

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1631**

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

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

NORTHWEST & INTERMOUNTAIN  
POWER PRODUCERS COALITION  
COMMENTS ON STAFF REPORT  
ON PACIFICORP D/B/A/ PACIFIC  
POWER'S PETITION FOR PARTIAL  
WAIVER

**I. INTRODUCTION**

The Northwest & Intermountain Power Producers Coalition (“NIPPC”) respectfully submits these Comments regarding the Oregon Public Utility Commission (the “Commission” or “OPUC”) Staff Memo in the matter of PacifiCorp, d/b/a Pacific Power’s (“PacifiCorp’s”) Petition for Partial Waiver of OAR 860-089-0500(2). NIPPC supports the recommendations in the Staff Report, and also recommends that the Commission allow for bidders to ask clarifying questions of PacifiCorp, as long as the non-confidential portion of those questions be made publicly available to all bidders and the Oregon Independent Evaluator (“IE”) oversees the communication.

**II. COMMENTS**

NIPPC supports the recommendations in the Staff Report, which are that the Commission: 1) deny PacifiCorp’s request for waiver to the extent that PacifiCorp asks to begin negotiations immediately; 2) allow PacifiCorp to begin negotiations with bidders after the filing of the final short list (currently scheduled for June 10, 2021) rather than after the Commission acknowledgement of the final short list (currently scheduled for

September 9, 2021); 3) direct PacifiCorp to engage in discussions necessary to clarify bid details with bidders, with oversight from the Oregon IE; and 4) direct PacifiCorp not to update its IRP or RFP model as a result of the clarifying communications.

In addition, should the Commission accept Staff's recommendations to allow PacifiCorp to ask clarifying questions of bidders, NIPPC believes it would be appropriate to allow bidders to ask clarifying questions of PacifiCorp, subject to the questions generally being made publicly available and there being oversight from the IE. NIPPC notes that prior to the Commission acknowledgement of the RFP, bidders are allowed to ask questions of PacifiCorp and those questions are made available for the benefit of all bidders. NIPPC believes that it would be appropriate to continue to allow those questions to be asked now.

NIPPC notes that it is possible that portions of some questions may contain confidential bidder information, and the limited portion of any questions with confidential information should be protected under a highly confidential protective order. This should be the standard highly confidential protective order that allows Staff and non-bidding parties and their representatives, but not bidders, to review the highly confidential material. Staff and the IE should work with PacifiCorp and bidders to ensure that questions are asked in a manner to limit the use of confidential material and maintain the integrity of the solicitation. This oversight should ensure that PacifiCorp is not introducing utility bias into the RFP, pre-selecting winning bids prior to issuance of a final shortlist, or giving the impression of such a bias or pre-selection.

### **III. CONCLUSION**

For these reasons described above the Commission should deny PacifiCorp's

Petition for Partial Waiver of OAR 860-089-0500(2) and adopt the Staff Report with the addition that bidders may also ask PacifiCorp clarifying questions that are generally made available for review by all bidders.

Dated this 19th day of February 2021.

Respectfully submitted,

Sanger Law, PC



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