation deadline.</p>
<p>Price and Non-Price Assessment</p>	<p>The final shortlist will be selected following a series of PLEXOS model analyses based on a combination of price and non-price factors weighted with price at 75 points and non-price at 25 points. Price scores are determined using PLEXOS model outcomes. Non-price scores are determined using a non-proprietary, self-scoring matrix. Developers will be asked to grade themselves as part of their bid package, which PacifiCorp will audit before determining a final non-price score for each bid.</p>
<p>Bid Preparation Into PLEXOS</p>	<p>Both supply-side and demand-side resources will be prepared and uploaded into PLEXOS. PacifiCorp's proprietary excel file will be used to prepare supply side bids by creating levelized costs for each eligible bid to be included in PLEXOS. PacifiCorp's proprietary excel model will calculate the delivered revenue requirement cost of each bid, inclusive of any applicable carrying cost and net of tax credit benefits, all operation and maintenance expenses, property taxes, generation</p>

	<p>taxes, direct assigned interconnection costs and PacifiCorp Transmission estimated network upgrade costs. As part of the preparation for inputting bid results into PLEXOS, bidder's resource estimates by hour will be re-shaped based on a similar technology and location present in the 2018 reference year, consistent with the methodology used in the 2021 IRP.</p>
<p>PLEXOS Analysis- Bid selection and Portfolio Optimization</p>	<p>The IRP production cost models (PLEXOS) will select the optimized portfolio of resources proposed as part of the 2022AS RFP as well as the demand-side bids received as part of the targeted demand-side RFP issued by Q3 2022. The modeling tool will select from the supply-side and demand-side bids the least cost resources based on bid cost and performance data.</p> <p>The PLEXOS model is used to develop an optimized portfolio of resources and candidates for the final shortlist. PacifiCorp uses PLEXOS to develop, test and evaluate the cost of multiple resource portfolios including sensitivities to understand the relative performance of portfolio and resource alternatives under certain conditions.</p> <p>PacifiCorp will perform a reliability assessment to ensure that the selected portfolio of resources can meet all hourly load and operating reserve requirements with sufficient margin to account for other system uncertainties. Should incremental flexible resource capacity be required to maintain system reliability, additional resources will be selected from the bids that are capable of providing incremental flex capacity to hit the targeted reliability requirements.</p> <p>PacifiCorp evaluates portfolios under a range of different environmental policy and market price scenarios (policy-price scenarios). PLEXOS calculates the stochastic mean present value revenue requirements (PVRR) and the risk-adjusted PVRR for various policy-price scenarios to help identify whether top-performing portfolios exhibit poor performance under the range of scenarios.</p>

	<p>For price scoring PLEXOS will calculate the relative system costs and benefits of each resource included in the model for evaluation. The operational characteristics of every bid will be included in the model so that PLEXOS will generate a value stream specific to each bid that will then be used to calculate a price score. Following the PLEXOS analysis to select resources and determine price scores for each of the bids, PacifiCorp will combine the price and non-price scores to generate a total final bid score and ranking for each bid (both supply side and demand side bids). In the event that ranked bids are inconsistent with the selected resources and preferred portfolio resulting from the PLEXOS performance optimization models, in coordination with the IEs, PacifiCorp will investigate the discrepancy and may add or remove resources and run additional iterations of PLEXOS.</p> <p>When considering tiebreakers for inclusion in the final shortlist, PacifiCorp will give preference to renewable energy and demand-side resources that provide environmental and economic benefits to communities afflicted with poverty or high unemployment, or that suffer from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases when ranking projects.</p> <p>After the final shortlist is established and approved, PacifiCorp will engage in negotiations with the selected bidders to finalize their contract and prepare the contract for execution.</p>
<p>Benchmark Considerations</p>	<p>In compliance with Oregon Rule 860-089-0350, prior to receiving and evaluating market bids, PacifiCorp will complete due diligence and non-price scoring for all benchmark bids and forward such models and results to the IEs. PacifiCorp will apply the same assumptions and bid scoring and evaluation criteria to the benchmark bids that are used to score other bids. The benchmark bids will be validated by the IEs and no changes to any aspect of the benchmark bids by PacifiCorp will be permitted after the filing and receipt of the market bids. Benchmark bids will not be subject to changes unless</p>

	updates to other bids are permitted. PacifiCorp and the IEs will file under protective order an assessment of the benchmark scores as well as cost and other information as required.
Credit Requirements	Appendix D – Bidder’s Credit information lists the information bidders are required to provide with Appendix B-1 – Intent to Bid Form. The bidder may be required to post credit assurances for the applicable bid categories of Power Purchase Agreement or Build Transfer Agreement, each of which will be expected to have a COD date of no later than December 31, 2024. The RFP selected resources have the potential to expose PacifiCorp and its ratepayers to credit risk in the event a selected bidder is unable to fulfill its obligations pursuant to the terms of an executed agreement. The credit risk profile is a function of several factors: (1) type of resource agreement; (2) size of the resource; (3) expected energy delivery start date; (4) term of underlying contract; and (5) Creditworthiness of bidder and bidder’s credit support provider. For PPAs, development security is \$200/kW provided at contract execution. The amount will be reduced to \$100/kW. The amount of credit assurance for BTA options is \$200/kW.
Transmission Service for Delivery to PacifiCorp’s System	<p>PacifiCorp will not accept BTA bids for off-system bids. For off-system bid locations, PacifiCorp will only accept PPA or Tolling Agreement bids. PacifiCorp will consider new and existing resources, capable of interconnecting with a third-party transmission system and using firm point-to-point transmission service to deliver to PacifiCorp’s system at the bids identified point of delivery.</p> <p>All proposals will require firm transmission on PacifiCorp’s network transmission system to load. Proposed resources must be able to be designated by PacifiCorp’s merchant function as a network resource eligible for inclusion in PacifiCorp ESM’s network integration transmission service agreement with PacifiCorp’s transmission function.</p>
Direct Interconnection to PacifiCorp’s System	All bidders are required to have completed an interconnection study. PacifiCorp requires that bidders submit all available interconnection studies and

	<p>agreements, and any other required supporting documentation such as confirmations related to modifications received from PacifiCorp Transmission. PacifiCorp will review the bidder's interconnection documentation to confirm it aligns with the bidders bid.</p> <p>On-system bidders shall document in their bid and otherwise provide all estimated interconnection costs identified in their interconnection studies and agreements, including direct assigned and network upgrade costs. Bid prices shall include any estimated direct-assigned interconnection costs but shall exclude the estimated network upgrade costs. Although the network upgrade costs are not to be included in the bid price, the network upgrade costs will be provided to PacifiCorp and included in the utility's valuation models.</p>
Tax Credits	<p>Bidders bear all risks, financial and otherwise, associated with their, or their facility's eligibility to receive any state or federal energy tax credits, sales tax waivers or exemptions, payment in lieu of tax, or other identified tax or accounting-related incentive or benefit.</p> <p>For BTA transactions, PacifiCorp will require written attestation by an officer of the bidding entity, including documentation of the amount, timing and control of any and all available tax credits/incentives that the bidder's facility is eligible for, has applied for, and/or has received.</p>
Accounting Issues	<p>All contracts proposed to be entered into as a result of this RFP will be assessed by PacifiCorp for appropriate accounting and tax treatment. Given the term length of the PPA or Tolling Agreement, or the useful life of the asset to be acquired under an asset acquisition, accounting and tax rules may require either: (i) a contract be accounted for by PacifiCorp as a financial lease or operating lease for book purposes pursuant to ASC 840; (ii) a contract to be accounted for by PacifiCorp as a capital lease for tax purposes or (iii) assets owned by the seller, as a result of an applicable contract, which would be consolidated as a variable interest entity (VIE) onto PacifiCorp's balance sheet.</p>

	<p>Potential accounting treatment impacts may be incorporated into the bid evaluation and selection process. For instance, if PacifiCorp determines that a long-term PPA or Tolling Agreement offering would be treated as a capital lease for tax purposes, PacifiCorp would be treated as the tax owner for the proposed facility.</p>
Costs Associated with Direct or Inferred Debt	<p>PacifiCorp will not take into account potential costs to the Company associated with direct or inferred debt as part of the economic analysis in the initial shortlist evaluation. However, after completing the shortlist and before the final resource selections are made, PacifiCorp may take direct or inferred debt into consideration. In so doing, PacifiCorp may obtain a written advisory opinion from a rating agency to substantiate PacifiCorp's analysis and final decision regarding direct or inferred debt. Direct debt results when a contract is deemed to be a lease pursuant to ASC 842. Inferred debt results when credit rating agencies infer an amount of debt associated with a power supply contract and, as a result, take the added debt into account when reviewing PacifiCorp's credit standing.</p>
FERC's Standards of Conduct	<p>FERC Standards of Conduct is included in the RFP as Appendix I.</p>
Role of the IE	<p>Appendix M to the RFP describes the role of the IE in the process.</p>
Contracts	<p>The Company provides a pro forma PPA (Generating Resources Only); PPA (Collocated Generating Resource and BESS PPA); Tolling Agreement (Energy Storage Agreement); and Build-Transfer Agreement (BTA) Term Sheet</p>
Schedule	<p>A detailed schedule is provided in the RFP including the following important dates:</p> <ul style="list-style-type: none"> <li>• 2022AS RFP Issued to Market – April 26, 2022</li> <li>• Cluster Study Window Closes – May 16, 2022</li> <li>• Cluster Study Results Posted to Oasis – November 12, 2022</li> <li>• Benchmark Bids due – November 21, 2022</li> <li>• RFP Bids Due from Market – January 16, 2023</li> </ul>

	<ul style="list-style-type: none"><li>• PacifiCorp Completes Due Diligence and Non-Price Scoring – March 15, 2023</li><li>• Final Shortlist Recommendation Completed – May 5, 2023</li><li>• Execute Contractual Agreements – November 11, 2023</li></ul>
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## 5. POSITIONS OF THE PARTIES

As noted, interested parties were allowed to submit comments by March 14, 2022 in Docket No. 21-035-52 on the Application of Rocky Mountain Power for approval of the Solicitation Process for the 2022 All Source Request for Proposals (“Application”), including the Draft RFP and associated documents. Comments on the draft RFP were filed on the due date by the Division of Public Utilities, Utah Office of Consumer Services (“OCS”), Utah Association of Energy Users (UAE), the Interwest Energy Alliance and Laborers Local 295. Summaries of the comments and positions of the parties are provided below.

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### 5.1 DIVISION OF PUBLIC UTILITIES

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In its initial comments, the Division of Public Utilities (“Division”) concluded that PacifiCorp’s Application for Approval of Solicitation Process for 2022 All Source Request for Proposals (Application) generally meets the relevant statutory and administrative requirements and recommends that the Public Service Commission of Utah (“Commission”) approve the Application, subject to conditions listed in the comments. The Division notes that for the most part, the Draft 2022AS RFP and associated attachments meet the requirements set forth in Utah Code sec. 54-17-201 et seq. and Utah Admin. Code R746-420-1 et seq. However, the Division has some requests for clarification and suggestions for improvement as described below.

The Division of Public Utilities identified the following recommendations based on review of the RFP and associated documents:

1. **Benchmark Options** - The Division posed several questions regarding the nature of the purchase options associated with the benchmark resources. The Division requests that the Company describe the type of purchase option that corresponds to each of the market benchmark resources listed in Appendix O, providing information requested in the Division’s comments regarding the purchase option on page 4 of the Division’s comments;
2. **Requested Waiver Regarding Blinding of Bids** - The Division does not object to the waiving of the blinding requirement, assuming the IE has no objection, or other reasons not apparent weigh against the waiver. The Division concluded that blinding bids would appear to entail additional work for the IE and the company, for very little benefit since the Company



proposes to evaluate and score the benchmarks separately and prior to other bids;

3. **Preference for Dispatchable Resources** - The Division requested clarification of the statement in the draft RFP that PacifiCorp has a preference for resources which can be dispatched but will also accept non-dispatchable resources. The Division asks for clarification how the preference will be reflected in the evaluation, modeling and selection of bids;
4. **Non-Price Scoring** - The Division suggests that bidders not be required, or even allowed, to submit their own scoring as part of their own bid. The Division is concerned that if self-scoring is a required part of the bid, it may lead to arguments about whether the self-scoring was correctly scored, causing unnecessary work for the Company and IE. The Division recommends that self-scored matrices should not be submitted with bids;
5. **Filing Requirements for Benchmark Options** - The Division requests clarity from the Company and from other parties regarding what the R746-420-3(4)(b) requirements entail with regard to the information to be provided about the benchmark resources with the Solicitation. In particular, the Division requests clarification and input from the Company, the IE, and other parties on whether “operating and dispatch characteristics” and “inputs” are required to be filed with the Solicitation by rule R746-420-3(4)(b), or are just required to be provided to the IE at some point during the RFP;
6. **Can Projects Be Bid Both as Benchmark Options and as Third-Party Bids** - The Division references the 2017 Renewable RFP (Docket No. 17-035-23) situation where PacifiCorp submitted a specific resource as a benchmark while the project developer also had the right to submit the proposal as a third-party bid. The Division requests information about whether this possibility is envisioned by the Company for this RFP, and if so, the Company should provide details on the procedure by which one project can be submitted as both a benchmark bid and a third-party bid;
7. **Testing Bids as Portfolios** - The Division seeks clarification on the evaluation and scoring process for the benchmark bids relative to non-benchmark bids since according to the PacifiCorp Draft RFP the benchmark bids must be evaluated prior to the date that non-benchmark bids even due. The Division requests further explanation of how this process works if benchmark bids will not be able to be in a portfolio with non-benchmark bids (since the latter will not even be submitted yet);

8. **Demand Response Non-Price Scoring** - The Division notes that the demand response non-price scoring is substantively different than the non-price scoring for generation resources both in total number of points and categories of points. The Division requests clarification based on the following questions: (1) What policies or rules influenced the non-price scoring categories for demand response; and (2) can the Company make the non-price scoring categories for generation and demand response more similar? If not, please explain why.

