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October 13, 2006

***Via Electronic and U.S. Mail***

Public Utility Commission  
Attn: Filing Center  
550 Capitol St. NE #215  
P.O. Box 2148  
Salem OR 97308-2148

Re: In the Matter of PACIFICORP Draft 2009 Request for Proposals pursuant to  
Order No. 91-1383  
**Docket No. UM 1208**

Dear Filing Center:

Enclosed please find the original and two copies of the Reply Comments of the Industrial Customers of Northwest Utilities ("ICNU") in the above-referenced docket.

Please return one file-stamped copy of the document in the self-addressed, stamped envelope provided. Thank you for your assistance.

Sincerely,

/s/ Christian Griffen  
Christian W. Griffen

Enclosures

cc: Service List

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Reply Comments of the Industrial Customers of Northwest Utilities upon the parties on the service list via Electronic Mail and U.S. Mail, postage-prepaid, or via electronic mail to those parties who waived paper service in this proceeding.

Dated at Portland, Oregon, this 13th day of October, 2006.

/s/ Christian Griffen

Christian W. Griffen

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1208**

In the Matter of	)	
	)	
PACIFICORP	)	REPLY COMMENTS OF THE
	)	INDUSTRIAL CUSTOMERS OF
Draft 2009 Request for Proposals pursuant to	)	NORTHWEST UTILITIES
Order No. 91-1383.	)	
_____	)	

**I. INTRODUCTION**

Pursuant to Administrative Law Judge Grant’s Ruling and Prehearing Conference Memorandum, the Industrial Customers of Northwest Utilities (“ICNU”) submits these reply comments responding to the comments of PacifiCorp, Staff, and intervenors. ICNU is deferring its substantive comments on whether the 2012 request for proposal (“RFP”) fully complies with the Oregon Public Utility Commission’s (“OPUC” or the “Commission”) competitive bidding requirements and on the fairness of the RFP design until after the parties have had an opportunity to work with and review the report of an Oregon independent evaluator (“IE”). Thus, the only substantive issues that ICNU is commenting on are whether the RFP is “in alignment” with PacifiCorp’s integrated resource plan (“IRP”) and whether PacifiCorp had demonstrated a need to purchase or build four new thermal resources.

ICNU recommends that the Commission not approve the RFP because it is inconsistent with PacifiCorp’s acknowledged IRP. Similarly, PacifiCorp has not

presented sufficient information in this proceeding to demonstrate that the Company needs to build or acquire 1775 MWs to meet its load on the eastern side of its system. These reply comments are limited to addressing new issues or responding to specific arguments raised in the comments of other parties because ICNU's opening comments adequately addressed the major issues raised by the other parties.

## **II. REPLY COMMENTS**

### **1. PacifiCorp's Comments Demonstrate that the Company's RFP Abandons Its Acknowledged IRP**

PacifiCorp argues that its RFP is aligned with its IRP; however, it simultaneously attempts to justify its specific decisions that are inconsistent with its acknowledged IRP. PacifiCorp Opening Comments at 4-7; PacifiCorp Reply Comments at 8-9. The Commission should recognize these contradictory positions and issue an order determining that PacifiCorp's RFP is not in alignment with its acknowledged IRP. The Commission also should decline to address PacifiCorp's efforts to justify its departures from its acknowledged IRP because this is not the appropriate forum to litigate the reasonableness or prudence of these resource decisions.

PacifiCorp appears to implicitly agree that its RFP is inconsistent with its acknowledged IRP because the Company focuses much of its comments on how an IRP is a flexible document that can be changed based on current circumstances. PacifiCorp Opening Comments 2-3; PacifiCorp Reply Comments at 1-2. Thus, instead of explaining why its RFP is consistent with the specific elements of its acknowledged IRP, PacifiCorp

seeks to justify why it is departing from the resource decisions acknowledged by the Commission less than a year ago. PacifiCorp Reply Comments at 9.

ICNU agrees that an IRP should be a flexible document that a utility can prudently depart from, but this is not the appropriate forum to evaluate the prudence of PacifiCorp's decision to abandon its IRP. As explained in the Commission's competitive bidding guidelines, the primary purpose of this phase of this proceeding is to focus on "the alignment of the utility's RFP with its acknowledged IRP." Re an Investigation Regarding Competitive Bidding, OPUC Docket No. UM 1182, Order No. 06-446, Appendix A at 2 (Aug. 10, 2006). PacifiCorp's RFP cannot be in alignment with its acknowledged IRP if PacifiCorp is making resource decisions that were not considered in or are inconsistent with the Commission's IRP order.

