



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

January 5, 2018

Attention: Filing Center
Public Utility Commission of Oregon
201 High Street SE Suite 100
Salem, OR 97301

RE: In the Matter of PACIFICORP, dba PACIFIC POWER, Request for Proposals of an Independent Evaluator to Oversee the Request for Proposal Process, Docket UM 1845

By this letter, on behalf of Staff of the Public Utility Commission of Oregon (Staff), we respond to the administrative law judge's ruling issued December 29, 2017 directing Staff to respond to Caithness Beaver Creek LLC's (Caithness) request that the Commission modify its Order No. 17-345 and to address the request with the independent evaluator or IE (Bates White). Caithness requests that Order No. 17-345 be modified to a) make clear that the inclusion of a storage component does not disqualify a bidder from consideration under the RFP and b) the bidder's transmission arrangement with a third party with firm transmission rights for delivery to PacifiCorp's system is sufficient to satisfy the RFP's minimum eligibility requirement H.13.

On review of Caithness' request and the responses and replies filed by other interested parties, and following consultation with Bates White, Staff does not find grounds to take action on the request. Staff does not intend to request a special public meeting for the issue. Though the Commission may amend any order at any time, Staff believes this issue is best addressed in the regular course of the solicitation process, including the IE's closing report to the Commission.

Staff conferred with Bates White, who confirmed the Oregon and Utah IEs were consulted by PacifiCorp prior to the decision to remove the Caithness Beaver Creek projects, and agreed with the decision to remove the bids. Bates White agreed with the company's finding that the Beaver Creek bids should be disqualified as non-compliant as they did not offer a wind-only option. These two bids were disqualified for this reason. During discussions with the bidder, PacifiCorp made clear that the failure to offer a wind-only option was the primary reason for the disqualification. If the RFP was intended to include dispatchable wind, then it would have stated this in the document. However, the RFP does not state this.

In addition, Caithness' transmission arrangement with a third party's firm transmission rights for delivery also presented an issue to PacifiCorp. Caithness proposed that this third party would take title to the energy prior to receipt by PacifiCorp.

Bates White further notes that if the Commission's order is modified, other developers may complain because they had concluded, based on their own reading of the RFP, that offers such as the Beaver Creek bids were not permitted and, had they known, they would have offered into the RFP. Another issue with the request is that the bid evaluation method would have to be re-examined in order to ensure it was capturing the full value of a dispatchable wind offer. If there is interest in dispatchable resources, Bates White advises that it would encourage parties to issue a competitive bid specifically for such resources.

PacifiCorp filed its final draft 2017R Request for Proposals in this docket on August 4, 2017, seeking new wind resources. Following a period for public comment and Bates White's review, on September 24, 2017, the Commission conditionally approved the RFP with several modifications, including terms requested by Bates White and interested parties. (Order No. 17-345) Neither storage nor dispatchable resources was addressed in the modifications or comments. Staff is not aware of a concern with storage technology. However, the final RFP, as issued, sought only bids for new wind or repowered wind option, matching PacifiCorp's proposed plan in its IRP. Given the need to conduct a fair and transparent process, granting this request may necessitate further delay in the solicitation process to allow for submission and consideration of additional bidding from both new and existing bidders.

Staff does not support scheduling a special public meeting for the Commission to consider modifying Order No. 17-345. Taking action at this time is unnecessary as the Commission has noted the means by which similar concerns may be addressed in Order 17-345, "If the company proceeds to the shortlist review stage, then parties may raise any concerns over how the RFP process was conducted and whether it was fair, along with any other issues related to the shortlist." Further, Staff intends to request that Bates White address the issues raised in Caithness' request in its closing report.

Sincerely,



Johanna M. Riemenschneider
Senior Assistant Attorney General
Business Activities Section