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## 5.2 UTAH OFFICE OF CONSUMER SERVICES (OCS)

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The OCS provided a number of comments on the Draft 2022AS RFP. Based on the statutory requirements in Utah for evaluating a utility's RFP for resources, the OCS provided several comments identifying needed improvements to the Draft 2022AS RFP to ensure that the final RFP is in the public interest. OCS's comments include the following:

1. **Benchmark Bids** - OCS has a concern about the information that PacifiCorp supplied regarding the benchmark options. Appendix O to the RFP discloses information about the Benchmark Options, including the resource capacity, technology type, and location of each proposed resource, but PacifiCorp's disclosure does not comply with Utah Admin Code R746-420-3(4)(b). OCS recommends that PacifiCorp be required to supply the information in accordance with the Utah Admin Code R746-420-3(4)(b) requirements, and at that time, completely describe the project;
2. **Blinding Bids** - In general, OCS agrees with PacifiCorp's request for a waiver, however, in light of PacifiCorp's plans to bid in 31 benchmark resources, OCS questions whether the sheer number of benchmark bids should warrant the additional step of blinding bids for a heightened level of oversight of the RFP. OCS will continue to consider and may file additional comments about this issue in reply comments;
3. **PLEXOS Modeling** – OCS raises concern that the IE will not have full access to the PLEXOS model but will have access to the input files for PLEXOS. The logic of the PLEXOS model differs from the previous models used by PacifiCorp for IRP and RFP processes. At a minimum, PacifiCorp should explain all its modeling techniques, such as the use of the micro-resources in more detail in its RFP documents. However, because of the obligations pursuant to Utah Code Section 54-17-203(3)(b)(v) regarding the Energy

Resource Procurement Act, the IE will need to have additional access to PacifiCorp's RFP models. As noted, the Code states that the IE shall render an opinion as to whether: (A) the solicitation process is fair and in compliance with this part and (B) any modeling used by the affected electrical utility to evaluate bids is sufficient. PacifiCorp should at least be required to provide more details regarding its modeling techniques in the RFP documents, but given the IE's responsibilities, PacifiCorp should also ensure that the IE receives access "to all important models" that PacifiCorp uses in the RFP, including the PLEXOS model:

4. **Code of Conduct** – OCS indicted that PacifiCorp seemed to have described a more rigorous code of conduct process in the 2017R RFP than either the 2020AS RFP or the 2022AS RFP. OCS recommends that PacifiCorp require employees who will be participating in the 2022AS RFP to participate in a code of conduct training prior to release of the current RFP to market, and that PacifiCorp ensure that the RFP document discusses the code of conduct information to the same extent that it was addressed in the 2017R RFP;
5. **Sodium Nuclear Plant** – OCS recommends that if a resource such as the Sodium Nuclear Plant is bid into the 2022AS RFP, the PSC should require PacifiCorp to conduct sensitivity analyses with at least a 100% higher capital cost assumption, and at least 3 years of delay in the installation date to reflect the actual cost overruns and delays experienced by recent nuclear plant construction in the U.S.;
6. **Gas Resources** – There is no reason not to at least include gas-fired combustion turbine ("CT") units as potential proxy resources in its expansion plan in the future. CT units can be relatively low-cost resource additions, and produce far less CO2 emissions compared to gas-fired combined cycle ("CC") units. OCS is unconvinced that CC units should not also be considered proxy resources, however, at a minimum, OCS recommends that the PSC require PacifiCorp to run a scenario or sensitivity that includes CT resources as potential proxy resources in the 2022AS RFP evaluation;
7. **Transmission** – PacifiCorp should conduct a PLEXOS sensitivity analysis with the Northern Tier Transmission Group ("NTTG") transmission option modeled as an alternative transmission option, but without the assumption that retail customers would be required to pay for the 230 kV line addition. In addition, PacifiCorp should be required to explain and justify how the costs of the 230 kV line are treated in the economic modeling of RFP bids;

8. **Ranking of Bids** – OCS notes that PacifiCorp has described the PLEXOS modeling and price-scoring components of the bid ranking process, but OCS recommends PacifiCorp provide additional clarification based on PacifiCorp's response to OCS data request 1.19(h).<sup>11</sup> OCS recommends that PacifiCorp provide an example of how its bid scoring process will work in the RFP document.

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### 5.3 UTAH ASSOCIATION OF ENERGY USERS

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The Utah Association of Energy Users (UAE) submitted initial comments on March 14, 2022. UAE initially summarized the relevant regulations and standards which govern the RFP as well as the requirements necessary for RFP approval and resource selection approval. UAE also provided several comments on the RFP related to PacifiCorp's requirements for collocated energy storage systems, proposed commercial operation date of December 31, 2026, and timing of the RFP and interconnection cluster studies. A summary of the key points raised by UAE in its comments is presented below:

1. **Collocated Energy Storage System Requirements** – UAE notes that PacifiCorp requires that all storage bids must be: (1) AC-coupled; (2) sized so that the storage power capacity rating is nominally greater than 50% of the nameplate capacity of the collocated generating resource; (3) four-hour duration or longer; and (4) bid as an augmented system capable of maintaining the original storage power capacity and duration rating for the contract term, or otherwise able to maintain original capability, as bid. UAE supports the requirement that PacifiCorp have full dispatch control of the collocated energy storage system. UAE also does not oppose the Company's proposal to accept bids only from AC-coupled resources in this RFP but requests that the Company re-assess this requirement in future RFPs. UAE requested that PacifiCorp explain why it prefers energy storage systems with a power capacity rating that is 100% of the nameplate capacity of the collocated generating resource<sup>12</sup> and how this preference will be reflected in scoring and selection of bids. With regard to the augmentation requirement, UAE requests that the Company explain how augmentation solutions will be modeled in utility-owned and BTA bids so that the bids can be fairly compared to PPA bids;

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<sup>11</sup> PacifiCorp's response to OCS 1.19(h) states "Any resource with a negative net cost (i.e., it pays for itself on energy basis alone) will get a 75/75 price score. PacifiCorp will assign 0 points to the bid with the highest positive net cost and force rank the remainder of the bids on a continuum from 0 points to 75 points.

<sup>12</sup> UAE notes that the IRP preferred portfolio was selected based on the assumption that energy storage resources would have a power capacity rating of 50% of the collocated generation resource.

2. **Proposed Commercial Operation Date (“COD”) of December 31, 2026** – UAE notes that the Washington Utilities and Transportation Commission (“WUTC”) approved the Company’s RFP on the condition that the Company extend the COD deadline to December 31, 2027. UAE is concerned that if PacifiCorp’s original proposed Commercial Operation Date of December 31, 2026 is maintained, any project that seeks interconnection service through the 2022 Cluster Study will almost certainly not be able to meet a 2026 COD. As a result, UAE does not object if the Company were to adjust the COD bid requirement to allow bids that can reach commercial operation by December 31, 2027;
  
3. **Timing of RFP and Interconnection Cluster Studies** – UAE notes that while extending the deadline for bids will allow more projects to bid into the 2022 RFP, it will not resolve the legitimate concerns raised by other commenters about the timing of the RFP relative to the 2022 Cluster Study process managed by PacifiCorp Transmission. As noted by the Western Power Trading Forum (“WPTF”) in public comments filed in this docket on January 24, 2022, the timing of the 2022AS RFP deadlines will make it difficult for many projects that seek interconnection through the 2022 Cluster Study to demonstrate “readiness” sufficient to remain in the interconnection process, since projects that seek interconnection service must demonstrate “readiness” to stay in the interconnection study process. Selection to the initial shortlist in the 2022 RFP would demonstrate “readiness” that would allow projects to obtain interconnection service but the selection of the initial shortlist in the 2022 RFP does not occur until after projects in the 2022 Cluster Study are required to demonstrate “readiness” in time to stay in the interconnection process. This means that the universe of projects that could be selected in the 2022 RFP must either already have an interconnection agreement or be able to demonstrate “readiness” through some means other than being selected in the 2022 RFP. Other forms of “readiness” are limited and may require a very large cash payment that many developers cannot or are not willing to make. UAE strongly suggests that future RFPs be designed to ensure that projects seeking interconnection through the first available cluster study window after an IRP be allowed to obtain “readiness” through selection into the RFPs’ initial shortlist.

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## 5.4 INTERWEST ENERGY ALLIANCE (INTERWEST)

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Interwest Energy Alliance submitted initial comments on March 14, 2022. Interwest noted that it supports PacifiCorp's issuance of the proposed 2022 All-Source RFP, but cautions the Commission that changes are warranted to ensure it will provide the most robust response and enable PacifiCorp to select the most cost-effective resources available on the market to be in-service to meet capacity and energy demand requirements throughout the Action Plan period identified in the 2021 IRP. Interwest recommends the following revisions to make the RFP as competitive and fair as possible:

1. **Interconnection Queue Driving Bid Selection/COD Deadline** – Interwest recommends that some competition and linkage between the interconnection study process and the RFP be injected back into the procurement process by extending the COD for the pool of eligible bids. Interwest notes that as proposed bidders must be in the transitional cluster, Cluster 1 (2021) or Cluster 2 (2022) or have an executed LGIA to be eligible for the RFP. While these clusters are likely to be well populated, very few projects requiring network upgrades could still achieve a 2026 COD because of the time required to complete the upgrades. As a result, Interwest recommends that the commercial operation date (COD) for bids should be extended to December 31, 2028 for all resources, with bidders able to identify in which year their COD deadline falls. Interwest also recommends that for future RFPs, Interwest would like to work with PacifiCorp and stakeholders to figure out a way to better integrate the RFP and interconnection processes to ensure a more equitable and competitive result. A regular “pendulum” pattern of RFPs issued every two years with bid review results to be published earlier in the cluster study process would significantly resolve the mismatch and provide predictability to developers investing millions of dollars into multi-year development projects critical to providing low-cost power. Interwest recommends this pattern be memorialized in the Commission's orders approving the RFPs and IRPs;
2. **DC/AC Coupling of Collocated Storage Projects** - Collocated renewable energy plus storage should not be limited to AC coupled storage resources as PacifiCorp proposes but also include DC coupled storage resources. Interwest strongly recommends that the RFP should be revised and PacifiCorp should be prepared to accept DC coupled projects;

3. **Bid Alternatives** - PacifiCorp should allow at least two different configurations of bids per project site without requiring the bidder to pay bid fees for each bid. Interwest recommends that the 2022AS RFP requirements be revised so that when a bidder proposes both a PPA and BTA as alternatives for a particular project, that this be considered alternative versions of the same bid;
4. **Bid Review is Tilted Toward Benchmark and Build Transfer Projects** – Interwest notes that there are inherent imbalances in the RFP requirements which tilt the scale towards benchmark and BTA projects. Interwest proposes adjustments to the selection criteria to address this issue including the following: (1) Remove assigned terminal value to build-transfer agreements (BTA) and benchmark bids; (2) Remove production criteria contained in PacifiCorp's form PPA and replace with availability criteria; (3) Clarify/modify the curtailment provisions for PPA bidders; (4) adjust the price/non-price score ratio to 80/20;
5. **Reject Right to Terminate for Force Majeure Events Which are Resolved Within One Year** – Interwest recommends that the Commission reject the proposed term in the RFP documents which allow PacifiCorp to terminate its offer or contract with a developing project which has been included in the modeling of final portfolios from further consideration if a force majeure event lasts 180 days. Rather, Interwest recommends this right be reserved only for force majeure events lasting for 12 months or more.

## 6. DISCUSSION OF RFP ISSUES

This section begins with a listing of the factors that are important for an effective competitive bidding process in any state and under any circumstance based on Merrimack Energy's experiences as IE and consistent with Utah Statutes and Commission directives. Following these factors, this section continues with a more detailed assessment and discussion of the important competitive bidding issues associated with PacifiCorp's 2022AS Draft RFP. Merrimack Energy has identified several issues that arose in review of the Draft 2022AS RFP and related documents and discussions with PacifiCorp that warrant review and discussions as having an impact on the success of the competitive procurement process. Some of the issues identified are common considerations in most power procurement solicitation processes. These issues will be presented and discussed from several perspectives including fairness principles, transparency of the process, consistency with Utah Statutes, and consistency with industry standards.

