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March 4, 2008

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, OR 97310-2551

Attn: Vikie Bailey-Goggins, Administrator
Regulatory and Technical Support

RE: Application of PacifiCorp In the Matter of PacifiCorp's Request for Approval of a
2008R-1 Solicitation Process for New Renewable Resources

Enclosed for filing by PacifiCorp d.b.a. Pacific Power is an Application to open a docket for the above-captioned matter and a request to issue a solicitation for an independent evaluator. A copy of the enclosed Application has been served on all parties in PacifiCorp's on-going request for proposals proceeding, Docket UM 1208, as indicated on the attached Certificate of Service.

Informal inquiries may be directed to Joelle Steward at (503) 813-5542.

Very truly yours,

Andrea L. Kelly
Vice President, Regulation

Enclosure

cc: Service List UM 1208

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document in Docket No. UM 1208 on the following named person(s) below via e-mail to said person(s) at his or her last-known address(es) indicated below:

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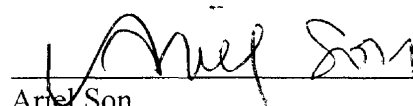
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DATED: March 4, 2008.



Arnel Son
Coordinator, Administrative Services

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM _____

In the Matter of PacifiCorp's Request for
Approval of a 2008R-1 Solicitation
Process for New Renewable Resources

**APPLICATION TO OPEN DOCKET
AND REQUEST TO ISSUE
SOLICITATION FOR INDEPENDENT
EVALUATOR**

1 PacifiCorp dba Pacific Power hereby requests that the Public Utility Commission of
2 Oregon ("Commission") (1) open a docket for the approval of a solicitation process for new
3 renewable resources ("2008R-1 RFP"); (2) allow PacifiCorp to request and receive
4 comments on the draft request for proposal for appointment of an independent evaluator
5 attached as Exhibit A to this filing for its 2008R-1 RFP; and (3) upon receipt of comments
6 from interested parties, and following review with Commission staff, subsequently issue the
7 request for proposal in order to solicit an independent evaluator for the 2008R-1 RFP.
8 Shortly after submission of this application, PacifiCorp will also be filing a motion for a
9 protective order to be issued in this docket to cover the solicitation of the independent
10 evaluator and the 2008R-1 RFP process.

11 In support of this Application, PacifiCorp states as follows:

12 1. This Application to open a docket and begin the solicitation process for an
13 independent evaluator is filed pursuant to Order No. 06-446 which requires the Company to
14 issue a request for proposals for acquisition of Major Resources.

15 2. Communications regarding this Application should be addressed to:

Oregon Dockets PacifiCorp 825 NE Multnomah, Suite 2000 Portland, OR 97232 Phone: 503.813.5542 Email: oregondockets@pacificorp.com	Natalie Hocken PacifiCorp 825 NE Multnomah, Suite 2000 Portland, Oregon 97232 Phone: 503.813.7205 Email: natalie.hocken@pacificorp.com
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1 In addition, PacifiCorp requests that all data requests regarding this Application be sent to the
2 following:

3 By email (preferred): datarequest@pacificorp.com

4 By fax: 503-813-6060

5 By regular mail: Data Request Response Center
6 PacifiCorp
7 825 NE Multnomah, Suite 2000
8 Portland, Oregon 97232

9 Informal questions may be directed to Joelle Steward, Oregon Regulatory Affairs
10 Manager at 503-813-5542.

11 **Introduction of the 2008R-1 RFP**

12 3. The purpose of the 2008R-1 RFP is to establish a Commission approved RFP
13 that can be used, as needed, to request and evaluate proposals from bidders to fulfill a portion
14 of the supply-side renewable resources identified in PacifiCorp's 2007 Integrated Resource
15 Plan ("IRP"). PacifiCorp is proposing a form of RFP process that would enable the Company
16 to call for new bidders or updated bids on an as needed basis to provide needed flexibility in
17 the procurement process due to timing concerns, uncertainty with the status of the production
18 tax credit, the status of the then-current wind turbine supply market, and quality and quantity
19 of bids received. Similar to the process PacifiCorp used with its RFP 2003-B in Docket UM
20 1118, once the 2008R-1 RFP is approved by the Commission, PacifiCorp would use the form
21 and process associated with the 2008R-1 RFP to solicit bids from the market. PacifiCorp will
22 notify the Commission of its intent to re-issue an "updated 2008R-1 RFP" and the detail
23 associated with such updates. Should the Commission determine that the updates are
24 substantive modifications and necessitate a filing with the Commission for approval of the
25 updates then the Company will make such a filing. PacifiCorp requests that the Commission
26 make a determination if a filing is needed for any noticed update within a thirty (30) day time

1 period. Appointment or reappointment of an independent evaluator (IE) would be addressed
2 by the Company and the Commission with each 2008R-1 RFP update notice.

3 4. The 2008R-1 RFP will solicit system-wide (east and west) renewable
4 resources new to the Company's portfolio and which are capable of delivery in or into
5 PacifiCorp's network transmission system, or to another Company prescribed point(s) that
6 enables the Company to meet its obligations, within the prescribed time period. The first
7 request for renewable resources pursuant to the 2008R-1 RFP will be for renewable resources
8 with commercial operation dates prior to December 31, 2011. The targeted acquisition
9 quantity for this 2008R-1 RFP will be up to 500 MW; the 2008R RFP may solicit up to 300
10 MW.

11 5. The chart below identifies the renewable resources targeted in the current IRP:

Commercial Operation Date	Target Quantity
2008	Up to 200 MW
2009	Up to 100 MW
2010	Up to 300 MW
2011	Up to 200 MW

12 6. For purposes of the 2008R-1 RFP, each renewable resource is limited in size
13 to no more than 300 MW,¹ which is the upper limit permitted by Utah Senate Bill 202.² In
14 addition, each renewable resource must have an expected annual output of at least 70,000
15 megawatt hours after accounting for planned and unplanned outages. PacifiCorp issued a
16 RFP ("2008R RFP") on January 31, 2008 for renewable resources of less than 100 MW (for

¹ Nameplate capacity or quantity of capacity subject to contract.

² Utah Senate Bill 202 is new legislation proposed in Utah. A copy is attached as Exhibit A for Oregon parties' reference.

1 resources greater than five years in length) or greater than 100 MW for resources less than or
2 equal to five years in length. The 2008R RFP solicits renewable resources that have a
3 commercial operation date prior to December 31, 2009.

4 7. The 2008R-1 RFP will permit qualified bidders to bid qualifying renewable
5 resources in the form of a Power Purchase Agreement, asset transfer arrangements, such as a
6 Build Own Transfer, or other forms of agreements (such as a full or partial facility lease).
7 The Company will not be submitting cost-based benchmark resources; however, PacifiCorp's
8 generation group anticipates submitting one or more self-build ownership alternatives
9 consistent with the process used by third-party bidders.

10 8. In addition to bidding in renewable resources, bidders will have the option to
11 bid in renewable resources coupled with energy storage. Energy storage has the distinct
12 capability of enabling higher penetrations of intermittent renewable energy in the company's
13 portfolio. Pumped water, compressed air, battery storage, or other contractual forms firm
14 intermittent renewable resources and therefore create an energy resource that can be
15 scheduled to better match customer demand or result in a higher degree of dependability
16 throughout a prescribed time period.

17 9. The 2008R-1 RFP will not be duplicative of the 2012 RFP (Base Load
18 solicitation) (Docket UM 1208) or the 2008 RFP (Base Load, Intermediate Load, Peak Load
19 solicitation) (Docket UM 1360). The 2008R-1 RFP will request renewable resources located
20 in the Western Electricity Coordinating Council that are compliant with existing or
21 anticipated renewable portfolio standards. The 2008R-1 RFP is not anticipated to be
22 duplicative with the 2008R RFP unless a bidder has a resource that can reach commercial
23 operation by December 31, 2009 and the bidder elects to bid the same resource in each RFP.
24 The time for submissions of interest and submission of bids published in the 2008R RFP

1 made it difficult and potentially confusing to bidders to simply modify that RFP. Thus, the
2 Company decided to issue the new 2008R-1 RFP. If the same resource is bid in the 2008R
3 RFP and the 2008R-1 RFP, each bid will be considered under the terms of the RFP under
4 which the bid is submitted. It is generally expected that wind resources will be the primary
5 resources bid but other forms of renewable resources will be accepted. The Company will
6 further define each such compliant renewable resource in the draft form of the 2008R-1 RFP
7 submitted to the Commission for approval.

8 10. The Company anticipates filing a draft of the 2008R-1 RFP by March 31,
9 2008. At that time, PacifiCorp will initiate the process for approval of the 2008R-1 RFP and
10 the periodic update concept introduced in this filing.

11 **Request for Solicitation Process for an Independent Evaluator**

12 11. With this Application the Company is opening a docket for purposes of its
13 2008R-1 RFP. In addition, PacifiCorp has submitted a draft request for proposal for
14 solicitation of an independent evaluator (“IE RFP”) and wishes to solicit comments from
15 interested parties on the draft IE RFP no later than March 17, 2008. Following receipt and
16 review of any comments, PacifiCorp will consult with Commission staff on the final IE RFP
17 and plans to file the final IE RFP with the Commission and simultaneously issue it to the
18 market no later than March 21, 2008. PacifiCorp’s draft IE RFP is based on the solicitation
19 used for selection of the Oregon IEs for PacifiCorp’s 2012 RFP, and incorporates many of
20 the changes contained in Portland General Electric’s IE RFP issued October 2, 2007 (Docket
21 No. UM 1345), and supplemented with information specific to PacifiCorp’s proposed
22 2008R-1 RFP. The draft IE RFP is attached hereto as Exhibit B.

Proposed Schedule

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2


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12. To assist parties in understanding the proposed timelines, the Company has included a proposed schedule below.

Event	Estimated Timeline
RFP for Independent Evaluator issued	By March 21, 2008
Selection of Independent Evaluator	April 2008
2008R-1 RFP filed	March 31, 2008
2008R-1 RFP approval process completed	June 2008
2008R-1 RFP issued	June 2008
2008R-1 RFP responses due	August 2008
Evaluation completed	November 2008
Final shortlist filed in Oregon	November 2008
Oregon Commission acknowledgement of final shortlist	December 2008
Bidder negotiations completed	March 2009
Finalize resource decision(s)	April 2009
Commercial operation	Prior to December 31, 2011

1 WHEREFORE, PacifiCorp respectfully requests that a new docket be opened to
2 process the 2008R-1 RFP and that an order be issued directing the issuance of a request for
3 proposal for selection of an independent evaluator in this docket for purposes of the 2008R-1
4 RFP consistent with the process outlined in this application.

