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VIA ELECTRONIC FILING

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148

Re: Docket No. UM 1208

Enclosed for filing in the above-referenced matter are PacifiCorp's Final Comments In Support of Conditional Approval of the RFP. A copy of this filing has been served on all parties to this proceeding as indicated on the attached certificate of service.

Very truly yours,

A handwritten signature in black ink, appearing to read "Katherine A. McDowell".

Katherine A. McDowell

Enclosures

cc: Service List

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 **UM 1208**

4 In the Matter of PacifiCorp's Draft 2012
5 Request for Proposals

6 **PACIFICORP'S FINAL COMMENTS IN**
7 **SUPPORT OF CONDITIONAL APPROVAL**
8 **OF THE RFP**

9 PacifiCorp respectfully submits the following final comments in support of the
10 conditional approval of its revised Request for Proposals ("RFP").

11 PacifiCorp has now been engaged in the review process for its RFP for six months.
12 PacifiCorp has filed four different revisions of the RFP, made major accommodations to
13 address concerns raised by the stakeholders, and ultimately supported the addition of a
14 second, Oregon-selected independent evaluator ("IE") and a second, RFP design review by
15 this IE. PacifiCorp appreciates the parties' generally positive responses to these
16 amendments and modifications, including Staff's most recent filing recommending
17 conditional approval of the RFP.

18 The complexities of this particular RFP approval process have exceeded what is
19 contemplated by the Commission's competitive bidding guidelines, which provide for a 60-
20 day review period and include the goal of "not unduly constrain[ing] utility management's
21 prerogative to acquire new resources." *See In re Investigation Regarding Competitive*
22 *Bidding*, Order No. 06-446 at 2, 7-8, UM 1182 (2006) ("RFP Order"). The protracted review
23 process has been helpful, however, in narrowing the issues before the Commission.

24 PacifiCorp agrees with the Joint Parties that the essential question now presented to
25 the Commission is whether conditional approval of this RFP, which could result in PacifiCorp
26 acquiring new super-critical pulverized coal resources if they are the least-cost alternative, is
27 consistent with Oregon's current energy policy. The Joint Parties answer this question "no"

1 and PacifiCorp answers it “yes,” demonstrating the need for a clear Commission decision on
2 this point. See Joint Parties Reply Comments at 7-8 (calling for a Commission decision on
3 the role of conventional coal under a least cost, least risk energy resource policy).

4 Under the RFP Order, approval of an RFP is contingent on consistency with an
5 acknowledged IRP. RFP Order at 9. Acknowledgement of an IRP, in turn, requires a
6 resource plan that is least cost to the utility and its ratepayers, considers the long-run public
7 interest, and is consistent with Oregon’s energy policy as set forth in ORS 469.010. See *In*
8 *re PacifiCorp*, Order No. 06-029 at 1, LC 39 (2006) (“IRP Order”).

9 Oregon’s energy policy requires consideration of cost-effectiveness in state agency
10 decision-making relating to energy resources. ORS 469.010(1)(f). The Commission
11 embraced and interpreted the cost-effectiveness standard in *In re: Adoption of*
12 *Administrative Rules Relating to Cost-Effective Fuel Use and Resource Development*, Order
13 No. 85-010, AR 112 (1985). In this Order, the Commission made several important points:

- 14 • “An economic approach to energy policy is the most appropriate approach”
15 for the Commission. *Id.* at 1.
- 16 • To ensure that ratepayers do not have to pay more for new resources than
17 necessary, the Commission must “make decisions which reflect economic
18 reality, not ideology or wishful thinking.” *Id.* at 2.
- 19 • “All energy policies should be judged on a standard of cost-effectiveness.
20 Prudent application of a cost-effectiveness standard is the best way to assure
21 adequate supplies of energy resources in the future at the lowest cost to the
22 ratepayers.” *Id.* at 3.
- 23 • Under ORS 756.040(1), the Commission’s representation of the public on
24 resource decisions is limited to customers of the investor-owned utilities and
25 to residents of the State of Oregon, and does not encompass the interests of
26 customers in the region or society at large. *Id.* at 4.