In addition to Merrimack Energy's review of the Draft 2022AS RFP documents, Merrimack Energy staff and representatives from the Division participated in calls and Technical Conferences with the PacifiCorp team to discuss the RFP process, notably focusing the discussion on the bid evaluation methodology and process as well as the models to be used in the evaluation process. The IE and Division viewed this review as being very important since PacifiCorp is transitioning its economic evaluation methodology and process from use of the traditional IRP models (System Optimizer and Planning and Risk) to the PLEXOS model as the primary evaluation model. Merrimack Energy also prepared a list of questions for PacifiCorp based on review of the Draft 2022AS RFP and related documents as well as a review of the models and evaluation methodology. In addition, several stakeholders in Utah have submitted comments on the Draft 2022AS RFP. Merrimack Energy has reviewed and assessed the comments and includes the key issues raised in the comments below.

Based on the comments of the participants in the proceeding as well as Merrimack Energy's view of the key Draft RFP issues based on review of the Draft 2022AS RFP and associated documents, the following issues are addressed in this report: (1) Comparability of third-party bids and utility-owned resources given the possibility of a large number of benchmark resources submitted into the RFP; (2) Benchmark Resources; (3) RFP Schedule; (4) Bid Blinding; (5) Bid Eligibility; (6) Long-Lead Time Resources; (7) Bid Evaluation Fees; (8) AC/DC Coupling; (9) BESS Requirements; (10) Ranking of Bids; (11) Demand-Side Resources; (12) Code of Conduct; (13) Reasonableness of the Overall Quantitative Evaluation Methodology; (14) Non-Price Evaluation and Scoring; (15) Webpage; (16) Models and Input Assumptions; (17) Credit Requirements.



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## 6.1 CHARACTERISTICS OF ANY EFFECTIVE COMPETITIVE BIDDING PROCESS

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In assessing whether a competitive procurement process is likely to lead to a positive outcome which benefits customers, meets the objectives and criteria established, and is consistent with regulations and statutes, Merrimack Energy considers characteristics of the competitive procurement process associated with fairness and transparency principles.

The application of a fair and transparent competitive procurement process is important for creating competition for the overall benefit of customers. Fairness generally means that all bidders are treated similarly, have access to the same information at the same time, and have equal opportunity of being successful in the process. A reasonable level of transparency<sup>13</sup> is also another important element leading to a successful solicitation process. Transparency means that there is a reasonable amount of information to guide bidders in preparing a complete proposal to meet utility requirements. Reasonably transparent processes are those that provide information, guidance, and direction to bidders on the information required by the utility to evaluate their proposals, provide guidance on the bid evaluation criteria, bid evaluation and selection process. Fair and reasonably transparent processes should encourage competition among potential bidders who can adequately determine if they have the ability to effectively compete in the process and lead to more complete and comprehensive proposals. The greater the level of competition for all products sought by the utility the greater the chance for competitive options and lower prices for consumers.

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## 6.2 UTAH SPECIFIC COMPETITIVE FACTORS

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The Energy Resource Procurement Act, codified at Utah Code §§ 54-17-101 et seq. (the “Act”), and Utah Admin. Code R746-420-1, et seq as applied to the facts of this RFP, control this assessment by the IE. The Act creates a public interest standard for Commission review and approval of this Draft RFP in UCA § 54-17-201(2)(c)(ii) as follows:

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<sup>13</sup> Merrimack Energy always uses the term “a reasonable level of transparency” because a competitive procurement process is very rarely fully transparent. Bidders, for example, don’t have access to the utility’s models and data used to evaluate other proposals. Likewise, the utility generally doesn’t provide the detailed back-up information for all the criteria used to evaluate bids from a quantitative perspective.

In ruling on the request for approval of a solicitation process, the commission shall determine whether the solicitation process:

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- (ii) is in the public interest taking into consideration:
  - (A) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state;
  - (B) long-term and short-term impacts;
  - (C) risk;
  - (D) reliability;
  - (E) financial impacts on the affected electrical utility; and
  - (F) other factors determined by the commission to be relevant.

Section R746-420-3 also addresses the specific requirements of a solicitation process, including the disclosures listed in this section. This Section states that all aspects of a Solicitation and Solicitation process must be fair, reasonable and in the public interest. A proposed Solicitation and Solicitation process must be reasonably designed to comply with all applicable requirements of the Act and Commission rules.

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### 6.3 COMMENTS OF MERRIMACK ENERGY ON THE PACIFICORP Draft 2022AS RFP

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Below is a compendium of the comments of Merrimack Energy on PacifiCorp's Draft 2022AS RFP. The comments reflect the positions of the interested parties who submitted comments, our own assessment based on our review of the Draft 2022AS RFP, requirements of Utah Code and Regulations and industry practices associated with similar solicitations. The Draft 2022AS RFP differs from the 2020As RFP in several important aspects, the most important being that PacifiCorp retains the ability to offer benchmark resources. PacifiCorp has identified up to thirty-one (31) benchmark resource options. The presence of potential utility-owned resources raises issues regarding comparability of resources and fairness and consistency in the evaluation and selection process. In addition, the Draft 2022AS RFP includes a number of other differences from the 2020As RFP including the following:

1. The schedule for the cluster study process relative to the overall 2022AS RFP schedule has been revised. Under the 2022AS RFP, bidders will submit their proposals after the cluster study process (as opposed prior to the Cluster

- Study process in the 2020AS RFP) to allow bidders to reflect interconnection and network upgrade costs and timing in their proposals;
2. Combined with the timing for the submission of proposals to reflect cluster study results, there is anticipated to be a single-phase pricing process, with the initial shortlist process included in the 2020AS RFP being eliminated;
  3. PacifiCorp is also proposing a revised non-price scoring process based on a self-scoring approach by bidders and review and validation by PacifiCorp in conjunction with the IEs;
  4. PacifiCorp is utilizing the PLEXOS model for bid evaluation, scoring and selection for the 2022AS RFP, replacing the traditional models previously used in recent RFPs (i.e., System Optimizer (SO), Planning and Risk (PaR), and StorageVET which was used for storage evaluations in the 2020AS RFP). PLEXOS was utilized by PacifiCorp for determining the optimal portfolio for the 2021 IRP;
  5. PacifiCorp has proposed to increase the bid fee for each proposal and to eliminate alternatives allowed in previous RFPs;

### **6.3.1 COMPARABILITY<sup>14</sup>**

In order for the RFP process to satisfy the criteria for an effective and efficient competitive bidding process and produce a result that is in the public interest, all resource options should, to the greatest extent possible, be made directly comparable and put on an even footing or “level playing field” for evaluation and selection purposes, such that no single bidder, resource, or contract structure option has an unfair advantage over another bidder, resource option, or contract structure. In competitive procurement processes where a utility self-build option or utility ownership option is allowed to compete, ensuring comparability is a very important consideration in the RFP design and evaluation process.

In the 2020AS RFP, PacifiCorp committed to not submit any benchmark resources (self-build or ownership proposals). PacifiCorp did allow Build Own Transfer (BTA) options. However, PacifiCorp did agree to allow bidders to submit PPA proposals for up to a 30-year term which reduced some concern over fairness and comparable evaluation considerations, since different contract term is generally one of the flash points in the debate over evaluation of PPA and utility-ownership options. Furthermore, for the 2020AS RFP, the IE was aware that BTA proposals for Solar only or solar combined with storage projects would not be competitive with

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<sup>14</sup> Comparability refers to the evaluation of power generating resources with different project structures and characteristics on a fair and consistent basis. For example, resources that will be owned by the utility will have a very different cost and risk structure that a Power Purchase Agreement (PPA) where the bidder submits essentially a firm price and must absorb the risks and benefits of changes in costs for the project relative to its contract pricing.

similar PPAs due to IRS normalization accounting requirements which require utilities to spread out Investment Tax Credit benefits over the life of the asset as opposed to monetizing the ITC benefits in year one as PPA providers can utilize.<sup>15</sup> The IE also expected that wind proposals would likely be provided as both a PPA and BTA which would allow for a direct comparison.

For this solicitation, PacifiCorp has indicated its intent to potentially submit a large number of benchmark resource options (up to 31 options) for various types of resources and in different locations on its system either as Owned or Market options<sup>16</sup>. These resources will therefore be competing head-to-head against third-party proposals. It is important to ensure that all resources are fairly treated and evaluated. From a valuation standpoint, a key role of the IE is to ensure that all costs are accurately included in the evaluation. This requirement is extremely important because failure to reflect all applicable costs for each resource option could bias or skew the evaluation results to favor resources that could actually have higher actual costs than the evaluation results would indicate.

As noted, PacifiCorp is accepting proposals for Power Purchase Agreements (PPA) with terms of up to 30 years for a renewable or non-renewable resource only and for collocated resources with a Battery Energy Storage System. PacifiCorp will also accept proposals for Build-Transfer (BTA) transactions whereby the bidder develops the project, assumes responsibility for construction and ultimately transfers the asset to PacifiCorp in accordance with the terms of the Build-Transfer Agreement. PacifiCorp will then own the asset and can be expected to include the asset in rate base. The major consideration is that a utility ownership option (whether benchmark or BTA) is generally developed on a cost-of-service basis.<sup>17</sup> This means that the utility cost is not fixed at the time of proposal submission, but could change (up or down) based on whether the costs were prudently incurred. However, under the terms of the BTA, bidders may be required to provide reasonably firm pricing with limited change order opportunities during contract negotiations which could limit pricing risk. As a result, the three primary options identified (PPA/Tolling, BTA, and Benchmarks) have different risk profiles and cost commitments which could result in fairness considerations to ensure all types of proposals are fairly and consistently evaluated.

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<sup>15</sup> Under current tax benefits, utility-owned solar and solar collocated with storage currently have a competitive disadvantage. However, there has been discussions associated with revisions to tax benefits for renewable energy projects and the like to essentially reduce or eliminate that disadvantage for utility-owned solar projects.

<sup>16</sup> PacifiCorp noted in a response to a question from the Merrimack that a Benchmark Option may consist of a soliciting utility self-build or owned option (Owned Benchmark Resource) or a purchase option (Market Benchmark Resource). Market resource implies that the resource is still owned and controlled by a third-party developer with whom PacifiCorp has a purchase option rather than owning the resource outright at the time the benchmark is bid into an RFP.

<sup>17</sup> This is also referenced as a “cost-plus” basis.

As will be discussed below, the schedule which PacifiCorp has proposed will alleviate some concerns over fairness risks. First, the Benchmark resources will be submitted before market bids are due. This means that there is no way for benchmark proposals to have an opportunity to gain access to market pricing or undercut the pricing of other proposals during a best and final pricing process. In that regard, the current process is designed as a single-phase evaluation process with no opportunity for bidders to reprice unless market changes dictate potential market updates.<sup>18</sup> Bidders are required to reflect the cluster study or other eligible study results in their final pricing. If there is no defined opportunity to provide refreshed pricing, all bidders will be required to submit their best offer with their proposals.

Another consideration with regard to comparability is whether all bidders have access to the same information at the same time and whether all bidders provide comparable information to allow for a consistent evaluation of each proposal.

Comparability issues also arise as they pertain to the evaluation of proposals. Given the differences in benefits and risks of PPAs, BTAs and Benchmarks, they cannot easily be evaluated against each other on a “fair and comparable basis” as required by Utah law unless the significance of these differences is recognized or addressed through assignment of values to the different risks or by taking appropriate steps to reduce these differences. The BTA option overall should include less risk and therefore fewer differences as compared to a self-build option. For example, a well-designed BTA call shift risk to the Seller, much like a PPA by limiting deviations in the bid price. In other words, the BTA bidder would be generally required to hold the price bid, subject to allowable change orders which PacifiCorp may have some control over. If such a bidder is bidding to clear specifications (which PacifiCorp has provided) and requirements this would also minimize any required revisions. Ideally, bidders would submit proposals for both PPAs and BTAs for the same resource types to assess the side-by-side comparison of bid pricing, given any differences on risk.

If one of the objectives of the process is to assess PPA and BTA proposals for the same resources, adopting Interwest's recommendation to allow bidders to offer

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<sup>18</sup> Both the 2017 Renewable RFP and the 2020AS RFP included a two-phase pricing process which allowed for shortlisted bidders to refresh their prices after shortlist selection. In the case of the 2020AS RFP, the price refresh occurred over six months after the shortlist was selected and about nine months after submitting initial bids. The process essentially necessitated refreshed pricing given the long period between initial pricing and best and final pricing. In addition, a two-phase pricing structure can create gaming if a bidder knows there is a best and final pricing process. This could encourage bidders to bid a low price, get accepted into the initial shortlist, and then offer a higher price for its best and final pricing. This concern led PacifiCorp to limit any price increase for best and final pricing in past RFPs to eliminate gamesmanship associated with bidder pricing.

a BTA as an alternative under a single base bid could encourage both BTA and PPA bids. Encouraging bidders to offer both proposals would be another way of attempting to allow for a side-by-side comparison. Alternatively, with a limited time to submit offers it may be preferable to allow individual bidders to make their own choices on which type of transaction structure to offer.