DATED: March 4, 2008



Natalie L. Hocken
Vice President & General Counsel,
Pacific Power

Counsel for PacifiCorp

EXHIBIT A

EXCERPT OF UTAH SENATE BILL 202

592 Section 11. Section ~~54-17-201~~ is amended to read:

593 ~~54-17-201. Solicitation process required -- Exception.~~

594 (1) (a) An affected electrical utility shall comply with this chapter to acquire or
595 construct a significant energy resource after February 25, 2005.

596 (b) Notwithstanding Subsection (1)(a), this chapter does not apply to a significant
597 energy resource for which the affected electrical utility has issued a solicitation before February
598 25, 2005.

599 (2) (a) Except as provided in Subsection (3), to acquire or construct a significant
600 energy resource, an affected electrical utility shall conduct a solicitation process that is
601 approved by the commission.

602 (b) To obtain the approval of the commission of a solicitation process, the affected
603 electrical utility shall file with the commission a request for approval that includes:

604 (i) a description of the solicitation process the affected electrical utility will use;

605 (ii) a complete proposed solicitation; and

606 (iii) any other information the commission requires by rule made in accordance with
607 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

608 (c) In ruling on the request for approval of a solicitation process, the commission shall
609 determine whether the solicitation process:

610 (i) complies with this chapter and rules made in accordance with Title 63, Chapter 46a,
611 Utah Administrative Rulemaking Act; and

612 (ii) is in the public interest taking into consideration:

613 (A) whether it will most likely result in the acquisition, production, and delivery of

614 electricity at the lowest reasonable cost to the retail customers of an affected electrical utility

615 located in this state;

616 (B) long-term and short-term impacts;

617 (C) risk;

618 (D) reliability;

619 (E) financial impacts on the affected electrical utility; and

620 (F) other factors determined by the commission to be relevant.

621 (d) Before approving a solicitation process under this section the commission:

622 (i) may hold a public hearing; and

623 (ii) shall provide an opportunity for public comment.

624 (e) As part of its review of a solicitation process, the commission may provide the

625 affected electrical utility guidance on any additions or changes to its proposed solicitation

626 process.

627 (f) Unless the commission determines that additional time to analyze a solicitation

628 process is warranted and is in the public interest, within ~~[90]~~ 60 days of the day on which the

629 affected electrical utility files a request for approval of the solicitation process, the commission

630 shall:

631 (i) approve a proposed solicitation process;

632 (ii) suggest modifications to a proposed solicitation process; or

633 (iii) reject a proposed solicitation process.

634 (3) Notwithstanding Subsection (2), an affected electrical utility may acquire or

635 construct a significant energy resource without conducting a solicitation process if it obtains a

636 waiver of the solicitation requirement in accordance with Section 54-17-501.

637 (4) In accordance with the commission's authority under Subsection 54-12-2(2), the

638 commission shall determine:

639 (a) whether this chapter or another competitive bidding procedure shall apply to a

640 purchase of a significant energy resource by an affected electrical utility from a small power

641 producer or cogenerator; and

642 (b) if this chapter applies as provided in Subsection (4)(a), the manner in which this

643 chapter applies to a purchase of a significant energy resource by an affected electrical utility

644 from a small power producer or cogenerator.

645 Section 12. Section **54-17-302** is amended to read:

646 **54-17-302. Approval of a significant energy resource decision required.**

647 (1) If pursuant to Part 2, Solicitation Process, an affected electrical utility is required to
648 conduct a solicitation for a significant energy resource or obtains a waiver of the requirement to
649 conduct a solicitation under Section 54-17-501, but does not obtain a waiver of the requirement
650 to obtain approval of the significant energy resource decision under Section 54-17-501, the
651 affected electrical utility shall obtain approval of its significant energy resource decision:

652 (a) after the completion of the solicitation process, if the affected electrical utility is
653 required to conduct a solicitation; and

654 (b) before an affected electrical utility may construct or enter into a binding agreement
655 to acquire the significant energy resource.

656 (2) (a) To obtain the approval required by Subsection (1), the affected electrical utility
657 shall file a request for approval with the commission.

658 (b) The request for approval required by this section shall include any information
659 required by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
660 Administrative Rulemaking Act.

661 (3) In ruling on a request for approval of a significant energy resource decision, the
662 commission shall determine whether the significant energy resource decision:

663 (a) is reached in compliance with this chapter and rules made in accordance with Title
664 63, Chapter 46a, Utah Administrative Rulemaking Act;

665 (b) (i) is reached in compliance with the solicitation process approved by the
666 commission in accordance with Part 2, Solicitation Process; or

667 (ii) is reached after the waiver of the solicitation process as provided in Subsection
668 54-17-201(3); and

669 (c) is in the public interest, taking into consideration:

670 (i) whether it will most likely result in the acquisition, production, and delivery of
671 electricity at the lowest reasonable cost to the retail customers of an affected electrical utility
672 located in this state;

673 (ii) long-term and short-term impacts;

674 (iii) risk;

675 (iv) reliability;

676 (v) financial impacts on the affected electrical utility; and

677 (vi) other factors determined by the commission to be relevant.

678 (4) The commission may not approve a significant energy resource decision under this
679 section before holding a public hearing.

680 (5) Unless the commission determines that additional time to analyze a significant
681 energy resource decision is warranted and is in the public interest, within [~~180~~] 120 days of the
682 day on which the affected electrical utility files a request for approval, the commission shall:

683 (a) approve the significant energy resource decision;

684 (b) approve the significant energy resource decision subject to conditions imposed by
685 the commission; or

686 (c) disapprove the significant energy resource decision.

687 (6) The commission shall include in its order under this section:

688 (a) findings as to the total projected costs for construction or acquisition of an
689 approved significant energy resource; and

690 (b) the basis upon which the findings described in Subsection (6)(a) are made.

691 (7) Notwithstanding any other provision of this part, an affected electrical utility may
692 acquire a significant energy resource without obtaining approval pursuant to this section if it
693 obtains a waiver of the requirement for approval in accordance with Section 54-17-501.

694 (8) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
695 commission shall make rules regarding the process for approval of a significant energy
696 resource decision under this section.

697 Section 13. Section **54-17-303** is amended to read:

698 **54-17-303. Cost recovery.**

699 (1) (a) Except as otherwise provided in this section, if the commission approves a
700 significant energy resource decision under Section 54-17-302, the commission shall, in a
701 general rate case or other appropriate commission proceeding, include in the affected electrical
702 utility's retail electric rates the state's share of costs:

703 (i) relevant to the proceeding;

704 (ii) incurred by the affected electrical utility in constructing or acquiring the approved
705 significant energy resource; and

706 (iii) up to the projected costs specified in the commission's order issued under Section
707 54-17-302.

708 (b) (i) The commission shall, in a general rate case or other appropriate commission
709 proceeding, include in the affected electrical utility's retail electric rates the state's share of the
710 incremental cost relevant to the proceeding that were prudently incurred by the affected
711 electrical utility to identify, evaluate, and submit a reasonable benchmark option, whether or
712 not the benchmark option is selected or becomes operational.

713 (ii) A recoverable cost under Subsection (1)(b)(i) shall be included in the affected
714 electrical utility's project costs for the purpose of evaluating the project's cost-effectiveness.

715 (iii) A recoverable cost under Subsection (1)(b)(i) may not be added to the cost or
716 otherwise considered in the evaluation of a project proposed by any person other than the
717 affected electrical utility for the purpose of evaluating that person's proposal.

718 ~~[(b)]~~ (c) Except to the extent that the commission enters an order under Section
719 54-17-304, an increase from the projected costs specified in the commission's order issued
720 under Section 54-17-302 shall be subject to review by the commission as part of a rate hearing
721 under Section 54-7-12.

722 (2) (a) Subsequent to the commission issuing an order described in Subsection (2)(a)(i)
723 or (ii), the commission may disallow some or all costs incurred in connection with an
724 approved significant energy resource decision if the commission finds that an affected
725 electrical utility's actions in implementing an approved significant energy resource decision are
726 not prudent because of new information or changed circumstances that occur after:

727 (i) the commission's approval of the significant energy resource decisions under
728 Section 54-17-302; or

729 (ii) a commission order to proceed under Section 54-17-304.

730 (b) In making a determination of prudence under Subsection (2)(a), the commission
731 shall use the standards identified in Section 54-4-4.

732 (3) Notwithstanding any other provision of this chapter, the commission may disallow
733 some or all of the costs incurred by an affected electrical utility in connection with an approved
734 significant energy resource decision upon a finding by the commission that the affected
735 electrical utility is responsible for a material misrepresentation or concealment in connection
736 with an approval process under this chapter.

737 Section 14. Section **54-17-502** is enacted to read:

738 **54-17-502. Renewable energy source -- Solicitation -- Consultant.**

739 (1) Sections 54-17-102 through 54-17-404 do not apply to a significant energy resource
740 that is a renewable energy source as defined in Section 54-17-601 if the nameplate capacity of
741 the renewable energy source does not exceed 300 megawatts or, if applicable, the quantity of
742 capacity that is the subject of a contract for the purchase of electricity from a renewable energy
743 source does not exceed 300 megawatts.

744 (2) (a) (i) An affected electrical utility shall issue a public solicitation of bids for a
745 renewable energy source up to 300 megawatts in size by January 31 of each year in which it
746 reasonably anticipates that it will need to acquire or commence construction of a renewable
747 energy resource.

748 (ii) A solicitation for a renewable energy source issued by January 31, 2008 for up to
749 99 megawatts satisfies the requirement of this Subsection (2) for the year 2008 if:

750 (A) not later than 30 days after the day on which this section takes effect, the affected
751 electrical utility amends the solicitation or initiates a new solicitation to seek bids for
752 renewable energy source projects up to 300 megawatts in size; and

753 (B) within 60 days after the day on which this section takes effect and as soon as
754 practicable, the commission retains a consultant in accordance with Subsection (3).

755 (b) A consultant hired under Subsection (2)(a)(ii)(B) shall perform the consultant's
756 duties under Subsection (3) in relation to the status of the solicitation process at the time the
757 consultant is retained and may not unreasonably delay the solicitation process.

758 (c) For a solicitation issued after January 31, 2008:

759 (i) the affected electrical utility shall develop a reasonable process for pre-approval of
760 bidders; and

761 (ii) in addition to publicly issuing the solicitation in Subsection (2)(a)(i), the affected
762 electrical utility shall send copies of the solicitation to each potential bidder who is
763 pre-approved.