As explained in ICNU's and Staff's opening comments, PacifiCorp is planning on building or purchasing significantly more base load thermal resources than the Commission acknowledged in PacifiCorp's last IRP. ICNU Opening Comments at 5-7; Staff Opening Comments at 6-12. Specifically, PacifiCorp is planning on building or acquiring four new resources when the Commission only acknowledged one new thermal resource. PacifiCorp is taking these actions, in part, because the Company has decided not to enter into 700 MWs of short-term purchases, is relying upon unrealistically high planning margins, and is not counting on the acquisition of other planned resources (including renewables and transmission investments) when determining its resource need. All of these decisions are inconsistent with the Commission's order acknowledging

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PacifiCorp's 2004 IRP and provide the grounds for the Commission not to approve the RFP.

There is insufficient information in this proceeding for the Commission to evaluate PacifiCorp's recent decisions that are inconsistent with its acknowledged IRP. For example, one major inconsistency between PacifiCorp's RFP and its acknowledged IRP is PacifiCorp's decision not to enter into its planned 700 MWs of short-term purchases. As explained by Staff: "PacifiCorp has not presented any compelling analytical basis for the removal of the 700 MW of Front Office Transactions on the east side of the company's system from its acknowledged 2004 Action Plan, or the company's updated Action Plan filed just 10 months ago." Staff Opening Comments at 11. PacifiCorp attempts to justify this decision with one page of analysis in its reply comments. See PacifiCorp Reply Comments at 9. The Commission should ignore these justifications and review PacifiCorp's resource decisions, including its departure from its recently acknowledged IRP, in a future evidentiary proceeding.

## **2. PacifiCorp Has Failed to Demonstrate a Need to Acquire 1775 MWs**

PacifiCorp asserts that it needs significant new resources to meet load growth on the east side of its system. PacifiCorp Opening Comments at 4-7. Using different analyses, ICNU and Staff separately rebutted PacifiCorp's claim that it needs four new thermal resources. ICNU Opening Comments at 7-10; Staff Opening Comments at 6-8. PacifiCorp's comments raise few new arguments regarding its

resource need and primarily demonstrate that PacifiCorp does not need four new thermal resources.

PacifiCorp's comments show that the Company is requesting to build more resources while also recognizing that its forecasted need for resources has decreased. For example, in its 2004 IRP, PacifiCorp originally forecast a resource need of 2,043 MWs in 2014. PacifiCorp Opening Comments at 4. PacifiCorp now recognizes that its alleged resource deficit has been reduced to 1,640 MWs in 2014. See id. Therefore, despite a reduced need for resources, PacifiCorp is now planning on building four new thermal resources instead of the one new resource that the Commission acknowledged earlier this year.

PacifiCorp also states that its RFP is seeking to acquire resources in the lower end of its forecasted total resource deficit for 2014 made in its 2004 IRP. PacifiCorp Reply Comments at 8. Reference to PacifiCorp's filed 2004 IRP should be ignored because the Commission did not acknowledge the filed IRP, but made adjustments and changes that significantly altered the IRP. As explained in ICNU's opening comments, the Commission did not agree with PacifiCorp's resource need analysis and concluded that PacifiCorp, at most, needed to acquire only one new thermal resource. ICNU Opening Comments at 7-10. The Commission's conclusion regarding PacifiCorp's resource need was prescient as the Company did not need to acquire all the resources that the Company included in its filed 2004 IRP. Citation to the filed 2004 IRP is also flawed because, in November 2005, PacifiCorp updated its 2004 IRP to reduce its



resource deficit. PacifiCorp 2004 IRP Update at 9, 21. In addition, ICNU questions the relevance of PacifiCorp's reference to the forecast of its 2014 resource need that it made in its 2004 IRP filing because, in its order regarding the 2004 IRP, the Commission only reviewed the Company's proposed thermal resource actions up to 2011—not 2014. Re PacifiCorp's 2004 IRP, OPUC Docket No. LC 39, Order No. 06-029 at 3-5 (Jan. 23, 2006).

PacifiCorp's comments do not justify the 15% planning margin and admit that the Commission did not acknowledge this high planning margin. PacifiCorp Reply Comments at 8. PacifiCorp does not provide an explanation as to why it used a 15% planning margin to justify its RFP, argue in favor any specific planning margin, nor dispute the argument that a planning margin of no more than 10-12% is far more reasonable. The unreasonableness of PacifiCorp's planning margin is further demonstrated by Portland General Electric Company's ("PGE") use of a 12% planning margin in its IRP. See PGE's 2002 IRP Final Action Plan, March 2004 at 34-35; Re PGE, OPUC Docket No. LC 33, Order No. 04-375 (July 20, 2004).

Instead, PacifiCorp's reply comments assert that use of a lower planning margin of 12% instead of 15% does not eliminate the need for new resources, but only reduces the resource need. PacifiCorp Reply Comments at 8. Specifically, PacifiCorp alleges that, even with a 12% planning margin, the Company still needs resources and that its capacity deficit would be 1,048 MWs in 2012, 1,410 MWs in 2014, and 1,808 MWs in 2016. Id.