With regard to other concerns associated with comparability, one of the functions of the IE is to generally ensure all costs are included in a utility-ownership project including acquisition cost or capital cost, O&M costs, Capex, land lease costs, taxes, insurance, administrative costs, etc. PacifiCorp will provide the IE with the evaluation models for each proposal which include the inputs used as well as the evaluation inputs and outputs ideally. Merrimack Energy will scrutinize the costs included in the Benchmark and BTA proposals to ensure all costs are accounted for and to ensure that Investment Tax Credits (“ITC”) and Production Tax Credits (“PTC”) for these options are appropriately addressed in the modeling.<sup>19</sup>

### **6.3.2 BENCHMARK RESOURCES**

The role of the benchmark resources and the requirements of the IE for assessing the benchmark resources are identified in Utah Rule R746-420, Requests for Approval of a Solicitation Process. The requirements associated with the benchmark resource option are listed in this Rule. They include:

1. If a solicitation includes a benchmark option, the solicitation shall include at least the following information and disclosures:
  - a. Whether the benchmark option will or may consist of a soliciting utility self-build or owned option or if it is a purchase option (market benchmark resource);
  - b. If an owned benchmark option is used, a description of the facility, fuel type, technology, efficiency, location, projected life, transmission requirements and operating and dispatch characteristics of the owned benchmark option. If a market benchmark option is used, the soliciting utility must disclose that a market option will be utilized and any inputs that will be utilized in the evaluation;
  - c. Assurances that the benchmark option will be validated by the Independent Evaluator and that no changes to any aspect of the

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<sup>19</sup> The IE has found that BTA options for Solar PV and Solar plus Storage proposals do not compete well against PPA proposals for the same resources because of the IRS requirement that utilities use normalization accounting for the ITC benefits associated with utility-owned projects which essentially requires the utility to spread out the ITC benefits over time as opposed to taking the ITC benefit up front as a tax credit that can be monetized in year 1 as is the case with a third-party PPA proposal..

benchmark option will be permitted after the validation of the benchmark option by the Independent Evaluator and prior to the receipt of bids under the RFP and that the benchmark option will not be subject to change unless updates to other bids are permitted;

2. All relevant costs and characteristics of the benchmark option must be audited and validated by the Independent Evaluator prior to receiving any of the bids and are not subject to change during the solicitation except as provided herein;
3. All bids must be considered and evaluated against the benchmark option on a fair and comparable basis;
4. Review and validate the assumptions and calculations of any benchmark options;
5. The Independent Evaluator shall analyze the benchmark option for reasonableness and consistency with the solicitation process.

The above description of Utah Admin. Code R746-420 includes the requirements associated with data for each benchmark resource to be included in the RFP or solicitation document and the role of the IE. What may not be clear in the Utah Admin. Code as identified in the comments of both the Division of Public Utilities and Office of Consumer Services is the information requirement for benchmark resources to include in their proposals as opposed to the requirements to include in the RFP document. In fact, the RFP does not address the specific information which the benchmark resource proposal is required to provide, unlike the requirements listed for other resource options such as PPA and BTA resources.

As Merrimack Energy and others have noted Utah Statutes identify requirements associated with the participation of benchmark resources. The requirements of the benchmark resource applies both to the information and requirements to be included in the Final RFP and the information that the benchmark resource is required to submit as part of its proposal. Merrimack Energy notes that although the 2020AS RFP did not include benchmark options, past RFPs, including the 2017 Renewable RFP, have included the participation of benchmark resources. In past solicitations, PacifiCorp's internal team who prepared and submitted the benchmark resource proposals provided very detailed project proposals for each benchmark resource submitted, including detailed cost information on a line-by-line basis for the benchmark resource.

The role of the IE in previous solicitations involving benchmark resources was to review each benchmark proposal, raise questions if necessary and meet with the PacifiCorp proposal team to discuss the IE's questions. Merrimack Energy then prepared a report which included an assessment of the reasonableness of the cost information and other data provided regarding each proposal as identified in the above references to Utah Admin Code R746-420. The IE also focused on other costs including admin costs that would be incurred by PacifiCorp attributed to the project, O&M costs, and interconnection and transmission costs, to ensure all reasonable costs were accounted for in the proposal.

Merrimack Energy reviewed past benchmark proposals and notes that the benchmark resource proposal included all the same information as required of all other proposals, including PPA and BTA proposals, as listed in Appendix B-2 and sections of Appendices C-1, C-2 and C-3, as applicable. In response to a question from Merrimack Energy related to benchmark resource proposal information, PacifiCorp stated that the level of detail provided to the IE will be consistent with what was provided in the 2017R RFP solicitation process. Merrimack Energy finds that level of detail to be sufficient, reasonable, and consistent with the information required of other bidders.

In that regard, Merrimack Energy recommends that PacifiCorp should clarify in the RFP the information and templates which the benchmark resource proposals are required to provide to ensure it is clear that benchmark resources will be providing the same basic information as other proposals to ensure a fair and consistent evaluation process.

Also, the comments of the Division of Public Utilities raise another issue associated with the benchmark resources under the heading of Testing Bids as Portfolios. The Division notes that the benchmark bids must be evaluated prior to the date that non-benchmark bids are even due. This means that the non-benchmark bids will be in a portfolio with each other (and the benchmark bids), while the benchmark bids will not be able to be in a portfolio with the non-benchmark bids (since the latter won't even be submitted yet). The Division requests further explanation of how this process will work. The Division is concerned that non-benchmark bids could be disadvantaged because the analysis of these bids includes actual resources in the PLEXOS portfolio (actual benchmark bids plus actual non-benchmark bids), while the evaluation of the benchmark bids may use hypothetical proxy bid information or similar information in their PLEXOS portfolio. The Division requests clarification on this point.

Merrimack Energy shares the Division's questions about the process identified by PacifiCorp for scoring the benchmark bids prior to receipt of non-benchmark bids.



It would make sense to score benchmark bids against one another if only the best benchmark bids would be included in a final portfolio to determine the final shortlist. However, that does not seem to be the case here as we understand. Another option would be to score the benchmark bids from a non-price perspective only at this point and allow all benchmark bids to compete with non-benchmark bids from a pricing standpoint. Otherwise, creating proxy resources to evaluate benchmark bids raises the concern that this segment of bids could be favored depending on the characteristics of the proxy resources selected. The only approach to maintain a fair and equitable process is to evaluate all bids together in the same portfolio.

The IE therefore has the following recommendations:

1. Require that the benchmark resource proposals include all the same information as included in the benchmark bids in the 2017R RFP, which is consistent with the same level of detail and format as all other proposals are required to provide in Appendix B-2 and sections of C-1, C-2, and C-3 that are applicable;
2. Clearly identify in the RFP document the information and templates that benchmark resources will be required to provide consistent with the requirements of other resources;
3. Provide clarification on the benchmark scoring methodology PacifiCorp intends to implement to ensure fairness and consistency in the evaluation process;
4. Explain why it is not feasible to conduct non-price scoring after submission of benchmark bids but defer the price evaluation until other non-benchmark bids are evaluated.

### **6.3.3 RFP SCHEDULE**

As a result of the lengthy process associated with the 2020AS RFP due to the timing for the cluster study process and best and final pricing, PacifiCorp proposed to revise the project schedule to require bidders to submit bids that incorporate the results of the cluster study and interconnection study processes. The 2020AS RFP required that bidders submit their proposals prior to the initiation of the first Cluster Study process in October 2020. Through this process, PacifiCorp completed the initial evaluation process and selected an initial shortlist prior to initiation of the Cluster Study process. Bidders could utilize their shortlist selection as the basis for commercial readiness and the ability to participate in the Cluster Study. After completion of the cluster study, eligible shortlisted bidders would be allowed to update their pricing incorporating the expected interconnection and network upgrade costs. The final shortlist was selected approximately 10 months from initiation of the Cluster Study process.

For the 2022AS RFP, PacifiCorp intends to undertake the Cluster Study process shortly after issuance of the final RFP and prior to submission of any proposals (benchmark or third-party proposals). This will allow bidders to include their interconnection and network upgrade costs in their proposals scheduled for November 2022 and January, 2023 respectively, with final shortlist selection in April, 2023. There is anticipated to be only a single stage pricing process with no best and final pricing expected.

UAE and Interwest both address the timing of the RFP schedule and cluster study process in their comments. UAE states that while extending the COD deadline for bids will allow more projects to bid into the 2022AS RFP, it will not resolve the legitimate concerns raised by other commenters about the timing of this RFP relative to the 2022 Cluster Study process managed by PacifiCorp Transmission. UAE cites the public comments filed by the Western Power Trading Forum in this docket on January 24, 2022 that the timing of the 2022 RFP deadlines will make it difficult for many projects that seek interconnection service through the 2022 Cluster Study to demonstrate “readiness” sufficient to remain in the interconnection process. UAE strongly suggests that future RFPs be designed to ensure that projects seeking interconnection through the first available Cluster Study window after an IRP be allowed to obtain “readiness” through selection into the RFP’s initial shortlist.

Interwest states that the RFP bid review process timing and anticipated CODs as currently written create an expensive and risky timing mismatch between the interconnection queue study process and the RFP deadlines. As a resolution, Interwest recommends that some competition and linkage between the interconnection study process and the RFP be injected back into the procurement process by extending the CODs for the pool of eligible bids.

Merrimack Energy notes there are advantages and disadvantages with each type of solicitation process (single or two-stage pricing) and schedule implemented by PacifiCorp for the 2020AS RFP and the 2022AS RFP. Table 2 below provides our assessment of the advantages and disadvantages of each approach.

Table 2: Advantages and Disadvantages of Single Stage and Two -Stage Processes

	Advantage	Disadvantage
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<p>2020AS RFP – Two-stage process</p>	<ul style="list-style-type: none"> <li>• Selection to initial shortlist qualified for “readiness” to enter the Cluster Study process;</li> <li>• Provides opportunity for projects selected to the initial shortlist extra time to develop their project into a more mature project during the period of the Cluster Study process</li> </ul>	<ul style="list-style-type: none"> <li>• Longer solicitation process with initial pricing and best and final offer;</li> <li>• Initial indicative pricing can create “gaming” whereby bidders submit a lower price to get on the initial shortlist and increase prices for best and final offer;</li> <li>• Bidders not able to incorporate all relevant cost information into their overall project pricing</li> </ul>
<p>2022AS RFP – Single stage process</p>	<ul style="list-style-type: none"> <li>• Bidder will have complete information associated with interconnection costs to incorporate into proposal price;</li> <li>• A single stage pricing process is preferable in cases where benchmark proposals are present since there is no chance of any self-dealing. All proposals are on a more level playing field;</li> <li>• Without a best and final offer process, the overall solicitation schedule should be shorter</li> </ul>	<ul style="list-style-type: none"> <li>• Some stakeholders have raised the issue that a single stage process creates a challenge for some projects to demonstrate “readiness” to be able to seek interconnection service;</li> <li>• This process could discourage bidders from competing in the solicitation process due to the uncertainty associated with the process in terms of overall project development and interconnection costs.</li> </ul>

Merrimack Energy does not object to the implementation of a single stage pricing process, particularly given that a potentially large number of benchmark options will be allowed to compete. Since there is a single pricing process and benchmark bids will be submitted prior to third-party bids there is no opportunity for any market information associated with third-party bids to affect benchmark pricing. Merrimack Energy has recommended that the COD for projects bidding into the 2022AS RFP be extended to at least December 31, 2027. This should facilitate the ability of additional projects to be able to achieve interconnection in time to meet the later COD. Merrimack Energy has also recommended that PacifiCorp retain the ability to state in the RFP that it prefers projects that can achieve an earlier COD and allow the PLEXOS model to select the preferred portfolio that minimizes costs and meets reliability considerations in light of the Demand-Side resource and Front-Office transactions availability.

With regard to the issues associated with ability of projects to demonstrate “readiness” sufficient to remain in the interconnection process, it is Merrimack Energy’s understanding based on review of PA Consulting Group Inc’s Comments on PacifiCorp Draft 2022AS RFP Scoring and Evaluation Methodology submitted in Oregon Docket UM 2193 on November 22, 2021. For the 2022 Transmission Cluster Study, PacifiCorp has indicated that there are other Commercial Readiness criteria available for eligibility in the (Cluster) Study and expects potential bidders to take their own steps to meet those criteria,

To assist potential bidders to meet commercial readiness criteria, Merrimack Energy recommends that PacifiCorp conduct a Workshop or Technical Conference for bidders regarding the interconnection process and transmission assessment shortly after issuance of the RFP.

#### **6.3.4 BID BLINDING**

Utah Statute R746-420-3(10)(a) requires the IE receive and “blind” bid responses.<sup>20</sup> Blinding of bids is designed to ensure there is no bias in the evaluation of bids since members of the utility’s evaluation team will not know the identity of the bidder. This requirement is designed to ensure that third-party bids and benchmarks are equitably treated.

In its Application, PacifiCorp requested a waiver of this requirement consistent with similar requests in past RFPs.<sup>21</sup> PacifiCorp stated that blinding bids will provide limited value because the detailed information that will be included in each bid will effectively disclose the bidder’s identity. Therefore, blinding bids will provide limited value because the detailed project information included in each bid (e.g., the proposed location of the resource) will effectively identify the bidder. PacifiCorp noted that the Commission has approved such requests based, in part, on recommendations of both the IE and Division of Public Utilities who questioned the value of blinding bids in previous solicitations.

The Division also supports the Company request to waive the requirement in Utah Admin Code R746-420-3(10)(a) that the IE blind all bids for the evaluation process. The DPU notes that the benchmark bids will be scored separately from, and prior to other bids. The blinding would therefore appear to entail additional work for the IE and Company, for very limited benefit. The Division does not object to the waiving of the blinding requirement, assuming the IE has no objection, or other reasons that are not apparent weigh against the waiver.