- 1 • The Commission should not consider broad social goals in determining how
2 to apply Oregon's energy policy because a Commission "setting rates based
3 upon the social benefits would be acting as a mini-Legislature rather than a
4 utility regulator, whose lawful concern is 'adequate service at fair and
5 reasonable rates.'" *Id.* at 7.
- 6 • The Commission's "primary objective is to evaluate proposals with a view to
7 keeping rates for consumers at the lowest possible level over the long run.
8 Programs which do not meet the criteria of cost effectiveness and equity, and
9 are proposed to achieve social or environmental ends, should be addressed
10 to the Legislature. That body is far better suited to deal with the complexity
11 and competing interests presented by social and environmental programs."
12 *Id.* at 7.

13 In the Commission's generic least cost planning order, *In re Least Cost Planning for*
14 *Resource Acquisitions*, Order No. 89-507, UM 180 (1989) (which notes its consistency with
15 the policies adopted in Order No. 85-010), the Commission found that economic analysis of
16 resource alternatives required consideration of external resource costs. In the
17 Commission's generic order on externalities, *In re Guidelines for Treatment of External*
18 *Environmental Costs*, Order No. 93-695, UM 424 (1993), the Commission set a range of
19 potential CO₂ regulatory costs for utilities to consider in conducting their IRPs.

20 In adopting sensitivity analysis for specified external resource costs, the Commission
21 clarified that it was "not authorized to require a utility to make a resource decision based
22 upon a total resource cost which includes external costs." *Id.* Further, the Commission
23 noted the advice of the Department of Justice that "the Commission does not have clear
24 statutory authority to impose such costs on a utility, either directly by requiring the utility or
25 its customers to pay the external costs or indirectly by penalizing the utility for choosing a
26 resource with higher external costs." *Id.*

1 In summary, Oregon's current energy policy requires the Commission to consider
2 cost-effectiveness in reviewing utility resource decisions. This is an economic analysis, not
3 a decision based upon social policies. While a utility's economic analysis of a resource
4 should consider the risks associated with external costs that could be internalized, the
5 Commission cannot disapprove an otherwise cost-effective resource choice on the basis
6 that it presents high external costs. If a utility acquires a higher cost resource with lower
7 external costs, it must justify the prudence of such an acquisition by demonstrating the risk
8 of internalization of external costs associated with lower cost resources.

9 Justifying the prudence of a higher cost, lower carbon-emitting resource is no small
10 matter under Oregon's current energy policy because, as the Joint Parties observe,
11 "Forecasting the political reaction to global warming and the cost attached to that political
12 decision . . . is like throwing darts in the dark. Most of us assume that ultimately at the state,
13 regional, federal or international level, there will be a regime of binding CO₂ regulations, but
14 when, what and how much are still unknown." Joint Parties Reply Comments at 6. In
15 UM 1056, ICNU signaled that it would challenge the prudence of such a resource on the
16 basis that "it is inappropriate to require customers to pay higher electric rates by including
17 the costs of complying with environmental laws that have not been enacted," and that an
18 "IRP should not be utilized to artificially increase energy rates to further other non-mandated
19 social goals, including reducing certain emissions or combating global warming." ICNU
20 Opening Comments at 7, UM 1056 (September 9, 2005).

21 PacifiCorp's revised RFP with super-critical pulverized coal and IGCC benchmark
22 resources complies with Oregon's energy policy, as embodied in the statutes and long-
23 standing Commission policies discussed above. PacifiCorp proposes to utilize the RFP
24 process to conduct a rigorous cost-effectiveness review of new proposed resources.
25 PacifiCorp will apply the approach to assessing external carbon costs acknowledged in
26 PacifiCorp's 2004 IRP, which includes the carbon sensitivity analysis required under Order

CERTIFICATE OF SERVICE

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I hereby certify that I served a true and correct copy of the foregoing document in Docket UM 1208 on the following named person(s) on the date indicated below by email and first-class mail addressed to said person(s) at his or her last-known address(es) indicated below.

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