764 (d) The affected electrical utility shall evaluate in good faith each bid that is received
765 and negotiate in good faith with each bidder whose bid appears to be cost effective, as defined
766 in Section 54-17-602.

767 (e) Beginning on August 1, 2008, and on each August 1 thereafter, the affected
768 electrical utility shall file a notice with the commission indicating whether it reasonably
769 anticipates that it will need to acquire or commence construction of a renewable energy

770 resource during the following year.

771 (3) (a) If the commission receives a notice under Subsection (2)(e) that the affected
772 electrical utility reasonably anticipates that it will need to acquire or commence construction of
773 a renewable energy source during the following year, the commission shall promptly retain a
774 consultant to:

775 (i) validate that the affected electrical utility is following the bidder pre-approval
776 process developed pursuant to Subsection (2)(c) and make recommendations for changes to the
777 pre-approval process for future solicitations;

778 (ii) monitor and document all material aspects of the bids, bid evaluations, and bid
779 negotiations between the affected electrical utility and any bidders in the solicitation process;

780 (iii) maintain adequate documentation of each bid, including the solicitation,
781 evaluation, and negotiation processes and the reason for the conclusion of negotiations, which
782 documentation shall be transmitted to the commission at the conclusion of all negotiations in
783 the solicitation; and

784 (iv) be available to testify under oath before the commission in any relevant proceeding
785 concerning all aspects of the public solicitation process.

786 (b) The commission and the consultant shall use all reasonable efforts to not delay the
787 solicitation process.

788 (4) Documentation provided to the commission by the consultant shall be available to
789 the affected electrical utility, any bidder, or other interested person under terms and conditions
790 and at times determined appropriate by the commission.

791 (5) (a) The commission and the consultant shall execute a contract approved by the
792 commission with terms and conditions approved by the commission.

793 (b) Unless otherwise provided by contract, an invoice for the consultant's services shall
794 be sent to the Division of Public Utilities for review and approval.

795 (c) After approval under Subsection (5)(b), the invoice shall be forwarded to the
796 affected electrical utility for payment to the consultant.

797 (d) The affected electrical utility may, in a general rate case or other appropriate
798 commission proceeding, include, and the Commission shall allow, recovery by the affected
799 electrical utility of any amount paid by the affected electrical utility for the consultant.

800 (6) (a) Nothing in this section precludes an affected electrical utility from constructing

801 or acquiring any renewable energy source project outside the solicitation process provided for
802 in this section, including purchasing electricity from any renewable energy source project that
803 chooses to self-certify as a qualifying facility under the federal Public Utility Regulatory
804 Policies Act of 1978.

805 (b) An affected electrical utility that constructs a renewable energy source outside the
806 solicitation process of this section or Section 54-17-201 shall file a notice with the commission
807 at least 60 days before the date of commencement of construction, indicating the size and
808 location of the renewable energy source.

809 (c) The date of commencement of construction under Subsection (6)(b) is the date of
810 any directive from an affected electrical utility to the person responsible for the construction of
811 the renewable energy source authorizing or directing the person to proceed with construction.

812 (d) For an affected electrical utility whose rates are regulated by the commission, the
813 utility has the burden of proving in a rate case or other appropriate commission proceeding the
814 prudence, reasonableness, and cost-effectiveness of construction under this Subsection (6),
815 including the method used to evaluate the risks and value of any bid submitted in the
816 solicitation under this section.

817 (7) Nothing in this section requires an affected electrical utility to enter into any
818 transaction that it reasonably believes is not cost effective or otherwise is not in the public
819 interest.

820

EXHIBIT B

DRAFT INDEPENDENT EVALUATOR REQUEST FOR PROPOSAL

PacifiCorp's
Request for Proposals (“RFP”)
for
Independent Evaluator for PacifiCorp's
Renewable Request for Proposal

Proposals Due: April 4, 2008
4:00 PM Pacific Standard Time

Issuing Entity: PacifiCorp

Contact: Stacey Kusters

Telephone: (503) 813-5351
Fax: (503) 813-6260

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I. INTRODUCTION:

PacifiCorp is seeking to acquire up to 500 megawatts of renewable resources with a commercial operation date of no later than December 31, 2011 through its 2008R-1 Renewable (“2008R-1”) Request for Proposals (“RFP”). 2008R-1 RFP will solicit system wide (east and west) renewable resources new to the Company’s portfolio and which are capable of delivery in or into PacifiCorp’s network transmission system, or another PacifiCorp prescribed point(s) that enables PacifiCorp to meet its obligations, within the prescribed time period. The 2008R-1 RFP will permit qualified bidders to bid qualifying renewable resources in the form of a Power Purchase Agreement, asset transfer arrangements (such as a Build Own Transfer) or some other form of agreement (such as a full or partial facility lease). The Company will not be submitting cost-based benchmark resources; however, PacifiCorp’s generation group, anticipates submitting one or more self-build ownership alternatives consistent with the process used by third-party bidders and if regulatory treatment of such an alternative, if chosen, is acceptable to the Company. In addition to bidding in renewable resources, bidders will have the option to bid in renewable resources coupled with energy storage. Pumped water, compressed air, battery storage, or other contractual forms that can firm intermittent renewable resources and therefore create an energy resource that can be scheduled to better match customer demand or result in a higher degree of dependability throughout a prescribed time period. The 2008R-1 RFP will request renewable resources located in the Western Electricity Coordinating Council that are compliant with existing or anticipated renewable portfolio standards.

A. Purpose.

The purpose of this solicitation is to assist Public Utility Commission of Oregon (“Commission”) Staff in recommending an Oregon Independent Evaluator (“IE”) for PacifiCorp’s 2008R-1 RFP for the Commission’s consideration. PacifiCorp will contract directly with the Commission-selected IE. (See Attachment B / Draft Copy PacifiCorp Professional Services Contract)

The IE must be independent of the utility and potential bidders, and also be experienced and competent to perform all IE functions identified in the competitive bidding guidelines.

B. Background.

The Commission recently issued updated guidelines on competitive bidding. See Order No. 04-446 at <http://apps.puc.state.or.us/orders/2006ords/06%2D446.pdf>. The 2008R-1 RFP is subject to the updated guidelines. The guidelines are also attached to this RFP as Attachment C. The proceeding is docketed as UM XXXXXX. See <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=12698>.

Guideline No. 7 lays out three criteria for RFP approval: (1) the alignment of the utility’s RFP with its acknowledged Integrated Resource Plan (“IRP”); (2) whether the RFP satisfies the Commission’s competitive bidding guidelines; and (3) the overall fairness of the utility’s proposed bidding process.

Regarding the first criteria, PacifiCorp’s most recently acknowledged IRP is at [Insert Link]. The Commission’s acknowledgment order is at [Insert Link]

Regarding the second and third criteria, Guideline 10 lays out the general role of the IE: “The IE will oversee the RFP process to ensure that it is conducted fairly and properly....” See Guidelines 6, 7, 8, 9, 10, 11 and 13 for the IE’s duties in more detail. Guideline 5 lays out the IE selection and contracting process.

C. Contract Term and Amendments.

The Contract is anticipated to be for an initial term of ten (10) months, with the option to renew on a month to month basis until the IE’s participation in the 2008R-1 RFP process is completed. The IE must be available according to the schedule established by the Commission.

D. Estimated Schedule of Events.

Release Independent Evaluator RFP..... March 21, 2008
Inquiry Deadline..... March 28 , 2008
Inquiry Response Date April 4, 2008
Commission Staff Report recommending IE selection posted at
<http://www.puc.state.or.us/PUC/meetings/index.shtml> April XX, 2008
Commission issues order selecting Oregon Independent
Evaluator and directing PacifiCorp to contract with the selected IE
as soon as reasonably possible.....April XX, 2008

NOTE: All dates are subject to change.

E. OPUC Contacts.

Contact: [Insert Name]

Mailing Address: Public Utility Commission of Oregon
P. O. Box 2148
Salem, OR 97308-2148

Telephone: [Insert Number]

Fax: [Insert Number]

F. Reservation of Rights.

PacifiCorp reserves the right in its sole discretion to:

1. Amend this RFP for any reason or cancel this solicitation without liability if cancellation would be in the public interest;
2. Reject any or all Proposals received in response to this RFP, without liability, if such rejection would be in the public interest. PacifiCorp is not responsible for any costs incurred by Proposer in connection with submitting Proposals, and all Proposers who submit a Proposal do so solely at their own expense;
3. Waive any minor irregularity, informality, or non-conformance with the provisions or procedures set forth in this RFP, and to seek clarification of each Proposal if necessary;
4. Contact any or all references submitted with the Proposal.

G. Solicitation Addenda.

PacifiCorp may revise this RFP prior to the RFP closing date. PacifiCorp will not waive, alter, modify, supplement or amend the terms of this RFP in any manner except by written addenda issued by PacifiCorp in the same manner as the original RFP was advertised. Any purported changes, additions, interpretations or clarifications to the RFP that are issued in any manner other than as described above will not be effective, and Proposer shall not rely upon such information.

H. Proprietary Information.

1. All information submitted by a Proposer will be considered public information unless the Proposer requests that information be treated as confidential, and the information is considered exempt under ORS 192.501 or 192.502. If a Proposer declares any information contained in its bid submittal to be confidential, the Proposer must specifically identify those sections containing as "Confidential Information" and briefly explain how and why the information is exempt from disclosure to the public pursuant to ORS 192.501 or 192.502. Specifically, any documents submitted and any documents exchanged between the parties that contain Confidential Information shall be marked on the outside as containing Confidential Information, and each page upon which Confidential Information appears must be marked as containing Confidential Information. The Confidential Information should be clearly identifiable to the reader wherever it appears.

All copies submitted, as well as the original proposal, must be marked in this manner. The request must also include the name, address, and telephone number of the person authorized by the Proposer to respond to any inquiries by PacifiCorp concerning the confidential status of the materials. PacifiCorp agrees to treat such information as confidential and to submit such information to the Commission, or commissions, and other parties pursuant to a protective order.

2. In addition, Proposer agrees that certain Commission-authorized entities must be allowed to review such materials.

II. SCOPE OF WORK:

A. Deliverables

1. IE Assessment of RFP Design

Due two weeks after PacifiCorp files its final draft RFP. See Guideline 6. The assessment should take into account the Commission's goals (page 2 of the order) and the three criteria for RFP approval (Guideline 7) and specifically address Guidelines 6, 7, 8, 9, 10, 11 and 13, as well as issues raised by parties in UM [Insert Docket Number]. The assessment should address the evaluation criteria, methods and computer models as well as the pro forma contracts included with the 2008R-1 RFP. The assessment also should review the adequacy, accuracy and completeness of all solicitation materials to ensure compliance with the Commission's competitive bidding order and consistency with accepted industry standards and practices.