The Office of Consumer Services in general agrees with PacifiCorp’s request for a waiver. However, OCS notes that in light of PacifiCorp’s plans to be in 31 benchmark resources, OCS questions whether the sheer number of benchmark bids should warrant the additional step of blinding bids for a heightened level of oversight of the RFP. OCS indicated it will continue to consider and may file additional comments about this issue in reply comments.

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<sup>20</sup> See Utah Admin. Code R746-420-3(10)(a) and R746-420-6(2)(f).

<sup>21</sup> See Direct Testimony of Heather Eberhardt, page 10.

The IE's experience with other solicitation processes that have used bid blinding to avoid any evaluation and communication bias is that there is no certainty that the bidder could remain anonymous since to do so would require that there are no references to the bidder or project name in the proposal. Furthermore, blinding bids could be very time consuming and costly with limited value. For example, there were over 570 variants submitted into the 2020As RFP. If the IEs was required to blind all the bids and variants it would take weeks to complete the blinding process.

As OCS notes, one argument in support of bid blinding is that PacifiCorp intends to submit a number of benchmark resources or self-build options. However, since the benchmark proposals will be submitted in advance of the market bids and since we would expect a large number of proposals in response to this RFP, the requirement to blind the bids could significantly extend the already short timeframe for evaluating and ranking bids by resource type for purposes of shortlisting with limited value since the evaluation team will know which proposals are benchmark proposals and which proposals are third-party bids since the benchmarks will be submitted before other proposals and the company and IE are required to assess and score the bids.

The IE therefore has no objections to PacifiCorp's request for a waiver of the bid blinding requirement.

### **6.3.5 BID ELIGIBILITY – REQUIRED COMMERCIAL OPERATION DATE**

Several stakeholders have raised concern about PacifiCorp's proposal to require all proposals with the exception of long-lead time options to be able to deliver the power from their projects and achieve a commercial operation date ("COD") by December 31, 2026.

UAE notes that the Washington Utilities and Transportation Commission ("WUTC") approved the Company's RFP on the condition that the Commission extend the COD deadline to December 31, 2027. UAE is concerned that if PacifiCorp's original proposed commercial operation date of December 31, 2026 is maintained, any project that seeks interconnection service through the 2022 Cluster Study will almost certainly not be able to meet a 2026 COD. As a result, UAE does not object if the Company were to adjust the COD bid requirement to allow bids that can reach commercial operation by December 31, 2027.

Interwest recommends that some competition and linkage between the interconnection study process and the RFP be injected back into the procurement process by extending the COD for the pool of eligible bidders.

Interwest notes that proposed bidders must be in the transitional cluster, Cluster 1 (2021) or Cluster 2 (2022) or have an executed LGIA to be eligible for the RFP. Interwest recommends that the COD for bids should be extended to December 31, 2028 for all resources with bidders able to identify in which year their COD deadline falls.

Stakeholders in other states have also indicated that all proposals should have more time to reach COD, with some advocating a December 31, 2028 delivery date, consistent with long-lead time resources. Stakeholders noted that in the 2020AS RFP, a number of projects were not able to meet the scheduled delivery date of December 31, 2024 because the timing for completion of interconnection projects was later than the cut-off date for delivery and the projects were therefore not eligible to execute a contract.

Merrimack Energy agrees that the proposed schedule may be somewhat compact due to not only the issues associated with completing interconnection and network upgrade facilities to allow projects to interconnect but also due to the current supply chain issues and availability of equipment. It is also possible that the escalating demand for BESS resources which has led to much higher costs and constrained availability may further exacerbate the problem and may create challenges for a number of projects to meet a December 31, 2026 COD.

In addition, while PacifiCorp has allocated more time in the schedule for the 2022AS RFP than the 2020AS RFP, the IE still views that completion of all major tasks in time to allow for projects to meet a December 31, 2026 COD could be challenged by the lengthy project development process, contract negotiation process with a large number of contracts to execute, and the associated regulatory requirements. PacifiCorp's schedule calls for IE review of the Final Shortlist to be completed by 5/5/2023 and Execution of Contracts by 11/21/2023, with a guaranteed COD by 12/31/2026. In comparison to the schedule for the 2020AS RFP, the contract negotiation schedule is shorter than the actual schedule for the 2020AS RFP. Furthermore, there is no regulatory approval process incorporated into the schedule. The best scenario would allow less than three years to complete the project and probably closer to two and one-half years. While this may be doable in normal times, current project schedules appear to be lengthening due to supply chain issues, equipment constraints, increased time for permitting and procurement due to the need for power in many regions of the US.

As a result, Merrimack Energy recommends that PacifiCorp add at least twelve months to the schedule for projects to reach COD, with at a minimum a confirmed date of December 31, 2027 to reach COD. Merrimack Energy also suggests that

PacifiCorp should state in the RFP that while December 31, 2027 is the eligibility limit for achieving COD, PacifiCorp strongly prefers proposals that can achieve COD by December 31, 2026. This will at least send the message that if PacifiCorp requires that projects be available to deliver by the end of 2026, bidders can assess their ability to achieve the preferred earlier COD date or develop their project on a schedule they feel is more reasonable for their project. The PLEXOS model can then select the optimum portfolio based on costs and reliability requirements.

### **6.3.6 LONG-LEAD TIME RESOURCES**

PacifiCorp's 2022AS RFP states that PacifiCorp will also consider bids for long-lead time resources, so long as commercial operations can be achieved by December 31, 2028. In the RFP, PacifiCorp uses the example of long-lead time resources to be nuclear or pumped storage hydro, for example. Merrimack Energy recommends that PacifiCorp provide more guidance and/or specific criteria to define which type of resource qualify as long-lead time resources. PacifiCorp has specifically identified pumped storage hydro and nuclear as long-lead time resources because of the lengthy permitting and approval requirements. However, there may also be other resources that would have similar characteristics, including Compressed Air Energy Storage, geothermal resources, and potentially long-term energy storage. Merrimack Energy feels it is preferable to identify the definition and characteristics of such resources in the RFP and also state that bidders of such resources, who may have questions about resource eligibility, should submit a question to PacifiCorp for clarification along with documentation supporting their contention that the resource would qualify as a long-lead time resource.

In response to a question from Merrimack Energy regarding the classification of a long-lead time resource, PacifiCorp stated that it will clarify the qualification in an RFP footnote as "nuclear, geothermal or pumped hydro for example. Other long-lead resources would be approved on a case-by-case basis via a request to the RFP inbox and in consultation with the IEs. Resources are considered long-lead time resources if they require a state or federal licensing process and a prolonged construction cycle outside the normal scope of wind/solar renewable development cycle projects. Such federal licensing requirements do not include pursuing federal (BLM) land rights."

While this issue may be moot if PacifiCorp is required to or decides to move the COD date for all resource options to December 31, 2028, if a COD earlier than this is implemented then such clarification to the definition and criteria for long-lead

time resources should be included in the RFP as PacifiCorp has identified in response to Merrimack Energy's question.

### **6.3.7 BID EVALUATION FEES and ALTERNATIVES**

Section 3.G. of the Draft RFP addresses Bid Evaluation Fees and includes Bid Fee Guidelines for each resource option. This section states that all bidders proposing bids greater than 5 MW, including benchmark bids, must pay a fee (Bid fee) of \$15,000 for each proposal. All bidders proposing bids less than or equal to 5 MW must pay a Bid Fee of \$1,000 per MW for each proposal. A Bid is defined by the following bid attributes. A bidder may submit more than one bid per project site, subject to the caveats listed in Section 3.G. Each bid requires a separate fee. Each combination of different bid attributes is considered a separate bid and subject to the bid fee requirement.

Interwest Energy Alliance commented that bidders should be allowed to respond with two bids for each site, with two different business models. Interwest recommends that the 2022AS RFP requirements be revised so that when a bidder proposes both a BTA and PPA as alternatives for a particular project, that this be considered alternative versions of the same bid. This modification would allow the two different business models to be matched up and compared to one another, for cost-comparison purposes. Interwest recommends that alternatives be allowed under one bid fee because it allows for a direct comparison between the two types of business models. Thus, the RFP should be revised to allow two alternative business models to be submitted as part of the same bid, under one base bid fee.

For the 2020AS RFP, bidders were required to pay a bid fee of \$10,000 for each base proposal plus two alternatives submitted. Bidders were also allowed to offer up to three additional alternatives to the base proposal at a fee of \$3,000 per alternative. Alternatives were limited to different contract terms, in-service dates, and/or pricing structures. Similarly, the 2017 Renewable RFP required a bid fee of \$10,000 for each base proposal and two alternatives. In addition to the two alternatives listed above regarding the 2020AS RFP, the 2017 Renewable RFP allowed a fourth alternative, which was different bid size.

The \$10,000 base bid fee is consistent with industry practices. In addition, some solicitation processes allow a base bid and at least one alternative. The \$15,000 bid fee is high relative to industry standards for this type of RFP.<sup>22</sup> Based on the

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<sup>22</sup> Merrimack Energy has seen other RFPs with high bid fees but these are generally RFPs for large scale off-shore wind projects.



response to the 2020AS RFP, it could be argued that higher bid fees would be reasonable to rationalize the market. Merrimack Energy does not oppose the higher bid fee but does have concerns with the combination of higher bid fees and no alternatives as part of the bid fee structure. Our view is that elimination of alternatives as part of the original bid fee and the requirement that bidders pay an additional bid fee for alternatives that do not create commensurate costs can discourage options and result in limiting PacifiCorp's flexibility in creating a portfolio of project options. For example, it can reasonably be expected based on the number of potential benchmark options and BTA options with 30-year resource lives, that if bidders have only one option to submit for the base fee, it is likely bidders will offer a 30-year PPA.

In fact, of the 19 shortlisted proposals selected for the final shortlist in the 2020AS RFP, at least ten were 30-year offers (eight PPAs and two BTAs), five were 25-year PPAs, three were 20-year PPAs and one was a 15-year PPA. This resulted in a reasonably diverse portfolio based on contract term. For the 2022AS RFP, based on the proposed bid fee structure, the IE is concerned that there will be few shorter-term offers and instead bidders will submit PPA options with 30-year terms to be more competitive with BTA and benchmark options. In Merrimack Energy's view, allowing alternatives such as different project terms and pricing mechanisms (i.e., fixed and escalating pricing) will provide diversity in the portfolio, flexibility for future portfolio development, and lower cost exposure risk. Furthermore, the cost of evaluating such alternatives is small since the only components that change are term and price structure. Project location, contract structure, project technology, etc. are still the same. As a result, Merrimack Energy does not oppose the increase in the base bid fee to \$15,000, but only if two alternatives are allowed to be submitted associated with different contract term options (e.g., 15, 20, 25, or 30 years) and pricing structures (fixed and/or fixed escalation pricing).

In response to Merrimack Energy's comments and questions regarding bid fees and alternatives, PacifiCorp stated that in its experience, bidders have misunderstood bid alternatives which has caused PacifiCorp considerable time and resources to audit the alternatives submitted to ensure the proper bid fee is received. PacifiCorp therefore feels the bid fee methodology requires simplification. PacifiCorp also indicated that bid fees have not been a deterrent based on the response to the 2020AS RFP. Finally, PacifiCorp claims that the level of effort to process each alternative is the same as any bid and therefore each alternative should be a unique individual bid.

Merrimack Energy does not agree with PacifiCorp's arguments to eliminate bid alternatives. In Merrimack Energy's view, allowance of alternatives, especially

combined with a higher bid fee can provide benefits to PacifiCorp's customers in the form of a more diverse portfolio. A reasonable argument can be made that the diverse and flexible portfolio that resulted from the 2020AS RFP may not have occurred under the fee structure proposed for the 2022AS RFP where bidders may limit options based on the higher bid fee. Furthermore, the alternatives recommended by Merrimack Energy (i.e., different contract terms and pricing structure) should not have any impact on non-price scoring and little impact on the economic evaluation. In our view, the benefit of a potentially diverse portfolio much greater than the extra few hours spent on processing the options, especially since the costs will be offset with higher bid fees for a base bid.

### **6.3.8 AC/DC COUPLING FOR COLLOCATED ENERGY STORAGE SYSTEMS**

PacifiCorp has noted that it requires all Collocated Energy Storage bids to be AC coupled. PacifiCorp therefore will not accept DC coupled proposals in this RFP. Both the Utah Association of Energy Users and Interwest Energy Alliance address this requirement in their comments.

UAE indicated that it does not oppose the Company's proposal to accept bids only from AC-coupled resources in this RFP but requests that the Company reassess this requirement in future RFPs. Interwest, on the other hand, states that collocated renewable energy plus storage systems should not be limited to AC coupled storage resources as PacifiCorp proposes but also include DC coupled storage resources. Interwest strongly recommends that the RFP should be revised and PacifiCorp should be prepared to accept DC coupled projects.

Merrimack Energy has served as IE on solicitation processes that have accepted proposals from collocated renewable energy plus storage systems. Our experience is that there are no consistent industry standards around this issue. We have served as IE on solicitations in which the utility will accept AC coupled systems only as well as others that will accept DC coupled systems only as well as those who do not specify one or the other in the RFP. We note however that requiring that bidders submit their proposals based on a specific type of coupling system facilitates the evaluation process since bidders will all be structuring and pricing their proposals on a consistent basis. Our experience is that bidders are generally flexible and will bid to the requirements identified by the utility. We have not seen examples where a bidder will not submit a proposal because the utility requires AC coupling or DC coupling, although bidders may have a preference. From that perspective we don't believe PacifiCorp proposal to only accept AC coupled systems will have an impact on competition. The IE is concerned about the extra complexity for this RFP is both AC and DC coupled systems are allowed. This will require PacifiCorp to develop the value and cost components for each

system and the inputs necessary to evaluate each option on a fair and consistent basis. Merrimack Energy agrees with UAE's recommendation to not oppose PacifiCorp's proposal to accept bids from only AC-coupled systems and that PacifiCorp re-asses allowing proposals for both AC and DC coupled systems in future RFPs.