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As explained in ICNU's opening comments, PacifiCorp's estimates of its resource capacity fail to recognize that PacifiCorp's eastern load growth forecasts have been highly inaccurate. ICNU Opening Comments at 9-10. Similarly, PacifiCorp's alleged deficit only occurs if PacifiCorp abandons the specific resource actions (e.g., the 700 MWs of short-term purchases, transmission, renewables, etc.) that the Commission acknowledged earlier this year. Id. at 9. For example, PacifiCorp's alleged resource capacity deficit assumes zero short-term sales. If PacifiCorp's forecast was adjusted to only reflect PacifiCorp's acknowledged plans for short-term purchases and renewables, PacifiCorp's resource deficit would be largely eliminated in 2012 and significantly reduced in 2016.<sup>1/</sup>

### **3. PacifiCorp's RFP Is Inconsistent with Its Avoided Cost Filings**

PacifiCorp's calculation of its resource need in its RFP also appears to be inconsistent with the methodology that the Company used to set its most recent avoided costs. This inconsistency is additional information demonstrating that PacifiCorp's forecasted resource needs in this proceeding should not be relied upon.

In its recent avoided cost filing, PacifiCorp stated that the Company's need to acquire the next baseload resource is calculated on "when the Company becomes both energy and capacity deficit . . . ." Re Staff's Investigation Relating to Elec. Util. Purchases from QFs, OPUC Docket No. UM 1129, PPL/105, Widmer/2 (Jan. 20, 2006).

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<sup>1/</sup> With only the 700 MWs included in the analysis, PacifiCorp's eastern capacity deficiency is only 264 MWs in 2012 using a 12% reserve margin. At a 10% reserve margin the deficiency is only 132 MWs. ICNU Opening Comments at 8-9.

In other words, PacifiCorp alleged that it would not build new resources until it was both capacity and energy insufficient. In contrast, in this proceeding, PacifiCorp bases its decision to build new resources upon only its capacity needs. In addition, PacifiCorp's reserves that were used to set its avoided costs are lower than 10%, which is significantly lower than the 15% planning margin PacifiCorp assumes in its RFP. ICNU Opening Comments at 8.

In addition to making contradictory filings to serve the Company's different interests in separate proceedings, PacifiCorp's proposed RFP would meet the Company's alleged capacity deficit by becoming energy surplus. Staff Opening Comments at 7; see PacifiCorp Response to Staff Data Request ("DR") No. 29. Based on PacifiCorp's load forecasts and planning margins, PacifiCorp would be approximately 1,000 annual aMWs surplus in 2013-2014 if it acquired one 750 MW coal plant in 2013. Id. PacifiCorp's energy surplus would be significantly greater if the Company's high forecasted load growth does not materialize, or if the Company acquires the acknowledged non-thermal resources in its 2004 IRP.

It appears that PacifiCorp is planning on becoming energy surplus and selling significant amounts of energy from its new thermal resources. This new strategy should be fully reviewed in a future IRP before proceeding with this large RFP. In this proceeding, the Commission should simply recognize that this new strategy departs from its acknowledged IRP, is inconsistent with its recent avoided cost filing, and does not

support a finding that PacifiCorp needs to build four new baseload resources to serve its retail customers.

**4. The Commission Should Not Address the Prudency of PacifiCorp’s Resource Decisions in this Proceeding**

The Citizens’ Utility Board (“CUB”), Renewable Northwest Project (“RNP”), and the Ecumenical Ministries of Oregon (“EMO”) all argue that the Commission should not acknowledge PacifiCorp’s RFP because building coal resources is not prudent. CUB/RNP Opening Comments at 7-8; EMO Opening Comments at 1-3. These parties’ prudency arguments are based on their concerns regarding risks associated with global warming and carbon regulation.

The Commission should not address these arguments because the Commission is not reviewing issues related to prudency and reasonableness at this time. In adopting competitive bidding guidelines that contemplated a review of the utility’s proposed RFP, the Commission adopted a 60-day review process for RFPs does not provide for evidentiary hearings or allow for a prudency review. Order No. 06-446 at 9-10. The Commission also specifically concluded that it would not consider ratemaking issues or dictate which new resources utilities could purchase. Id. at 2, 8-10. The Commission should not abandon these new rules and should defer all prudency arguments to a future ratemaking proceeding.

**III. CONCLUSION**

ICNU recommends that the Commission not approve PacifiCorp’s RFP because it is not in alignment with its acknowledged IRP. PacifiCorp’s RFP

demonstrates that the Company is planning to acquire resources that have not been acknowledged by the Commission, has abandoned its past resource acquisition plans, and has not demonstrated that it has a need to acquire more than one new thermal resource. Further, the RFP is inconsistent with PacifiCorp's recently filed avoided costs.

Dated this 13th day of October, 2006.

Respectfully submitted,

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*/s/ Irion Sanger* \_\_\_\_\_

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