2. Status Reports – To be filed with the Commission:

- i. Twenty-one calendar days after bidder eligibility screening is completed, noting any unresolved issues that could impair the equity or appropriateness of the solicitation process and including issues which are raised at the pre-bid conference.
- ii. Twenty-one calendar days after PacifiCorp selects its initial short-list, detailing the results of PacifiCorp's initial screening evaluation. Include a description of the bids and provide an assessment of the company's selection of the initial short-list, including rationale for eliminating bids. This status report will be provided to the Commission under seal or on a highly confidential basis.

3. IE Closing Report

Due 21 calendar days after PacifiCorp has selected the final short-list of bids (before any acknowledgment proceeding on the final short-list of bids). As part of the Closing Report, the IE will make its detailed bid scoring and evaluation results available to the utility, Commission staff and non-bidding parties in UM [Insert Docket Number] subject to the terms of a protective order. See Guideline

11. The Closing Report will provide the IE's detailed assessment of the company's selection of the final short-list of bids, including all aspects of the solicitation process and the IE's involvement, observations, conclusions and recommendations. The reasons and basis for a) ranking bids and Benchmark Resources, b) selecting a market bid or Benchmark Resource, and c) rejecting proposals or Benchmark Resources are to be fully detailed in the Closing Report.

The Closing Report will also include an analysis of whether or the extent to which: 1) the resources selected minimize long-term costs for PacifiCorp's retail customers taking into consideration overall system costs and risks, 2) the solicitation process was fair, 3) PacifiCorp's ownership options were considered and evaluated consistent with the Commission's competitive bidding guidelines, 4) screening factors and weights were applied consistently and comparably to all market bids and ownership options, 5) credit and security requirements, liquidated damages provisions, warranties and other similar requirements were appropriately applied to bid evaluation and appropriately affected the outcome of the solicitation process, 6) all reasonably available data and information necessary in order for a potential bidder to submit a bid was provided, 7) the IE was provided with or given access to all data, information and models relevant to the solicitation process in order to permit full and timely scoring, testing and verification of assumptions, models, inputs, outputs, and results, 8) confidentiality claims and concerns between the IE and PacifiCorp were resolved in a manner that preserved confidentiality as necessary, yet permitted dissemination and consideration of all information reasonably necessary for the bidding process to be conducted fairly and thoroughly, and 9) the evaluation was performed consistent with Commission-approved competitive bidding guidelines.

The report also will include results from tasks listed below and from Guidelines 10(d) and 10(e) of Order No. 06-446:

a. Scores for bids – The IE's independent scoring of all or a sample of the bids, including PacifiCorp's ownership options, to determine whether the selections for the initial and final short-lists are reasonable.

b. Evaluation of risks and disadvantages of ownership options - The IE's independent evaluation of the unique risks and advantages associated with the ownership options, including the regulatory treatment of costs or benefits related to actual construction cost and plant operation differing from what was projected for the RFP.

c. Comparison of utility and IE scores – Comparison between PacifiCorp's and the IE's scoring and evaluation of the competing bids and ownership options, following a meeting(s) with PacifiCorp to attempt to reconcile and resolve any scoring differences. Include an explanation of the reconciliation process and any remaining differences.

In the Closing report, the IE will be required to disclose any conflict of interest regarding any of the actual bidders.

B. Other Activities*

1. Confer with Commission Staff as needed on the IE's duties - See Guideline 5. May be performed in-person, by phone or by e-mail.
2. In consultation with Commission Staff, participate in additional meetings with parties, hosted by Staff, related to final short-list selection or any request for acknowledgment of final short-list.
3. Participate in the pre-bid conference (anticipated 15 days after RFP issuance) and make a presentation to communicate the IE role in the process. Participate in any additional pre-bid conferences.
4. Review PacifiCorp's screening process for bidder eligibility.
5. Participate in a Commission public meeting (if any) to review the Commission's decision on RFP approval, based on the IE's assessment of the Renewable RFP design.
6. Monitor all aspects of the solicitation process through the acknowledgment process for the final short-list of bids, including the following:
 - i. Submission of detailed scores for ownership options to the IE and Commission prior to the opening of bidding
 - ii. Bidder eligibility screening
 - iii. Communications between Proposer and PacifiCorp before and after proposals are due
 - iv. Any requested bidder updates (along with any updates to ownership options)
 - v. Any RFP amendments issued by PacifiCorp
 - vi. Evaluation and ranking of responses
 - vii. Selection of the initial short-list of bids
 - viii. Selection of the final short-list of bids
7. Audit the evaluation process and validate that evaluation criteria, methods, models, and other solicitation processes have been applied as approved by the Commission and consistently and appropriately applied to all bids and ownership options. Verify assumptions, inputs, outputs and results are appropriate and reasonable.
8. Verify the basis for selection of the initial short-list of bids (See Guideline 9(a))

* Meetings with staff to occur in Salem, Ore.; meetings with PacifiCorp to occur in Portland, Ore.

- i. Verify that the price score is calculated as the ratio of the bid's projected total cost per megawatt-hour to forward market prices, using real-levelized or annuity methods.
 - ii. Verify that the non-price score is based on resource characteristics identified in PacifiCorp's acknowledged IRP Action Plan (e.g., dispatch flexibility, resource term, portfolio diversity, etc.) and conformance to the standard form contracts attached to the RFP. (Note: The utility must allow bidders on the final short-list to negotiate mutually agreeable final contract terms that are different from ones in the standard form contracts. See Guideline 6.)
9. Verify the basis for selection of the final short-list of bids (See Guideline 9(b))
- i. Verify the results of modeling the effect of candidate resources on overall system costs and risks.
 - ii. Verify that the portfolio modeling and decision criteria used to select the final short-list of bids are consistent with the modeling and decision criteria used to develop PacifiCorp's acknowledged IRP Action Plan.
10. Advise PacifiCorp and Commission Staff of any issue that might reasonably be construed to affect the integrity of the solicitation process and provide PacifiCorp an opportunity to remedy the defect identified. Advise Commission Staff of significant changes or unresolved issues as they arise.
11. Independently score the ownership options and all or a sample of the market bids to determine whether the selections for the initial and final short-lists are reasonable. Based on an initial sample of market bids, the IE should use its judgment regarding whether independent scoring of all bids is appropriate, in consultation with Commission staff.
12. Independently evaluate the unique risks and advantages associated with the ownership options, including the regulatory treatment of costs or benefits related to actual construction cost and plant operation differing from what was projected for the RFP.
13. Compare the IE's and PacifiCorp's scoring and evaluation of the competing bids and ownership options and attempt to reconcile and resolve any scoring differences.
14. Participate in Commission proceedings on acknowledgment of the final short-list of bids, if PacifiCorp requests such acknowledgment – See Guideline 13. Participation would include oral comments at a Commission public meeting or hearing.
15. Participate in any additional meetings with parties on request.

III. PACIFICORP'S RFP SCHEDULE TIMELINE

- June 2008 (date TBD) - PacifiCorp issues 2008R-1 RFP

- 15 days from issuance - RFP bidder conference
- 30 days from issuance - Intent to Bid form due
- 75 days from issuance – Bidder responses due
- 150 days from issuance– PacifiCorp’s evaluation is complete
- TBD – Commission consideration of acknowledgment of PacifiCorp’s final short-list of bids
- TBD – PacifiCorp’s negotiations with bidders completed

IV. MANDATORY MINIMUM QUALIFICATIONS:

In the above referenced Order No. 04-446, the Commission directed that the IE must be independent of the utility and potential bidders. The following are minimum requirements that must be demonstrated by Proposers:

- Proposer shall be experienced and competent to perform all IE functions identified in the competitive bidding guidelines.
- Proposer shall disclose all business conducted with PacifiCorp or its affiliates¹, past or present.
- Proposer shall re-confirm, upon receipt of the bidder list, that Proposer has no conflict of interest with any of the bidders or their affiliates.
- Proposer shall disclose any conflict, or potential conflict of interest, that might arise during the course of the project, including any potential bidders in PacifiCorp’s 2008R-1 RFP.
- Proposer shall demonstrate its experience and competence in assessment, evaluation and monitoring related to competitive bidding for electricity supplies.
- The Oregon IE should perform its duties independently of any consultant hired by the Public Service Commission of Utah. However, the Oregon IE should work with Commission Staff and PacifiCorp to coordinate activities for administrative efficiency.

V. PROPOSAL CONTENTS:

Proposer must include the following in the Proposal:

¹ Unless directed by the Commission otherwise, a PacifiCorp “affiliate” shall be limited to MidAmerican Energy Holdings Company and its subsidiaries.

A. Qualifications.

Proposer shall provide all information deemed necessary to fully demonstrate the Proposer's qualifications as required under Article IV.

B. Proposer Staff Organization.

Each Proposal shall explain the Proposer's staff organization and responsibility hierarchy of staff to be assigned to the 2008R-1RFP review. Such assignments and responsibilities shall be broken down and described by task. Proposer shall highlight illustrations of relevant prior experience on similar projects.

C. Required Submittals.

1. Detailed response containing:
 - a. A complete narrative of the Proposer's assessment of the work to be performed, the Proposer's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the Proposer's understanding of performance expectations. Clearly indicate any options or alternatives proposed.
 - b. A specific point-by-point response by task number (e.g., "A1"), in the order listed in the Detailed Scope of Work, to each requirement in the RFP.
 - c. Cost proposal - All-inclusive fixed costs for each task in the Detailed Scope of Work by pricing area, as specified in Attachment A.
2. Qualification and expertise of staff proposed for this project.
3. Experience and competence in assessment, evaluation and monitoring related to competitive bidding for renewable resource supplies. Specifically, experience with assessing and evaluating renewable resources located in the Western Electricity Coordinating Council, including experience with market bids and utility self-build proposals. Such experience should include evaluating power supply alternatives including production cost modeling to evaluate cost and risk.
4. Demonstrated knowledge of existing or anticipated renewable portfolio standards.
5. Work samples demonstrating such expertise and competence, including work samples demonstrating the Proposer's willingness and ability to work independent of utilities and to rigorously review, evaluate and critique utility RFPs for energy resources.
6. Performance references for similar projects.
7. Conflict of interest declaration – Identify any conflict, or potential conflict of interest, that might arise during the course of the project.
8. Disclose any past, current or anticipated future relationship with or work for PacifiCorp, any PacifiCorp affiliate, and any public utility regulatory agency in any of the states served by PacifiCorp. This disclosure should specify the date, nature and scope of any such relationship or work.