### **6.3.9 BATTERY ENERGY STORAGE SYSTEM ("BESS") REQUIREMENTS**

PacifiCorp has proposed other specific restrictions that apply to collocated renewable energy projects combined with storage. In addition to AC coupling, UAE notes that PacifiCorp requires that all battery energy storage bids must be: (1) sized so that the storage power capacity rating is nominally greater than 50% of the nameplate capacity of the collocated generating resource; (2) four-hour duration or longer; and (3) bid as an augmented system capable of maintaining the original storage power capacity and duration rating for the contract term, or otherwise able to maintain original capability, as bid.

Prior to reviewing UAE's comments, the IE was concerned with the issues raised by PacifiCorp as addressed in UAE's points (1) and (2) above. The IE notes that several bids selected from the 2020AS RFP would not meet this criterion yet they were selected for the final shortlist. For example, there were four projects on the final shortlist that offered 2-hour duration storage and 6 projects that offered storage power capacity rating that was less than 50% of the nameplate capacity of the collocated generating resource. As Merrimack Energy has previously mentioned, PacifiCorp was able to develop a diverse and flexible portfolio through the 2020AS RFP that had a mix of different storage durations and storage capacity sizes relative to the size of the renewable project. Merrimack Energy requests that PacifiCorp provide justification for its more restrictive requirements in this RFP. The IE notes that there are trade-offs in cost and value with different storage duration options (i.e., while a 4-hour duration battery provides more capacity contribution value, the 2-hour duration battery is less expensive. Likewise, a larger battery capacity requirement relative to the nameplate size of the renewable resource would result in a more expensive project overall but may provide operational and capacity value.

PacifiCorp stated in response to a question from Merrimack Energy that "based on multiple stakeholder feedback, PacifiCorp will update the RFP to reflect no preference for or minimum requirements related to storage duration or storage energy capacity as compared to the renewable resource generating resource."

With regard to augmentation, in the 2020AS RFP, PacifiCorp originally allowed options for the bidders to augment the capacity of the project or allow the

capacity to degrade over time. PacifiCorp requested all relevant bidders to offer an augmentation option and evaluated that option for the solicitation. The IE felt this was a reasonable option. However, in this case, UAE brings up an excellent point that affects the comparability of resources for evaluation purposes and adds another requirement to IE oversight.

In its comments, UAE requests that the Company state whether it will accept bids that address degradation through “overbuilding” the capacity rather than augmentation strategies. If so, UAE requests that the Company explain how it intends to model and score the two separate approaches on an apples-to-apples basis. UAE also requests that the Company explain how methods to address degradation of energy storage systems will be modeled and scored in PPA bids vs utility-owned or BTA bids. In a PPA bid, UAE expects that augmentation solutions would be built into the \$/MWh bid. UAE requests that the Company explain how augmentation solutions will be modeled in utility-owned BTA bids (and potentially benchmark bids) so that the bids can be fairly compared.

Merrimack Energy agrees with UAEs request and recommendations and recognizes that the cost of augmentation and timing for adding capacity for BTA or benchmark bids will have to be carefully scrutinized by the IE to ensure all projects are treated fairly and consistently whether a PPA or utility-owned resource. Merrimack Energy suggests that PacifiCorp include augmentation costs in its benchmark cost analysis should the Company propose any collocated renewable and energy storage resource.

### **6.3.10 RANKING OF BIDS**

OCS noted in its comments that PacifiCorp has described the PLEXOS modeling and price scoring components of the bid ranking process, but OCS recommends PacifiCorp provide additional clarification based on PacifiCorp's response to data request OCS 1.19h which states:

“Any resource with a negative net cost (i.e., it pays for itself on energy basis alone) will get a 75/75 price score. PacifiCorp will assign 0 points to the bid with the highest positive net cost and force rank the remainder of the bids on a continuum from 0 points to 75 points”

OCS recommends that PacifiCorp provide an example of how its bid scoring process will work in the RFP document. OCS also requests PacifiCorp provide additional information about how projects of various sizes and technologies are compared and how capacity contribution value will be treated.

Merrimack Energy has asked several questions of PacifiCorp in its list of 32 questions submitted to the PacifiCorp team on the RFP as well as during PacifiCorp's 2022 All Source RFP Bid Evaluation, Bid Selection, Models and Assumptions Technical Conference on February 17, 2022. Merrimack Energy still finds the responses to be somewhat confusing and incomplete. Merrimack Energy found PacifiCorp's response to OCS 1.19h to be different than what we expected and to be troubling overall for the potential implications for bid ranking and selection. Based on the above response, it appears that any proposal with a negative net cost will receive the maximum price points (75) whether that proposal has a \$20 negative net cost (or alternatively we assume a \$20 net benefit) or \$.20 negative net cost. This means that essentially the non-price scores will drive the scoring for the proposals that provide negative net costs. Since non-price scores are originally provided as self-scores by the bidder subject to PacifiCorp and IE review, the premium required to ensure the scores are accurate is enhanced. Taken to its extreme, as we interpret the response above, a bid that has a negative net cost of \$20 and a non-price score of 15 will have a total score of 90. Alternatively, the bid with the score net negative cost of \$.20 and a non-price score of 20 will have a total score of 95. This project could be selected higher even though the net negative cost of this proposal is much lower.

Similar to OCS, Merrimack Energy request clarification of the bid scoring and ranking methodology as well as a response on how capacity contribution values will be treated and assessed.

### **6.3.11 DEMAND-SIDE RESOURCES**

Section 4E of PacifiCorp's Draft 2022AS RFP provides a discussion of the role of Demand-Side resources in the RFP process. In the Draft 2022AS RFP PacifiCorp states that the 2021 IRP preferred portfolio includes 274 MW of demand-side resources, representing a reasonable portion of the overall portfolio. PacifiCorp notes that it will issue a demand-side RFP in Q3 2022. Prior to issuing the Q3 2022 demand-side RFP, PacifiCorp will update and refine its requirements and scoring and evaluation process incorporating learnings from the 2021 demand response RFP and 2021 IRP. PacifiCorp states that it does not plan to re-procure resources that were contracted from the 2021 demand response RFP. The Company will identify resources that are of particular interest to the Company at the time of issuance of the Demand-Side Targeted RFP to be issued in Q3 2022 and provide guidance to bidders. PacifiCorp anticipates that the demand-side RFP will include many of the same general requirements as the All-Source RFP, though it may contain some additional requirements specific to customer located resources and evolving state-specific requirements. Bidders responding to the 2022AS RFP will be evaluated against the requirements and scoring and evaluation processes

outlined in the 2021 demand response RFP, whereas bidders responding to the 2022 demand-side RFP will be evaluated against the requirements and scoring and evaluation processes outlined in the upcoming demand-side RFP. As part of the evaluation process, both the supply-side RFP and the demand-side RFP bids will be input into PLEXOS and included in the final IRP portfolio analysis to determine the final shortlist.

The Division notes in its comments that the demand response non-price scoring is substantively different than the non-price scoring for generation resources, both in total number of points and categories of points. The Division notes that demand-side bids and supply-side bids should be evaluated on a consistent and comparable basis. Scoring for different types of resources should be made similar to the extent possible. The Division requested clarification on the following questions:

1. What policies or rules influenced the non-price scoring categories for demand response?
2. Can the Company make the non-price scoring categories for generation and demand response more similar? If not, please explain why?

Merrimack Energy agrees with the Division regarding the evaluation of demand-side and supply-side resources from the RFPs. It is not clear to us how the evaluation and scoring of the resources is going to take place. Based on Merrimack Energy's experience, we do support a separate demand-side RFP. We have generally seen that demand-side resources have challenges competing in an All-Source process. But use of separate demand-side RFP and selection of the best demand-side resources from the RFP to compete in the final evaluation with supply-side resources is more typical. It is not clear if that is the proposed approach identified by PacifiCorp. Merrimack Energy requests that PacifiCorp clarify in more detail how the results of the two RFPs will be integrated and the methodology for evaluating and selecting the final demand-side and supply-side resources will be accomplished.

### **6.3.12 CODE OF CONDUCT**

OCS indicated that PacifiCorp seemed to have described a more rigorous code of conduct process in the 2017R RFP than either the 2020AS RFP or the 2022AS RFP. OCS recommends that PacifiCorp require employees who will be participating in the 2022AS RFP to participate in code of conduct training prior to release of the current RFP to market, and that PacifiCorp ensure that the RFP document discusses the code of conduct information to the same extent that it was addressed in the 2017R RFP.

The IE agrees with OCS regarding the code of conduct and submitted several questions to PacifiCorp regarding the code of conduct. Specifically, the IE asked whether members of teams identified in the RFP (e.g., RFP Evaluation Team, Project Development Team, Shared Resources) required to execute a Non-Disclosure Agreement or Confidentiality Agreement. The IE also asked if PacifiCorp intended to hold training sessions for the affected personnel similar to previous solicitations. PacifiCorp responded that it will identify members of the teams and will sign code of conduct acknowledgement forms. PacifiCorp will hold training sessions for affected personnel similar to previous solicitations.

The IE suggests that PacifiCorp include the above responses to the IE questions in Appendix I of the RFP.

### **6.3.13 NON-PRICE CRITERIA AND SCORING**

PacifiCorp is proposing a significant revision to the non-price criteria to be utilized in the 2022AS RFP relative to previous RFPs. PacifiCorp indicated in its RFP document that its non-price review will focus on (i) identifying bid attributes that would prevent PacifiCorp from reaching a contract with a bidder and (ii) identifying bid deficiencies that would prevent resources from coming online by the requested deadline. PacifiCorp also proposes that bidders will self-score their bids using the non-price scorecard created by PacifiCorp. PacifiCorp also indicated that the non-price scorecard will be audited by PacifiCorp prior to giving each bid a non-price score. A maximum of 25 points will be allocated to the non-price score. For each non-price factor, proposals will be assigned a score of 1 or a 0. PacifiCorp states in the RFP that the non-price rubric is designed to be objective, intuitive, and self-scoring. As a bid requirement, bidders are required to score themselves based on the completeness of the RFP bid requirements, the ability to contract with the resource, and the maturity of the project and ability of the bidder to deliver the resource by the commercial operation deadline.

The first section of the non-price scoring model (Bid Submittal Completeness) is similar to a check list and grades bids based on completion of bid requirements such as providing complete, thorough and consistent responses. A response by a bidder of "Yes" means the bid meets the minimum requirement identified or receives a bid score of 1 or 0. The second section (Contracting Progress and Viability) grades bidders based on the ability to contract the resource bid. Similar to the first category, a response by a bidder of "Yes" means the bid meets the minimum requirement identified or receives a bid score of 1 or 0. In this category, there are more criteria that require a score of 1 or 0 as opposed to meets minimum requirements. The third section of the non-price scoring model (Project Readiness

and Deliverability) assesses each bid's development progress and project viability. While as PacifiCorp notes that the non-price rubric is designed to be objective, intuitive and self-scoring, based on the IE's review a number of the criteria in Section III of the Non-Price Scorecard are subjective in nature and will likely require review and verification of the bidder's self-score. These include the following criteria:

- Bidder's Financing Plan demonstrates ability to finance project construction and ongoing operations;
- 50% Engineering designs are complete;
- Bidder's Supply Chain and Contracting Plans demonstrate ability to secure materials and complete construction, including securing safe harbor equipment, if applicable. Bidder has demonstrated a process to adequately acquire or purchase major equipment (i.e., wind turbines, solar photovoltaic panels, inverters, tracking system, generator step-up transformers, batteries) and other critical long lead-time equipment;
- 1) Major equipment has been procured and 2) Engineering, Procurement and Construction (EPC) and/or other balance of plant construction contract agreements have been signed;
- Critical issues analysis has not identified any fatal flaw that would prevent resource from reaching commercial operations by the delivery date;
- Wetlands are either not present or mitigation plans are in place;
- Endangered species are either not present on site or mitigation plans are in place;
- Permitting is complete (i.e., project is shovel ready);

Merrimack Energy suggests revising the language in Section 6B in the RFP under Table 3 to read – **"Bidders will have, as part of their bid, self-scored their bids using the non-price scorecard, which will be audited *and verified by PacifiCorp prior to giving each bid a non-price score. PacifiCorp reserves the right to contact a bidder to seek clarification and support for the bidder's self-score, if required. Bidders will have two-days to provide information requested by PacifiCorp to verify the self-scores.***

The Division suggests that bidders not be required, or even allowed, to submit their own scoring as part of their own bid. The Division believes that if self-scoring is a required part of the bid, it may lead to arguments about whether the self-scoring was correctly scored, causing unnecessary work for the Company and IE.

