

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON**

UM 1208

In the Matter of)
)
PACIFICORP Draft 2009 Request for Proposals)
_____)

NIPPC REPLY TO PACIFICORP MOTION FOR CLARIFICATION

Pursuant to the Chief Administrative Law Judge’s December 4, 2006, ruling, the Northwest and Intermountain Power Producers’ Coalition (NIPPC) hereby responds to PacifiCorp’s Motion for Clarification filed December 1, 2006, in this docket.

PacifiCorp’s Motion asks for clarification regarding three matters: (1) that PacifiCorp should retain an Oregon Independent Evaluator (IE) regardless of whether the company’s RFP is conditionally or finally approved; (2) that PacifiCorp may seek acknowledgement of the final short list and rate recovery for any resource acquired through this RFP; and finally (3) that PacifiCorp should recover appropriately incurred expenses associated with paying the Oregon IE’s fees.

Retaining an IE and Receiving Deferred Accounting for the Cost of the IE

Regarding PacifiCorp’s first and third requests for clarification, NIPPC agrees with PacifiCorp (and Oregon Staff) that the company should retain an Oregon Independent Evaluator to review its bidding process regardless of whether the company’s RFP is conditionally or finally approved. As well, NIPPC agrees that PacifiCorp should be permitted to recover through deferred accounting the expenses incurred to fund the activity of the Oregon IE. The Commission’s recent competitive bidding guidelines,

Order No. 06-446 (“Order”), require a request for proposals (RFP) process for all Major Resource acquisitions. Order, pp. 3-4. The bidding guidelines also provide that an IE must be used in these RFPs under the guidelines to ensure that all bids are treated fairly and consistently. Order, p. 6.

The presence and active engagement of an IE should be beneficial to all parties in this RFP regardless of whether the Commission determines to conditionally or finally approve the RFP. Bidders need to know that there is an outside “check” on the bidding process conducted by the utility, particularly since the utility has a benchmark resource. NIPPC respectfully suggests that the Commission itself should value the input of the IE when the time comes for the utility to request acknowledgement of its short list or rate treatment for any resources selected through this process. Finally, and most importantly, undertaking to hire and pay for an independent evaluator promises to be a good “investment” for PacifiCorp’s Oregon customers, as the customers can be expected to benefit from a fairly and independently reviewed bidding process.

NIPPC supports PacifiCorp’s request for clarification such that the company may undertake to hire the IE and to recover the costs of the IE through appropriate deferred accounting.

Acknowledgement of the Short List and Rate Recovery for Resources Selected

As for PacifiCorp’s second request, that PacifiCorp be permitted to seek acknowledgement of the final short-list and also to seek rate recovery for any resources required through the RFP, NIPPC sees nothing in the new competitive bidding guidelines that would preclude PacifiCorp from seeking acknowledgement of its short list even though the RFP itself was not conditionally or finally approved. As well, NIPPC sees

nothing in the guidelines that precludes the utility from seeking rate recovery for any resource acquired through an RFP that had not been conditionally or finally approved in accordance with the Commission's new guidelines. Indeed, the Order adopting the guidelines states clearly that "ratemaking determinations come later." Order, pp. 9-10. As well, acknowledgement of the utility's short list "is not a guarantee of favorable treatment during rate recovery." Indeed, "[t]he Commission may decline to acknowledge" the short list. Order, pp. 14-15. Because the Commission's new bidding guidelines do not provide the utility with a guarantee that an *approved* RFP would lead to an acknowledgement of a short list or to rate recovery of the final resource chosen, there appears to be nothing to prevent the utility from *seeking* these actions from the Commission for a non-approved RFP, although the fact that the RFP was not finally or conditionally approved may tend to weigh strongly against the utility when it seeks Commission decisions on these matters. This is a risk the utility may choose, or not, to take.

Conclusion

NIPPC seeks a competitive bidding process in Oregon that attracts robust participation among multiple providers who believe that the process will be fairly conducted and, as a result of a clearly fair process, will produce the best results for Oregon's consumers. It is not a comfort to bidders know that a RFP of this magnitude may go forward although not "approved" by the Commission. This is because the failure to have an approved RFP may detract from the appearance of fairness that bidders seek and may thereby lead to fewer participants. As well, for those bidders that do participate, it appears that failure to have an approved RFP may make it more difficult for the utility

to achieve rate recovery for the resource chosen, which is another potential difficulty for any non-utility bidders who may be successful in the solicitation. Nevertheless, the new guidelines do not seem to preclude the utility from *seeking* acknowledgement of the short-list or from *seeking* rate recovery of any resources acquired in a RFP due to the lack of a conditionally or finally approved RFP. NIPPC sees no reason that PacifiCorp's Motion should not be approved, subject to whatever caveats the Commission deems necessary under the circumstances.

DATED this 11th day of December, 2006.

Respectfully submitted,

NIPPC

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Certificate of Service

I certify that I have this day served the foregoing document upon all parties of record in UM 1208 by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to all parties or attorneys of parties, attached below.

Dated this 11th day of December, 2006.

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