Note: An oral presentation by a bidder to clarify a proposal may be required.

D. Cost Proposal Requirements:

The information requested in this section will be used by the PUC to evaluate the reasonableness of the overall project quotation. The Proposer must estimate the major cost categories and hours associated with each task. **As a minimum requirement, each Proposal shall contain the following:**

- Personnel costs, itemized and broken down by: (a) personnel category (i.e. project manager etc.), (b) names of personnel in each category to be used, (c) estimated hours for each task, (d) rates per hour for each person, and (e) subtotal for personnel cost.
- Itemized cost of materials, supplies and copies and a subtotal for these elements.
- Fully itemized transportation and related costs, itemized and broken down by at least: (a) travel, (b) lodging, (c) meals and other costs, and (d) a subtotal for transportation and related costs.

VI. PROPOSAL REQUIREMENTS:

Five copies (5) of each Proposal, one (1) of which must bear the original signature, must be received no later than **4:00 PM Pacific Standard Time on Friday, April 4, 2008**. Proposals received after this time and date will not be accepted. PacifiCorp also requests that a copy be submitted electronically (suggested via PDF in email or on CD).

Proposals shall be addressed as follows:

Stacey Kusters
PacifiCorp
825 NE Multnomah, Suite 600
Portland, OR 97232
Telephone: (503) 813-5351
Fax: (503) 813-6260
Stacey.kusters@pacificorp.com

Each Proposal shall be in the format outlined in this section. Each Proposal shall be submitted prepared on standard 8 1/2 inch by 11 inch recycled paper, duplex printed (2 sided). Each Proposal shall be stapled or bound separately. **THE PROPOSAL MUST BE ORGANIZED IN THE SAME ORDER AS THE INFORMATION IS REQUESTED IN THIS RFP.** PacifiCorp may reject any Proposal that fails to follow these instructions.

VII. SCORING CRITERIA:

From the information submitted in accordance with Article V, Proposal Contents, and client references, the Evaluation Committee (see Article VIII) will score Proposals based upon the following:

A. Understanding of the Scope of Work.

A maximum of one hundred (100) points are assigned to this section. Understanding of the scope of work and the Deliverables that will meet it including, but without limitation:

1. The Proposer's description of the tasks in its Deliverables (50 points)
2. Whether the Proposer appears to have sufficient knowledge and understanding of the functions to be performed. (50 points).

B. Demonstrated Ability of Proposer to Perform the Proposed Work.

A maximum of three hundred (300) points are assigned to this section. Demonstrated training, experience and ability of the Proposer and its individual staff member(s) that will be assigned to the project to perform the proposed work, including, but without limitation:

1. Specific experience reviewing an RFP for renewable resources in the Western Electric Coordinating Council, including experience with evaluating market bids and utility self-build proposals. (200 points)
2. Experience evaluating another type of Electricity Resource RFP or other related experience. (100 points)

C. The Soundness, Professionalism and Feasibility of the Proposer's Methodology.

A maximum of two hundred (200) points are assigned to this section. The soundness, professionalism and feasibility of the methods and techniques which shall include data collection, data analysis, project management and planning.

D. Price Proposal.

A maximum of four hundred (400) points are assigned to this section. The cost of the project, the overall elements of that cost and the overall appropriateness of the cost in relation to the project as proposed. (Attachment A).

1. The cost of the project, the overall elements of that cost. (200 points)

2. The overall appropriateness of the cost in relation to the project as proposed. (200 points)

VIII. PROCESS FOR SELECTION:

A. Evaluation.

1. Initial Review: PacifiCorp and Commission staff will review all Proposals to ensure that all prescribed provisions and procedures have been met. Proposals that do not meet all prescribed Mandatory Qualifications, solicitation procedures and requirements may be rejected and eliminated from the selection process. Proposals meeting the prescribed solicitation procedures and requirements will be forwarded to an Evaluation Committee composed of Commission staff, PacifiCorp and interested non-bidding parties.
2. Evaluation Committee Process: Each member of the Evaluation Committee will independently review and score each Proposal. After each member of the Evaluation Committee has reviewed and scored each Proposal, the Evaluation Committee will meet to discuss their findings and develop consensus scores for each Proposal based on criteria listed above.
3. Scoring: The entity or individual submitting the highest scoring Proposal shall be recommended to the Commission for its consideration.
4. Recommendation to Commission: Staff will issue a Report for the Commission Public Meeting on [Insert Date], with its recommendation for an Oregon IE for PacifiCorp.
5. Commission's ultimate discretion in selecting IE: The Commission will consider staff's recommendation and comments from PacifiCorp, non-bidding parties in selecting the IE, but the ultimate discretion to select an IE lies with the Commission. The Commission will direct PacifiCorp to enter into a contract with the selected IE.

B. Selection Notification.

PacifiCorp will notify every Proposer of its selection status.

IX. CONTRACT INFORMATION:

A. Professional Services Contract.

1. The selected Proposer will be required to enter into a professional services contract with PacifiCorp based on the scope of work described herein and in a form substantially similar to the form attached to

this RFP. Commission Staff will review the draft PacifiCorp Contract prior to execution to ensure that it conforms to this solicitation.

2. The State of Oregon will not be a party to the resulting contract, and will not be responsible for any conflicts that arise between PacifiCorp and the selected IE.

**Attachment A
Scope of Work and Pricing**

Oregon Independent Evaluator for PacifiCorp's 2008R-1 Request for Proposal

Proposer Name: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Pricing for this RFP shall be defined into four areas. Proposer shall provide fixed pricing by area.

ALL PRICING SHALL BE FIXED.

Area One: Independent Evaluator Assessment of PacifiCorp's RFP Design \$ _____
Re: Deliverable A-1

Area Two: Reports, Scores, Evaluations, Presentations \$ _____
Re: Deliverables
A-2 Status Reports
A-3 IE Closing Report
B-1, 2, 3, 5, 8, 9 and 10. Participate in activities, confer with Commission Staff and PacifiCorp, and attend Commission meetings and present information as required.

Area Three Pricing to be calculated based on quantity of bids received by PacifiCorp.

Area Three: PacifiCorp RFP Scoring
Re: Deliverables

- B-4 Review Bidder eligibility screening
- B-6 Monitoring of solicitation process
- B-7 Audit evaluation process
- B-11 Independently score market bids and ownership options
- B-12 Independently evaluate risks of ownership options
- B-13 Compare IE and PacifiCorp scoring

Quantity of Bids (Provide fixed pricing for each quantity of bids, below)

One to Twenty	\$ _____
Twenty-One to Forty	\$ _____
Forty-One to Sixty	\$ _____
Sixty-One to Eighty	\$ _____
Eighty-One to One hundred	\$ _____

Area Four: A separate cost proposal must be provided for **each** of the following conditional tasks.

- B-14 Participate in Commission proceeding on acknowledgment of final short-list \$ _____
- B-15 Participate in additional meetings with parties (cost per meeting) \$ _____

Pricing will be scored by the Evaluation Committee based on aggregate total of Area One, Area Two, and each item under Area Three and Area Four.

Pricing shall account for 40 % of overall score for each Proposal.

Attachment B

Draft Copy
PacifiCorp Professional Services Contract

PROFESSIONAL SERVICES CONTRACT

**BETWEEN
PACIFICORP
AND
FOR
AT**

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- Exhibit X, Surety Bond
- Exhibit X, Labor and Material Payment Bond
- Exhibit X, Scope of Work
- Exhibit X, Pricing Schedule

PROFESSIONAL SERVICES CONTRACT

BETWEEN

PACIFICORP

AND

FOR

AT

PARTIES

The Parties to this Contract are PACIFICORP (hereinafter "Company") whose address is 825 NE Multnomah Street, Portland, Oregon 97232 and (hereinafter "Consultant") whose address is .

ARTICLE 1. DEFINITIONS

Defined Terms:

Emergency shall be defined as conditions under which, without effecting an immediate repair: life, health or safety would be endangered by operation of the facilities; the facility would be unavailable for commercial use; or the facility could not be operated, or demonstrated to be operating, in compliance with environmental regulations.

Material Adverse Change "MAC" shall mean, with respect to the Consultant, if the Consultant, in the reasonable opinion of Company, has experienced a material adverse change in the ability to fulfill its obligation under this Contract, including, but not limited to, any such change that results in its inability to satisfy ARTICLE, CREDIT REQUIREMENTS, ARTICLE, SECURITY, including any event or circumstance that would give Company the right to terminate for cause pursuant to ARTICLE, TERMINATION FOR CAUSE

Scope of Work shall be defined as .

Service(s) shall mean any labor, skill or advice provided to Company pursuant to this Contract.

Subcontractor shall mean any individual, firm, partnership, corporation or contractor, at any tier, having an agreement with Consultant to perform a portion of Consultant's obligations under this Contract.

Work as used herein, shall mean all obligations, duties, requirements, and responsibilities required for the successful completion of the Contract by Consultant, including furnishing of all products and/or Services (supervision, labor, materials, equipment and other supplies, etc., in addition to obtaining all licenses and permits), in accordance with the terms and conditions set forth herein and inclusive of those detailed herein.

Workers' Compensation Laws shall be defined as the statutory requirements of the state and/or federal regulations (e.g., FELA, USL&H, Jones Act) where the Work is to be performed.

Work Site shall mean the location or locations where the Work is to be performed or Service is to be provided.

ARTICLE 2. DESCRIPTION OF WORK

Consultant shall perform the Work as required in Exhibit A, "Scope of Work", attached hereto and by this reference incorporated herein.

Except as otherwise provided in this Contract, Consultant shall furnish all supervision, labor, equipment, and materials, and shall obtain all licenses and permits required for the performance of such Work. Consultant shall also be solely responsible for the means, methods, and procedures of performing the Work.

ARTICLE 3. PERIOD OF PERFORMANCE

Time is of the essence. Consultant shall commence performance on _____ and shall complete the Work no later than _____.

ARTICLE 4. CONSIDERATION AND PAYMENTS

As full consideration for the satisfactory performance of Consultant's obligations under this Contract, Company will pay Consultant within thirty (30) calendar days upon receipt of invoice in strict accordance with Exhibit B "Pricing Schedule", attached hereto and by this reference incorporated herein.

Consultant shall submit an invoice for payment for Services received under this Contract. All invoices shall reference the applicable Contract number. Company will pay all undisputed invoice amounts within thirty (30) calendar days of receipt of a proper invoice and Company's acceptance of the Work.