Unfortunately, Merrimack Energy's experience with self-scoring processes has not been positive. This has been largely due to bidders liberally scoring their proposals based on the questions provided in the scorecard. Merrimack Energy's



experience has been that self-scoring bidding systems can be controversial and require significant time to review and validate the bidders self-scores to ensure the bidder is not “gaming” the evaluation process by providing responses designed to maximize the bidder’s score. In our experience self-scoring systems have led to disputes between the bidder and utility and litigation between the parties. To ensure bidders are providing accurate responses to the non-price scoring model requires not only a review of the response on the part of the utility and IEs but validation of the response to ensure the bidder can support its score.

Merrimack Energy felt the RFP was not clear regarding the roles of the Company team and IEs in reviewing and validating the non-price scores submitted. In the RFP, it appears that the Company undertakes a review of the scoring from bidders and essentially verifies the scores. The IEs then review the results of PacifiCorp’s assessment of the bidder scores, presumably providing a check on the results. In other documents (presentation on Scoring and Modeling), it appears that the Company and IEs will each be responsible for reviewing, evaluating and validating the proposals. The question is “what is the role of each entity from that point”? Will PacifiCorp and the IEs attempt to reach consensus on the final score after reviewing responses from bidders? Will an average be developed if agreement is not reached?

In response to a question to the PacifiCorp team by Merrimack Energy regarding the role of PacifiCorp and the IE regarding the non-price scoring, PacifiCorp provided the following clarification:

“PacifiCorp will perform its own reasonableness assessment of the bidder’s self-score. If PacifiCorp disagrees with a non-price score provided by a bidder, it will submit clarifying questions to the bidder and allow the bidder two (2) business days to cure. In the event bidder does not cure or otherwise substantiate or represent their self-score, then PacifiCorp will notify bidder that it intends to replace bidder’s score with the one PacifiCorp deems more correct. This decision will be made in consultation with the IEs. The IEs expected role is (1) review those scores for each bid where there is disagreement between the bidder and PacifiCorp and essentially serve as a referee during the non-price scoring process; and (2) conduct an independent assessment of all or a select group of bids.”

The above description of the roles of PacifiCorp and the IE as articulated by PacifiCorp helps clarify the role of each entity in the non-scoring process. Merrimack Energy would expect that the IEs will conduct an independent assessment of the non-price scores for all benchmark resources.

In its comments on the 2020AS RFP Merrimack Energy provided a separate document to PacifiCorp which includes a number of suggestions to ensure the non-price criteria can more effectively distinguish between projects that are viable and those that may be more immature and potentially less viable projects. While we have concerns about a self-scoring process, the use of more objective criteria is preferable in cases where benchmark or self-build options are competing. As a result, the IE does not oppose use of the scorecard and the self-scoring process but parties should monitor the process to assess whether the self-scoring process and scorecard are reasonable for future solicitations.

As Merrimack Energy noted in its comments associated with Ranking of Bids, if the IE is interpreting PacifiCorp's response appropriately, the final ranking of bids could be driven unreasonably by the non-price scores, which places a premium on ensuring the non-price scores are accurate and verified.

### **6.3.14 CREDIT REQUIREMENTS**

Appendix D includes Bidder's Credit Information required with submission of Appendix B-1 – Intent to Bid Form. In Appendix D, PacifiCorp notes that Bidder's credit information is required to enable PacifiCorp to evaluate the financial viability of the bidder and any entity providing credit assurance on behalf of the bidder. PacifiCorp implies that PacifiCorp will assess the credit risk profile of the bidder which is a function of (1) type of resource agreement; (2) size of resource; (3) expected energy delivery start date; (4) term of underlying contract; and (5) creditworthiness of bidder and bidder's credit support provider, if applicable. PacifiCorp also states that bidders may be required to post credit assurances for the applicable bid categories of Power Purchase Agreement (PPA) or Build Transfer Agreement (BTA), each of which will be expected to have a commercial operation date of no later than December 31, 2026. All bidders will receive a Credit Rating which will be used in determining the amount of any credit assurances to be posted. The Credit Rating is defined as the lower of: x) the most recently published senior, unsecured long term debt rating (or corporate credit rating if a debt rating is unavailable) from Standard & Poor's ("S&P") or y) the most recently published senior, unsecured debt rating (or corporate rating if a debt rating is unavailable) from Moody's Investor Services. If option x) or y) is not available, the Credit rating will be determined by the Company through an internal process review utilizing a proprietary credit scoring model developed in conjunction with a third-party. All bidders will receive a credit rating which will be used in determining the amount of any credit assurances to be posted.

PacifiCorp also identifies the credit assurance amount for both a PPA and BTA options in this section of the RFP. PacifiCorp has determined the amount of credit assurances required for PPAs to be \$200/kW, based upon nameplate project size, to be provided at contract execution. The amount of credit assurances required will be reduced to \$100/kW upon the project achieving commercial operation date. For BTAs, the amount of credit assurances required will be \$200/kW, based upon the nameplate project size. The credit assurance will be terminated upon the project achieving commercial operation date with proven tax credit eligibility of the appropriate resource technology. The IE's view is that these credit requirements are reasonable given industry standards.

It is not clear how the credit rating to be determined by PacifiCorp will be used to determine the amount of credit assurances to be posted as it relates to the credit assurances amounts listed in Appendix D. Will the credit support levels of \$200/kW for "development period" security identified in Appendix D serve as a contractual limit for both PPAs and BTAs subject to potential reductions depending on the credit risk profile of the bidder? Also, Merrimack Energy has served as IE in other RFPs where the utility encourages the bidders to include the cost of security in their bid price. ***If the credit support levels listed above from Appendix D are contractual limits, for consistency purposes, PacifiCorp may want to consider asking bidders to include the cost of security in their bid pricing.***

### 6.3.15 WEBPAGE

Task B3 of the IE Scope of Work as listed in the Commission's RFP for Independent Evaluator requires the IE to set up and maintain a webpage or database for information exchange between bidders/potential bidders and PacifiCorp **only if directed by the PSC in its Approval of the Solicitation Process**. Merrimack Energy proposed to establish a webpage on its website to accommodate this requirement similar to the webpages we established for previous PacifiCorp RFPs, including the 2017 Renewable RFP. The webpage will be used to accept questions from bidders, which Merrimack Energy staff will blind by removing the name of the bidder, before sending the questions to PacifiCorp for a response. Merrimack Energy will then review the responses and post the Question and Answer to the webpage for bidders to review. Merrimack Energy will also post any RFP documents on the webpage as well as posting any Notices to bidders of upcoming schedule items or changes to RFP documents.

### 6.3.16 MODELS AND INPUT ASSUMPTIONS

Based on Utah Administrative Code R746-420-1(2), PacifiCorp is required to provide to the IE data, information, and models necessary for the IE to analyze

and verify the models at the time of filing, or earlier if practicable. In Appendix M of the 2022AS RFP, PacifiCorp states:

“Because the PLEXOS portfolio optimization tool is a proprietary model, PacifiCorp is not able to provide the IE with full access; however, PacifiCorp will provide the IE with the Bid Preparation excel file prior to input into PLEXOS, and all other inputs and assumptions in order for the IE to analyze and validate all important modeling assumptions and inputs utilized by PacifiCorp to perform its portfolio selection, price scoring and ranking of market and benchmark bids. PacifiCorp will similarly provide the IE with any additional assumptions and inputs used in the sensitivity analyses,”

OCS states in its comments that it appears that in the current RFP, the IE will receive access to bid assumptions and all other inputs and assumptions, however, it appears the IE will not have the same access to “all important models” as it had in the last RFP. OCS also states that this is the first time that PLEXOS will be used in an RFP proceeding, and PacifiCorp only began using PLEXOS for IRP work in the 2021 IRP proceeding, which makes the need for access to PLEXOS all that more important. OCS concludes that PacifiCorp should at least be required to provide more details regarding its modeling techniques in the RFP documents, but given the IE’s responsibilities, PacifiCorp should also ensure that the IE receives access “to all important models” that PacifiCorp uses in the RFP, including the PLEXOS model.

Merrimack Energy notes that in past PacifiCorp RFPs the IE did not have full access to the System Optimizer (SO) or Planning and Risk (PaR) models, but the IE did have full access to the Base RFP model (excel model) as well as the output files for the SO and PaR model if requested. Merrimack Energy suggests that the IEs should be provided access to the output files for the PLEXOS model. We do agree with OCS that at a minimum, PacifiCorp should explain all its modeling techniques, such as the use of micro-resources in more detail. We request that PacifiCorp hold regular meetings with the IEs both in the preparation process for preparing model inputs and analyses and after proposals are received for the evaluation and selection process.

Merrimack Energy also notes that PacifiCorp provided responses to several questions submitted by Merrimack Energy regarding the modeling process including the application of PLEXOS. PacifiCorp’s responses included the following:

- The excel model will provide bidder data inputs to the PLEXOS model and calculate the levelized cost of each bid;

- The proprietary model (excel model) is used to calculate components of cost only. Energy benefits are calculated in PLEXOS and reported directly for each resource in each scenario result. Capacity benefits are embodied by a resource's contribution to reliability, based on availability in period with potential resource shortfalls. Periods with potential resource shortfalls are also identified using PLEXOS but this requires lengthy stochastic analysis so it is not repeated for every scenario result. The contribution of all resources will be determined using the same resource shortfall data.

Merrimack Energy asked the following question based on a statement on page 35 of the Draft 2022AS RFP: "The third paragraph (on page 35) states that PacifiCorp will submit to PLEXOS the proposals with the COD, term and price structure offering the lowest levelized cost by calculating the net present value using PacifiCorp's discount rate. Will PacifiCorp select the final portfolio of proposals on the basis of costs initially and then adjust for non-price scores"?

PacifiCorp responded that this is incorrect and will be updated in the RFP draft. All bids will be included in PLEXOS.

With regards to the PLEXOS model itself, Merrimack Energy notes that we are seeing the PLEXOS make in-roads into more utilities for portfolio optimization purposes in RFP and IRP applications as well as evaluation of energy storage resources.

### **6.3.17 REASONABLENESS OF THE OVERALL EVALUATION METHODOLOGY AND PROCESS**

PacifiCorp has identified a detailed, multi-stage evaluation process and provided a description of the evaluation and selection process in its Draft 2022AS RFP. In addition, PacifiCorp includes a flow chart that describes the steps in the evaluation and selection process from initiation of the Cluster Study process through final shortlist selection. As PacifiCorp noted its RFP evaluation process includes review of bids for minimum eligibility and conformance with RFP requirements through State specific resource analyses to comply with state regulations.

The overall evaluation process is consistent with industry standards for similar solicitations, but with nuances associated with state policy requirements. While we are seeking clarification of the description of the various steps in the process, the IE concludes that the process is thorough and consistent and should lead to a thorough review, assessment and selection of the preferred resources. PacifiCorp notes in the draft RFP that its bid evaluation process is designed to

identify the combination and amount of new resources that will maximize customer benefits through the selection of bids that will satisfy projected capacity and energy needs while maintaining reliability.

Overall, Merrimack Energy believes that PacifiCorp has developed a sound evaluation methodology and process to effectively distinguish the value of the bids submitted. Comparing the costs and benefits of resources of each resource is a reasonable and results in a process for evaluating bids with different terms and start dates as well as different characteristics such as storage project size relative to the solar component or bids with different discharge durations.

## 7 CONCLUSIONS AND RECOMMENDATIONS

Based on Merrimack Energy's review of the RFP and related information, the conclusions and recommendations of the IE are presented as follows:

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### 7.1 CONCLUSIONS

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- PacifiCorp's Application including the RFP documents and processes are generally consistent with the Utah Admin. Code, Regulations and Statutes pertaining to the requirements for the design and development of the competitive bidding process. The IE believes that PacifiCorp has adequately addressed the requirements listed in the Statutes, including the following:
  - Utah Admin Code R746-420-1(1) to R746-420-1(3)
  - Utah Admin Code R746-420-3(7);
- Based on Merrimack Energy's review and assuming many of the suggestions of stakeholders and the IE are addressed in the final RFP, the IE believes that PacifiCorp's 2022 solicitation process is reasonable and is likely to result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to PacifiCorp's retail customers taking into consideration long-term and short-term impacts, risks, reliability and financial impacts;
- Under the current structure of the RFP as an All-Source solicitation process, along with the suggestion to allow existing projects to submit proposals under certain conditions, and to also include Demand-side resources in the overall assessment, it can reasonably be expected that the solicitation process would lead to the acquisition and delivery of electricity at the lowest reasonable cost to retail customers. The IE and others have suggested revisions to the RFP which should hopefully result in a more competitive process for the benefit of customers;
- The market response to PacifiCorp's 2020As RFP was incredibly robust with over 575 offer variants submitted from 141 unique projects submitted by 44 counterparties. While we would expect fewer options and projects from this RFP based on the proposed revisions to the sequencing of the schedule with proposals submitted after completion of the Cluster Study interconnection process, the IE still expects that there will be a very robust

market response based on the resource requirements identified and the number of active suppliers in the market. As a result, the IE expects there will be significant interest in the RFP that will result in a robust and competitive response from the market;