All invoices shall be addressed as follows:

PacifiCorp
Attn: _____

INVOICES WHICH DO NOT CONTAIN THE ABOVE INFORMATION, OR ARE NOT
ADDRESSED AS ABOVE, MAY CAUSE PAYMENT DELAY.

Company may offset any such payment to reflect amounts owing from Consultant to Company or its subsidiaries pursuant to this Contract or any other agreement between the parties or otherwise. In addition, Company may withhold all payments otherwise due Consultant until such time as Consultant has provided the Letter of Credit required by this Contract.

Upon request by Company, Consultant shall also provide lien and claim releases executed by Consultant, its Subcontractors and their suppliers through the date of each invoice submitted.

ARTICLE 5. TAXES

The consideration as stated in ARTICLE, CONSIDERATION AND PAYMENTS includes all taxes to be borne by Company arising out of Consultant's performance hereunder including, without limitation, sales, use, and value-added taxes. State and local sales and use taxes shall be stated separately and shown on all invoices as a separate line item. Upon request of Company, Consultant shall promptly provide to Company evidence of payment of all state and local sales, use, and value-added taxes.

ARTICLE 6. ACCOUNTING AND AUDITING

Consultant shall keep accurate and complete accounting records in support of all cost billings and claims to Company in accordance with generally recognized accounting principles and practices. Company, or its audit representatives, shall have the right at any reasonable time or times to examine, audit and copy the records, vouchers, and their source documents which serve as the basis for compensation other than pricing elements which are fixed in amount by this Contract. Such documents shall be available for examination, audit, and copying for three (3) years after the completion or termination of this Contract.

Consultant shall assist Company with preparing necessary audit material and will allow Company to review any work papers prepared by independent auditors as allowed by professional standards.

Audit findings by Company's representative will be considered to be final and conclusive on Consultant for the period audited. Any over collections shall be returned to Company within thirty (30) calendar days from date of notice of overcharge.

ARTICLE 7. CREDIT REQUIREMENT

Consultant shall meet the requirements of any one or more of clause (i), clause (ii), or clause (iii) below: (i) Consultant maintains a senior unsecured debt rating from Standard & Poor's of BBB- or better; (ii) if Consultant has no debt rating, Consultant meets ALL of the following credit standards: a) tangible net worth ten (10) times the

projected maximum exposure under this Contract, b) no change in the condition of its earnings, net worth, or working capital over the last 24 months which would reasonably be anticipated to impair the Consultant's ability to meet its obligations under this Contract, and c) Consultant is not in default under any of its other agreements and is current on all of its financial obligations; or (iii) Consultant posts security under ARTICLE, SECURITY.

If requested by Company, Consultant shall within thirty (30) calendar days provide Company with copies of its most recent annual and quarterly financial statements prepared in accordance with generally accepted accounting principles.

ARTICLE 8. SECURITY

From time to time, Consultant shall provide Company with security against defaults by Consultant under this Contract in such form and amount as may be reasonably required by Company ("Default Security"), and pursuant to such additional agreements or instruments as may be reasonably required by Company, including, but not limited to letters of credit, third party guaranty, escrow accounts, labor and material payment bond, surety bonds, and step-in rights. Company may at any time, or pursuant to a request by Consultant, recalculate the amount of Default Security required pursuant to this paragraph, in which case Company shall increase or decrease the existing amount of Default Security, as appropriate, to conform the new requirements. At no time shall the amount of Default Security to which Company is entitled pursuant to this paragraph be less than Company's "Net Replacement Costs", as calculated pursuant to ARTICLE, SECURITY.

If this Contract is terminated as a result of Consultant's default, Consultant shall pay Company the positive difference, if any, obtained by subtracting the Contract Value from the Replacement Price for any Work that Consultant was otherwise obligated to provide during the remaining term of this Contract plus compensation for additional managerial and administrative services and such other costs and damages as Company may suffer as a result of Consultant's breach ("Net Replacement Cost"). Amounts owed by Consultant pursuant to this paragraph shall be due within five (5) business days after any invoice from Company for the same.

If required by Company, Consultant shall submit to Company a Letter of Credit in an amount to be determined by Company. The terms of the Letter of Credit shall conform to the attached Exhibit C "Company's Letter of Credit Terms and Conditions" as well as the requirements of this Contract and be issued by a bank satisfactory to Company. This Letter of Credit shall provide for payment to Company of the Letter of Credit face value if Consultant defaults under the terms of this Contract.

The Company shall have the right to call the entire amount of the Letter of Credit if Consultant has not renewed the Letter of Credit within thirty (30) calendar days of its expiration.

Consultant's expenses of complying with this Letter of Credit requirement shall be paid by the Consultant.

Other forms of security will be provided in the full amount of the Contract value or Net Replacement Cost value whichever is greater.

ARTICLE 9. WITHHOLDING PAYMENT

Company may, without limiting any other rights or remedies Company may have, withhold from payments sufficient amounts which, in the opinion of Company, reflect the reasonable cost to repair or replace unsatisfactory Work or the value of any claim against Company which Consultant has failed to settle pursuant to its indemnity contained herein. Company may also retain from any payment sufficient funds to discharge any delinquent accounts of Consultant for which liens on Company's property have been or can be filed, and Company may at any time pay therefrom for Consultant's account such amounts as are, in the opinion of Company, due thereon, including any sums due under any federal or state law.

ARTICLE 10. DESIGNATED REPRESENTATIVE AND NOTICES

Prior to commencement of the Work, each party shall designate a representative authorized to act in its behalf and shall advise the other party in writing of the name, address, and telephone number of such designated representative, and shall inform the other party of any subsequent change in such designation. All communications relating to the day-to-day activities under this Contract shall be exchanged between such designated representatives. Either party may change the identity or address of its designated representative by giving the other party written notice of such change.

Any notice by either party to the other shall be delivered to the office of the designated representative of the other party, or, if deposited in the mail, properly stamped with the required postage and addressed to the office of such representative.

If to Company:

If to Consultant:

Attn: _____
Telephone: _____

Attn: _____
Telephone: _____

ARTICLE 11. SAFETY AND SITE REGULATIONS

Consultant shall be solely responsible for being aware of and initiating, maintaining, and supervising compliance with all safety laws, regulations, precautions, and programs in connection with the performance of this Contract. Consultant shall also make itself aware of and adhere to the Company Work Site regulations, if any, including, without limitation, environmental protection, loss control, dust control, safety, and security.

ARTICLE 12. EXAMINATION OF WORK AND PROGRESS REPORTS

Consultant shall submit periodic progress reports as requested by Company. Company, its agent or representatives, may visit Consultant's office at any reasonable time to determine status of ongoing Work required by this Contract.

All Work will be subject to examination at any reasonable time or times by Company, which shall have the right to reject unsatisfactory Work. Neither examination of Work nor the lack of same nor acceptance of the Work by Company nor payment therefore shall relieve Consultant from any of its obligations under this Contract.

ARTICLE 13. PROFESSIONAL RESPONSIBILITY

Consultant shall perform the Work using the standards of care, skill, and diligence normally provided by a professional in the performance of similar Services, and shall comply with all codes and standards applicable to the Work.

In the event of Consultant's failure to do so, Consultant shall, upon notice by Company, promptly reperform the Work and correct the defect at Consultant's sole cost. Consultant's obligation to correct and reperform its Work shall be in addition to, and not in lieu of, any other right that Company may have.

ARTICLE 14. CHANGES

Company may at any time in writing require changes and/or additions within the general scope of this Contract or any amendment hereto, direct the omission of or variation in Work, or alter the schedule. If such direction results in a material change in the amount or character of the Work, an equitable adjustment in the Contract price and other such provisions of this Contract as may be affected shall be made and this Contract shall be modified in writing accordingly. Any claim by Consultant for an adjustment under this Article shall be processed in accordance with the provisions of ARTICLE, CLAIM NOTICE AND RESOLUTION PROCEDURE.

No change shall be binding upon Company until a change order is executed by an authorized procurement representative of Company which EXPRESSLY STATES THAT IT CONSTITUTES A CHANGE ORDER TO THIS CONTRACT. THE ISSUANCE OF INFORMATION, ADVICE, APPROVALS, OR INSTRUCTIONS BY ANYONE OTHER THAN THE AUTHORIZED COMPANY PROCUREMENT REPRESENTATIVE SHALL NOT CONSTITUTE AN AUTHORIZED CHANGE ORDER PURSUANT TO THIS ARTICLE.

Nothing contained in this paragraph shall excuse Consultant from proceeding with the prosecution of the Work in accordance with the Contract.

ARTICLE 15. WORKERS' COMPENSATION

Consultant shall comply with all applicable Workers' Compensation Laws and shall furnish proof thereof satisfactory to Company prior to commencing Work.

All Workers' Compensation policies shall contain provisions that the insurance companies will have no right of recovery or subrogation against the Company, its parent, divisions, affiliates, subsidiary companies, co-lessees, or co-venturers, agents, directors, officers, employees, servants, and insurers, it being the intention of the parties that the insurance as effected shall protect all parties.

ARTICLE 16. INSURANCE

Without limiting any liabilities or any other obligations of Consultant, Consultant shall, prior to commencing Work, secure and continuously carry with insurers having an A.M. Best Insurance Reports rating of A-:VII or better the following insurance coverage:

Employers' Liability insurance with a minimum single limit of \$1,000,000.

Commercial General Liability insurance. The most recently approved ISO policy, or its equivalent, written on an Occurrence Basis, with limits not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate (on a per location and/or per job basis) Bodily Injury and Property Damage, including the following coverages:

- a. Premises and Operations Coverage
- b. Independent Contractor's Coverage
- c. Contractual Liability
- d. Products and Completed Operations Coverage
- e. Coverage for explosion, collapse, and underground property damage
- f. Broad Form Property Damage Liability
- g. Personal Injury Liability, with the contractual exclusion removed
- h. Sudden and Accidental Pollution Liability, as appropriate

Business Automobile Liability insurance. The most recently approved ISO policy, or its equivalent, with a minimum single limit of \$1,000,000 for bodily injury and property damage including Sudden and Accidental Pollution Liability as appropriate, with respect to Consultant's vehicles whether owned, hired or non-owned, assigned to or used in the performance of the Work.

Professional Liability insurance covering damages arising out of negligent acts, errors, or omissions committed by Consultant in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Consultant shall maintain this policy for a minimum of two (2) years after completion of the Work or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of Services under this Contract and caused by any error, omission, breach or negligent act for which the Consultant is held liable.