- The PacifiCorp 2022AS RFP is a reasonably transparent solicitation process, with a significant amount of information provided to bidders on which the bidders could base their proposals via draft RFP documents submitted, bidder workshops and technical conferences, and Question and Answer responses;
- The 2022AS RFP is designed to provide the same information to all bidders at the same time;
- The products sought in this RFP are clearly defined and the information required for each type of resource alternative is specified in the RFP in a clear and concise manner;
- PacifiCorp has included a number of “safeguards” in the process designed to demonstrate to bidders that the process would be fair and equitable to bidders. These include: (1) the use of three Independent Evaluators to oversee the solicitation process; (2) the development of separate teams for the development of the benchmark resources and for undertaking the evaluation of bids and management of the solicitation process; (3) a Code of Conduct for which members of the teams must execute acknowledgement forms and attend code of conduct training sessions; (4) submission and evaluation of benchmark bids prior to submission of third-party bids; and (5) a requirement that the benchmark resources provide all the same information in the same general format as third-party bids;<sup>23</sup>
- Perhaps the most significant change to the 2022AS RFP relative to the 2020AS RFP that could affect the solicitation process is the expected presence of potentially a large number of benchmark resources which are resources that PacifiCorp will offer into the RFP and own if selected. The presence of benchmark or self-build resources raise a number of fairness and equity issues from the IE perspective to ensure all resource options have an equal and fair opportunity to compete. From the IEs perspective, this also requires assessment and monitoring of “safe-guards” which are in place to ensure competitive market information is not available to

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<sup>23</sup> Merrimack Energy has noted in this report that in previous PacifiCorp RFPs in which benchmark bids were allowed to compete, the benchmark bids provided the same general information required to be provided by other bidders. Merrimack Energy requested PacifiCorp to confirm that this will be case with for the 2022AS RFP as well.



benchmark bidders. In PacifiCorp's case, the IE feels there are adequate safeguards in place to ensure that a fair and equitable solicitation process can be maintained, including the schedule which requires benchmark resources to be submitted before third-party proposals are submitted and the use of a single-phase evaluation process, with no best and final offers;

- The RFP documents clearly describe the products requested, the requirements of bidders, the evaluation and selection process, eligibility and evaluation criteria and the risk profile of the buyer. In this regard, there is sufficient information to allow bidders to assess whether or not to compete, the product of choice to bid to be most competitive, and the process by which their proposals will be evaluated;
- While the RFP documents provide a significant amount of information, the IE and stakeholders have identified cases where clarification of the information presented needs to be provided in the final RFP documents. Proposed areas for clarification are identified in Sections 5 and 6 of this report;
- Parties have raised the issue of ensuring comparability for resource evaluation, notably ensuring that third-party PPA bids, Build Transfer (BTA) bids and Benchmark resources are required to compete based on the same set of rules or on a level playing field. The IE also views comparability to be the most challenging issue in a solicitation process in which utility-owned resources compete with third-party resources. PacifiCorp has included provisions in the process to ensure fairness and has adopted a number of provisions which place all proposals on a level playing field (i.e., PPAs can be offered for terms up to 30-years; benchmark bids are required to be submitted before other bids; and benchmark bids should be required to provide the same information as third-party bids as PacifiCorp has done in previous solicitations). As identified in Section R746-420-3, the IE is also required to verify that all necessary cost information is provided for the benchmark bids to ensure all proposals are placed on as level a playing field as possible and that benchmark resources are not unduly advantaged;
- The evaluation process and quantitative methodologies developed and expected to be utilized by PacifiCorp for undertaking the evaluation process, including utilizing the PLEXOS model as the key quantitative evaluation tool, are applicable for modeling the range of the proposals expected in this RFP. Furthermore, the model methodology is consistent with and likely exceeds industry standards applied by others for conducting the

quantitative analysis for an All-Source RFP. The portfolio evaluation and risk assessment methodology utilizing the PLEXOS model is reasonable and consistent with industry practices. The PLEXOS model is very detailed, has been used for development of PacifiCorp's IRP and has been vetted through the IRP process, is utilized by other utilities and entities for similar processes, and is generally applicable for addressing the requirements of the Energy Procurement Resource Act;

- The evaluation and selection process is a reasonably comprehensive process designed to evaluate the net cost implications associated with different resource options and portfolios, includes non-price factors and criteria required in the Act that influence project viability, and assessment of risk parameters associated with the various portfolios;
- At this point, PacifiCorp has not met the specific requirements of Utah Admin. Code R746-420-1(2) to provide the IE with data, information and models necessary for the IE to analyze and verify the models. PacifiCorp indicated that it could not provide the PLEXOS model to the IEs. In Merrimack Energy's recommendation section in this report, the IE requests access to the inputs and outputs from the PLEXOS model. From an informational perspective, PacifiCorp did hold a Technical Conference on February 17, 2022 to review PacifiCorp's bid evaluation, bid selection, models and assumptions as well as describe the storage valuation methodology;
- Part 2 of the Energy Resource Procurement Act includes requirements for a solicitation process. The intent of Part 2 and the Rules implementing it is to ensure a robust array of bids from all available resource types and from varying owners/developers. Only if a robust set of bids for market resources is received can bids be fairly compared and evaluated. The ultimate goal of the Act and Rules is to ensure that the resources with the lowest reasonable cost to customers can be identified and procured, regardless of the nature or ownership of the resources. Merrimack Energy believes that PacifiCorp's 2022 All Source RFP, combined with suggestions made by the Stakeholders and IE, will lead to a robust response from the market with a range of resource options and contract types for several reasons:
  7. The RFP is an All-Source supply-side RFP with a range of eligible resource options and contract structures;
  8. Merrimack Energy expects a very robust response based on the response to the 2020AS RFP;
  9. PacifiCorp's evaluation process for final shortlist selection is designed to evaluate bids for all resource types which should

- ensure that all eligible resource options will have the opportunity to compete;
10. There is no restriction on minimum size bid which should encourage a wide range of resource types from a broad list of bidders/developers;
  11. The PacifiCorp RFP is a reasonably transparent process with a significant amount of information for bidders to assess to inform their decisions regarding resource selection and proposal options;
  12. PacifiCorp has included a number of “safeguards” in the process designed to demonstrate to bidders that the process would be fair and equitable to bidders;

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## 7.2 SUMMARY OF RECOMMENDATIONS

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1. With regard to the benchmark resources, the IE therefore has the following recommendations:

- Require that the benchmark resource proposals include all the same information as included in benchmark bids for the 2017R RFP, which is consistent with the same level of detail and format as all other proposals are required to provide in Appendix B-2 and sections of C-1, C-2, and C-3 as applicable;
- Clearly identify in the RFP document the information and templates that benchmark resources will be required to provide consistent with the requirements of other resources;
- Provide clarification on the benchmark scoring methodology PacifiCorp intends to implement to ensure fairness and consistency in the evaluation process;
- Explain why it is not feasible to conduct non-price scoring after submission of benchmark bids but defer the price evaluation to coincide with the quantitative evaluation of non-benchmark bids.

2. Merrimack Energy does not object to the implementation of a single stage pricing process, particularly given that a potentially large number of benchmark options will be allowed to compete. Since there is a single pricing process and benchmark bids will be submitted prior to third-party bids there is no opportunity for any market information associated with third-party bids to affect benchmark pricing;

3. Merrimack Energy has recommended that the COD for projects bidding into the 2022AS RFP be extended to at least December 31, 2027. This should facilitate the ability of additional projects to be able to achieve interconnection in time to meet the later COD. The IE views that completion of all major tasks in time to allow for projects to meet a December 31, 2026 COD could be challenged by the lengthy project development process due to supply chain issues and major equipment and production input constraints, contract negotiation process with a large number of contracts to execute, and the associated regulatory requirements;

4. Merrimack Energy has also recommended that PacifiCorp should probably state in the RFP that it prefers projects that can achieve an earlier COD (i.e. by December 31, 2026);

5. To assist potential bidders to meet commercial readiness criteria, Merrimack Energy recommends that PacifiCorp conduct a Workshop or Technical Conference for bidders regarding the interconnection process and transmission assessment shortly after issuance of the RFP;

6. Merrimack Energy has no objections to PacifiCorp's request that the Commission grant PacifiCorp's request for a waiver of the bid blinding requirements in the Statute (Utah Admin. Code R746-420-3(10)(a)). However, should Merrimack Energy be required by the Commission to establish a webpage for the RFP similar to previous RFPs, the IE still suggests that questions and answers will be blinded such that PacifiCorp will not know the identity of the participant when the questions from the participants are provided to PacifiCorp for a response by the IE. Merrimack Energy will remove the name or reference to the participant asking the question prior to submitting the question to PacifiCorp;

7. Merrimack Energy recommends that PacifiCorp provide more guidance and/or specific criteria to define which type of resource qualify as long-lead time resources. Merrimack Energy feels it is preferable to identify the definition and characteristics of such resources in the RFP and also state that bidders of such resources, who may have questions about resource eligibility, should submit a question to PacifiCorp for clarification along with documentation supporting their contention that the resource would qualify as a long-lead time resource;

8. Merrimack Energy does not oppose the increase in the base bid fee to \$15,000, but only if two alternatives are allowed to be submitted associated with different contract term options (e.g., 15, 20, 25, or 30 years) and pricing structures (fixed and/or fixed escalation pricing);

9. Merrimack Energy does not oppose PacifiCorp's proposal to accept bids from only AC-coupled systems. However, PacifiCorp should re-asses allowing proposals for both AC and DC coupled systems in future RFPs;

10. Merrimack Energy agrees with UAE's comments on PacifiCorp's operational requirements for battery energy storage bids including size of the battery relative to the nameplate rating of the renewable facility and duration for the battery. Merrimack Energy notes that the final portfolio from the 2020AS RFP contained a range of operational characteristics for the battery options which led to a diverse and flexible portfolio. Based on a response to a question from Merrimack Energy, PacifiCorp has apparently agreed to remove the proposed restrictions;

11. Merrimack Energy agrees with UAEs request and recommendations regarding augmentation and recognizes that the cost of augmentation and timing for adding capacity for BTA or benchmark bids will have to be carefully scrutinized by the IE to ensure all projects are treated fairly and consistently, whether a PPA or utility-owned resource. Merrimack Energy suggests that PacifiCorp include augmentation costs in its benchmark cost analysis should the Company propose any collocated renewable and energy storage resources in its benchmark proposals;

12. Merrimack Energy found PacifiCorp's response to OCS 1.19h to be different than what we expected and to be troubling overall for the potential implications on the importance of accurate non-price scoring and the ultimate impact on bid ranking and selection. Similar to OCS, Merrimack Energy requests clarification of the bid scoring and ranking methodology as well as a response on how capacity contribution values will be treated and assessed;

13. Merrimack Energy agrees with the Division regarding the evaluation of demand-side and supply-side resources from the RFPs. It is not clear to us how the evaluation and scoring of the resources is going to take place. Merrimack Energy requests that PacifiCorp clarify in more detail how the results of the two RFPs will be integrated and the methodology for evaluating (price and non-price) and selecting the final demand-side and supply-side resources will be implemented.

14. OCS raised comments about the Code of Conduct, including whether PacifiCorp intended to implement code of conduct training for affected employees. Merrimack Energy asked questions of PacifiCorp on the code of conduct, as well. PacifiCorp responded that it will identify members of the teams who will be required to sign code of conduct acknowledgement forms. PacifiCorp will hold training sessions for affected personnel similar to previous

solicitations. The IE suggests that PacifiCorp update the RFP Appendix I to include its responses to the IE regarding the code of conduct, as noted above;

15. With regard to the discussion on non-price scoring Merrimack Energy suggests revising the language in Section 6B in the RFP under Table 3 to read – “Bidders will have, as part of their bid, self-scored their bids using the non-price scorecard, which will be audited **and verified by PacifiCorp prior to giving each bid a non-price score. PacifiCorp reserves the right to contact a bidder to seek clarification and support for the bidder’s self-score, if required. Bidders will have two-days to provide information requested by PacifiCorp to verify the self-scores;**

16. While Merrimack Energy has concerns about a self-scoring process, the use of more objective criteria is preferable in cases where benchmark or self-build options are competing. As a result, the IE does not oppose use of the scorecard and the self-scoring process but parties should monitor the process to assess whether the self-scoring process and scorecard are effective in distinguishing the viability of bids and are reasonable for future solicitations;

17. With regard to the credit assurance requirement levels, the IE’s view is that these credit requirements are reasonable and consistent with industry standards. if the credit assurance levels listed in Appendix D are contractual amounts, for consistency purposes, PacifiCorp may want to consider asking bidders to include the cost of this level of security in their bid pricing;

18. Task B3 of the IE Scope of Work as listed in the Commission’s RFP for Independent Evaluator Service requires the IE to set up and maintain a webpage or database for information exchange between bidders/potential bidders and PacifiCorp **only if directed by the PSC in its Approval of the Solicitation Process.** Merrimack Energy proposed to establish a webpage on its website to accommodate this requirement similar to the webpages we established for previous PacifiCorp RFPs, including the 2017 Renewable RFP and the 2020AS RFP:

19. Merrimack Energy suggests that the IEs should, at a minimum, be provided access to the output files for the PLEXOS model to be able to fulfill the IE’s requirements for bid review and evaluation as identified in Utah Statutes;

20. Merrimack Energy agrees with OCS that at a minimum, PacifiCorp should explain all its modeling techniques, such as the use of micro-resources in more detail. We request that PacifiCorp hold regular meetings with the IEs both in the preparation process for preparing model inputs and analyses and after proposals are received during the evaluation and selection process.