Umbrella Liability insurance with a minimum limit of \$5,000,000 each occurrence/aggregate where applicable to be excess of the coverages and limits required in Employers' Liability insurance, Commercial General Liability insurance and Business Automobile Liability insurance above. Consultant shall notify Company, if at any time their full umbrella limit is not available during the term of this Contract, and will purchase additional limits, if requested by Company

Except for Employers' Liability, Business Automobile Liability and Professional Liability insurance, the policies required herein shall include provisions or endorsements naming Company, its officers, directors, agents, and employees as additional insureds.

To the extent of Consultant's negligent acts or omission, all policies required by this Contract shall include provisions that such insurance is primary insurance with respect to the interests of Company and that any other insurance maintained by Company is excess and not contributory insurance with the insurance required hereunder, provisions that the policy contain a cross liability or severability of interest clause or endorsement, and provisions

that such policies not be canceled or their limits of liability reduced without 1) ten (10) calendar days prior written notice to Company if canceled for nonpayment of premium, or 2) thirty (30) calendar days prior written notice to Company if canceled for any other reason. All required insurance policies shall not contain any provisions prohibiting waivers of subrogation. A certificate in a form satisfactory to Company certifying to the issuance of such insurance shall be furnished to Company. Commercial General Liability coverage written on a "claims-made" basis, if any, shall be specifically identified on the certificate.

Commercial General Liability insurance coverage provided on a "claims-made" basis shall be maintained by Consultant for a minimum period of five (5) years after the completion of this Contract and for such other length of time necessary to cover liabilities arising out of the Work.

ARTICLE 17. INDEMNIFICATION

Consultant specifically and expressly agrees to indemnify, defend, and hold harmless Company and its officers, directors, employees and agents (hereinafter collectively "Indemnitees") against and from any and all claims, demands, suits, losses, costs and damages of every kind and description, including attorneys' fees and/or litigation expenses, brought or made against or incurred by any of the Indemnitees resulting from or arising out of any negligence or wrongful acts of Consultant, its employees, agents, representatives or Subcontractors of any tier, their employees, agents or representatives in the performance or nonperformance of Consultant's obligations under this Contract or in any way related to this Contract. The indemnity obligations under this Article shall include without limitation:

- a. Loss of or damage to any property of Company, Consultant or any third party;
- b. Bodily or personal injury to, or death of any person(s), including without limitation employees of Company, or of Consultant or its Subcontractors of any tier; and
- c. Claims arising out of Workers' Compensation, Unemployment Compensation, or similar such laws or obligations applicable to employees of Consultant or its Subcontractors of any tier.

The invalidity, in whole or part, of any of the foregoing paragraphs will not affect the remainder of such paragraph or any other paragraph in this Article.

Consultant's indemnity obligation under this Article shall not extend to any liability caused by the sole negligence of any of the Indemnitees.

ARTICLE 18. CONSEQUENTIAL DAMAGES

IN NO EVENT SHALL COMPANY BE LIABLE FOR CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES, INCLUDING LOST PROFITS OR LOST GOODWILL, WHETHER ARISING FROM CONTRACT OR NEGLIGENCE.

ARTICLE 19. CONSULTANT'S PERSONNEL/DRUGS, ALCOHOL AND FIREARMS

Consultant shall employ in the performance of the Work only persons qualified for the same. Consultant shall at all times enforce strict discipline and good order among its employees and the employees of any Subcontractor of any tier. Consultant shall not permit or allow the introduction or use of any firearms, illegal drugs or intoxicating liquor upon the Work under this Contract, or upon any of the grounds occupied, controlled, or used by Consultant in the performance of the Work. Consultant shall immediately remove from the Work, whenever requested by Company, any person considered by Company to be incompetent, insubordinate, careless, disorderly, in violation of the above restriction on firearms, illegal drugs or intoxicating liquor, or under the influence of illegal drugs or intoxicating liquor, and such person shall not again be employed in the performance of the Work herein without the consent of Company.

ARTICLE 20. LABOR

Consultant shall be aware of, and familiar with, all collective bargaining agreements, which do or may pertain to or affect the Work under this Contract or other work at the Work Site. Consultant shall plan and conduct its operations so that its employees and Subcontractors of any tier will work harmoniously with Company employees and other workers employed on the same or related projects to assure that there will be no delays, work stoppages, excessive labor costs, or other labor difficulties.

ARTICLE 21. PROTECTION OF EXISTING FACILITIES

Consultant shall protect existing equipment and facilities, and avoid interference with Company's operations.

Consultant shall not remove or alter any part of the existing structures, equipment, or facilities without the prior knowledge and consent of Company.

ARTICLE 22. PROGRESS MEETINGS

Company will conduct weekly, or at other regular intervals as agreed by both parties, meetings with Consultant to inspect facilities and discuss any unusual conditions or critical items which have affected or could affect the Work.

ARTICLE 23. LAWS AND REGULATIONS

Consultant shall at all times comply with all applicable laws, statutes, regulations, rules, ordinances, codes, and standards, including without limitation, those governing wages, hours, desegregation, employment discrimination, employment of minors, health, and safety. Consultant shall comply with equal opportunity laws and regulations to the extent that they are applicable.

Consultant shall indemnify, defend, and hold harmless Company, its officers, directors, employees, and agents from all losses, costs and damages by reason of any violation thereof and from any liability, including without limitation, fines, penalties, and other costs arising out of Consultant's failure to so comply.

ARTICLE 24. INDEPENDENT CONTRACTOR

Consultant is an independent contractor and all persons employed by Consultant in connection herewith shall be employees of Consultant and not employees of Company in any respect.

ARTICLE 25. COOPERATION WITH OTHERS

Consultant shall fully cooperate and coordinate with Company employees and other contractors who may be awarded other work. Consultant shall not commit or permit any act which will interfere with the performance of Work by Company employees or other contractors. To the extent Consultant has a claim as a result of the interference or lack of cooperation by another contractor, Consultant's sole remedy shall be against the other contractor.

ARTICLE 26. LIENS

Consultant shall 1) indemnify, defend, and hold harmless Company from all laborers', materialmen's, and mechanics' liens, or claims made or filed upon the Work, or the property on which the Work is located on account of any Work or Service performed or furnished by Consultant's Subcontractors of any tier and all laborers, materialmen, mechanics, and other persons in connection with the Work, and 2) keep the Work and said property free and clear of all liens or claims arising from the performance of any Work covered by this Contract by Consultant, its Subcontractors of any tier, and all laborers, materialmen, mechanics, and other such persons.

If any lien arising out of this Contract is filed before or after Work is completed, Consultant, within ten (10) calendar days after receiving from Company written notice of such lien, shall obtain release of or otherwise satisfy such lien. If Consultant fails to do so, Company may take such steps and make such expenditures as in its discretion it deems advisable to obtain release of or otherwise satisfy any such lien or liens, and Consultant shall upon demand reimburse Company for all costs incurred and expenditures made by Company in obtaining such release or satisfaction.

Consultant's obligation to indemnify, defend, and hold harmless Company from liens shall not in any way be rendered unenforceable, or altered, amended, eliminated or otherwise conditioned by any laws and regulations related to processing such liens. Company shall have no obligation to deliver a copy of any notice of claim or right to a lien to Consultant or any other person or entity.

ARTICLE 27. CONFLICTS, ERRORS, OMISSIONS, OR DISCREPANCIES IN CONTRACT DOCUMENTS

Consultant shall advise Company in writing of all conflicts, errors, omissions, or discrepancies among the various documents comprising this Contract immediately upon discovery and prior to Consultant's performing the affected Work. Company shall resolve such conflicts and such resolution shall be final. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be considered as if shown or mentioned in both.

ARTICLE 28. CLAIM NOTICE AND RESOLUTION PROCEDURE

In the event Consultant has a claim or request for a time extension, additional compensation, any other adjustment of the Contract terms, or any dispute arising out of the Work (hereinafter "Claim"), Consultant shall notify Company in writing within five (5) business days following the occurrence of the event giving rise to the Claim. Consultant's failure to give notice as required will constitute a waiver of all of Consultant's rights with respect to the Claim.

As soon as practicable after Claim notification, Consultant shall submit the Claim to Company with all supporting information and documentation. Consultant shall also respond promptly to all Company inquiries about the Claim and its basis.

Any Claim, which is not disposed of by mutual agreement between the parties, shall be decided by Company, which shall provide a written decision to Consultant. Such decision shall be final unless Consultant, within thirty (30) calendar days after such receipt of Company's decision, provides to Company a written protest, stating clearly and in detail the basis thereof. It is agreed that Consultant's failure to protest Company's decision shall constitute a waiver by Consultant of its Claim. Even if a Claim arises, Consultant shall continue its performance of this Contract.

ARTICLE 29. SUSPENSION OF WORK

Company may, by written notice, direct Consultant to suspend performance of any or all of the Work for a specified period of time. Upon receipt of such notice to suspend, Consultant shall 1) discontinue Work, 2) place no further orders or subcontracts, 3) suspend all orders and subcontracts, 4) protect and maintain the Work, and 5) otherwise mitigate Company's costs and liabilities for those areas of Work suspended.

ARTICLE 30. TERMINATION FOR CONVENIENCE

Company may terminate this Contract at any time without cause prior to its completion by sending to Consultant written notice of such termination. Upon such termination, Company will pay to Consultant an equitable amount for all Work satisfactorily performed by Consultant as of the date of termination. Company shall not be liable for anticipated profits based upon Work not yet performed.

ARTICLE 31. TERMINATION FOR CAUSE

1. For purposes of this Contract, a material default by Consultant shall be the occurrence of any of the following:
 - a. A breach by Consultant of any of its material obligations under this Contract, if such breach continues uncorrected for a period of ten (10) calendar days after receipt of written notice from Company, unless such breach cannot by its nature be remedied within such period in which event Consultant shall provide evidence reasonably satisfactory to Company within ten (10) calendar days after receipt of such notice that such breach will be corrected or that Consultant is making reasonable progress to that end. For purposes of the Contract, a material default by Consultant shall be deemed to include, without limitation, Consultant's refusal or neglect to supply sufficient and properly skilled workmen, materials of the proper quality or quantity, or equipment necessary to perform the Work described in this Contract properly, or Consultant's failure in any respect to prosecute the Work described in this Contract or any part thereof with promptness, diligence, and in accordance with all of the material provisions hereof;
 - b. A determination that any representation, statement, or warranty made by Consultant in this Contract, the Consultant's proposal, or any other statement, report, or document which Consultant is required to furnish to Company was false or misleading in any material respect;
 - c. The filing by or against Consultant of a proceeding under any bankruptcy or similar law, unless such proceeding is dismissed within thirty (30) calendar days from the date of filing; the making by Consultant of

any assignment for the benefit of creditors; the filing by or against Consultant for a proceeding for dissolution or liquidation, unless such proceeding is dismissed within thirty (30) calendar days from the date of filing; the appointment of or the application for the appointment of a receiver, trustee, or custodian for any material part of Consultant's assets unless such appointment is revoked or dismissed within thirty (30) calendar days from the date thereof; the attempt by Consultant to make any adjustment, settlement, or extension of its debts with its creditors generally; the insolvency of Consultant; the filling or recording of a notice of lien or the issuance or the obtaining of a levy of execution upon or against a material portion of Consultant's assets, unless such lien or levy of execution is dissolved within thirty (30) calendar days from the date thereof.

- d. A Material Adverse Change has occurred with respect to Consultant and Consultant fails to provide such performance assurances as are reasonable requested by Company, including, without limitation, the posting of additional "Security" pursuant to ARTICLE, SECURITY.
2. Upon the occurrence of a breach or material default specified in this ARTICLE, TERMINATION FOR CAUSE hereof, Company shall have the right to terminate this Contract for cause.
3. Upon the occurrence of any such material default, following the applicable process described in this ARTICLE, TERMINATION FOR CAUSE, Company shall be entitled upon written notice to Consultant and without notice to Consultant's sureties and without limiting any of Company's other rights or remedies, to terminate this Contract or to terminate Consultant's right to proceed with that portion of the Work affected by any such material default.
4. Upon termination of this Contract or any portion of this Contract upon a material default by Consultant, Company shall be entitled to pursue any and all rights and remedies that it may have against Consultant under this Contract or at law or in equity.
5. Upon receipt of any such written notice of termination of the entire Contract or of any right to proceed with any portion of the Work following the applicable process described in this ARTICLE, TERMINATION FOR CAUSE, Consultant shall, at its expense, for that portion of the Work affected by any such termination;
 - a. Assess the status of any Service still due and preserve any Work performed; and
 - b. To the extent that they are assignable, assign to Company any and all subcontracts and equipment rental agreements as designated in writing by Company.

In the event of such termination, Company may, for the purpose of completing the Work or enforcing these provisions, take possession of all equipment, tools, appliances, documentation, software source media, flow charts, documents and deliverables at the Company's Work Site belonging to or under the control of Consultant, and may use them or may finish the Work by whatever method it may deem expedient including the hiring of another contractor or contractors under such form of agreement as Company may deem advisable while still maintaining their obligation to mitigate damages, or Company may itself provide any labor or materials and perform any part of the Work. Notwithstanding anything to the contrary contained herein, Company may not take possession of or use trade secrets proprietary to any of Consultant's suppliers or Subcontractors unless Consultant has the right pursuant to its agreement with such suppliers or Subcontractors to grant such rights to Company. Consultant shall cooperate with and assist Company in attempting to acquire from Consultant's suppliers and Subcontractors the right to take possession of and use any and all such trade secret materials in the event of such termination. All trade secrets proprietary to Consultant shall remain subject to the provisions herein, and Company shall not have any broader rights to use or disclose such trade secrets as a result of such termination. Any software embodying any of Consultant's trade secrets shall also be subject to the provisions herein. In the event of such a termination, Consultant shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of Consultant's compensation hereunder shall exceed the sum of the expense of finishing the Work plus compensation for additional managerial and administrative services and such other costs and damages as Company may suffer as a result of Consultant's breach, such excess shall be paid to Consultant. If such expense, compensation, costs, and damages exceed such unpaid balance, Consultant and its sureties, if any, shall be liable for and shall pay, the excess cost to cover Company to a maximum of forty (40) percent of the total Contract value. Failure of Company to exercise any of its rights hereunder shall not excuse Consultant from compliance with the provisions of the Contract nor prejudice rights of Company to recover damages for such material default.

ARTICLE 32. DELAYS

Force Majeure. Neither party shall be liable for delays due to strikes or other labor disturbances which are not (a) restricted to the Work Site, or other location where the obligations under this Contract are being performed and (b) attributable to the actions of the party claiming the Force Majeure, fire, riots, acts of God, acts of the public enemy, or other similar unforeseeable cause beyond the control and without the fault or negligence of the party incurring such delay; however, both parties agree to seek to mitigate the potential impact of any such delay. Any Force Majeure delay shall not be the basis for a request for additional compensation. In the event of any such delay, the required completion date may be extended for a reasonable period not exceeding the time actually lost by reason of the delay.

Company-Caused Delay. Should Company cause a delay in Consultant's performance and if Company determines the facts justify an extension of time and/or additional compensation and no remaining float time exists in the schedule, this Contract will be so modified. Company may, at its discretion, in lieu of granting an extension of time, require Consultant to regain the schedule whereby Company shall compensate Consultant for all additional costs reasonably incurred thereby. No adjustment under this Article shall be made for any delay to the extent that it is caused or contributed to by Consultant or performance would have been delayed by any other cause, including the fault or negligence of Consultant.

Request For Time Extension. Any request for time extension or additional compensation shall be made in accordance with ARTICLE, CLAIM NOTICE AND RESOLUTION PROCEDURE.

ARTICLE 33. EQUAL EMPLOYMENT OPPORTUNITY AND OTHER NONDISCRIMINATION CLAUSES

Consultant shall at all times comply with all applicable laws, statutes, regulations, rules, ordinances, codes, and standards including, without limitation, those governing wages, hours, desegregation, employment discrimination, employment of minors, health, and safety. Consultant shall comply with equal opportunity laws and regulations to the extent that they are applicable.

Consultant shall indemnify, defend and hold harmless Company, its directors, officers, employees, and agents from all losses, costs, and damages by reason of any violation thereof and from any liability, including, without limitation, fines, penalties, and other costs arising out of Consultant's failure to so comply.

ARTICLE 34. RELEASE OF INFORMATION – ADVERTISING AND PROMOTION

Consultant shall not publish, release, disclose, or announce to any member of the public, press, official body, or any other third party any information concerning this Contract and/or the Work, or any part thereof, without the express prior written consent of Company, except as required by law. Neither the names of Company, nor the Work Site shall be used in any advertising or other promotional context by Consultant without the express prior written consent of Company.

ARTICLE 35. CONFIDENTIAL INFORMATION NONDISCLOSURE

Definition of Confidential Information. As used in this Contract, the term "Confidential Information" means 1) proprietary information of Company, 2) information marked or designated by Company as confidential, 3) information, whether or not in written form and whether or not designated as confidential, which is known to Consultant as being treated by Company as confidential, 4) information provided to Company by third parties which Company is obligated to keep confidential, and 5) information developed by Consultant in connection with the performance of this Contract.

Nondisclosure. Consultant agrees that it will not disclose Confidential Information, directly or indirectly, under any circumstances or by any means, to any third person without the express written consent of Company.

Nonuse. Consultant further agrees that it will not use Confidential Information except as may be necessary to perform the Work called for by this Contract.

Protection. Confidential Information will be made available by Consultant to its employees only on a "need to know" basis and only after notifying such employees of the confidential nature of the information and after having obligated them to the nonuse and nondisclosure obligations of this Contract. Consultant agrees to take all reasonable precautions to protect the confidentiality of Confidential Information and, upon request by Company, to return to Company any documents which contain or reflect such Confidential Information.

Unless waived by Company, Consultant shall require its employees and Subcontractors of any tier to adhere to these confidential information and nondisclosure terms.

ARTICLE 36. OWNERSHIP OF DESIGNS, DRAWINGS AND WORK PRODUCT

All materials prepared or developed hereunder by Consultant or its employees, or Subcontractors or their employees or agents, including documents, calculations, maps, sketches, designs, tracings, notes, reports, data, computer programs, models, and samples shall become the property of Company when prepared, whether delivered to Company or not, and shall, together with any materials furnished Consultant and its employees by Company hereunder, be delivered to Company upon request, and, in any event, upon termination or final acceptance of the Work.

Consultant agrees that all work prepared by it, or its employees, agents, or Subcontractors of any tier, or their employees, under this Contract which is subject to protection under copyright laws constitutes "work made for hire," all copyrights to which belong to Company. In any event, Consultant assigns to Company all intellectual property rights in such work whether by way of copyright, trade secret, or otherwise, and whether or not subject to protection by copyright laws.

Consultant may, upon request to Company and subject to Company's consent, retain copies of such material for furtherance of its professional knowledge.

Should Consultant or its employees, officers, agents, Subcontractors of any tier, or anyone of a like nature originate or develop any trade secret, discovery, improvement, idea, formula, process, or invention (collectively "Invention"), in performance of the Work, such Invention, whether or not patentable and whether or not reduced to practice, shall be disclosed to and shall be the property of Company, and Consultant hereby assigns to Company all of its right, title, and interest in such Invention, and agrees to execute all documents which Company reasonably determines to be necessary or convenient for use in applying for, perfecting or enforcing patents or other intellectual property rights, including, without limitation, the execution of any assignments, patent applications, or other documents which may reasonably be requested by Company.

ARTICLE 37. PATENT AND COPYRIGHT INDEMNITY

Consultant shall indemnify, defend, and hold harmless Company, its directors, officers, employees, and agents against and from all claims, losses, costs, suits, judgments, damages, and expenses, including attorneys' fees, of any kind or nature whatsoever on account of infringement of any patent, copyrighted or uncopyrighted work, including claims thereof pertaining to or arising from Consultant's performance under this Contract. If notified promptly in writing and given authority, information, and assistance, and contingent upon Company not taking any position adverse to Consultant in connection with such claim, Consultant shall defend, or may settle at its expense, any suit or proceeding against Company so far as based on a claimed infringement which would result in a breach of this warranty and Consultant shall pay all damages and costs awarded therein against Company due to such breach.

In case any product, Service, or combination thereof is in such suit held to constitute such an infringement and the use of said product or Service is enjoined, Consultant shall, at its expense and through mutual agreement between the Company and the Consultant, either procure for Company the right to continue using said product or Service, or replace same with a non-infringing product or Service, or modify same so it becomes non-infringing, or remove the product or halt the Service and refund the purchase price and any transportation costs separately paid by Company. If removal renders Work unusable for the purposes hereunder, Consultant shall refund all monies paid for the Work. The foregoing states the entire liability of Consultant for patent infringement relating to products, services, or any combination thereof.

ARTICLE 38. NONEXCLUSIVE RIGHTS

Nothing in this Contract is to be construed as granting to Consultant an exclusive right to provide any or all of the work anticipated herein. The use of Consultant's services is completely discretionary with Company. This Contract shall not be construed in any way to impose a duty upon Company to use Consultant.

ARTICLE 39. ASSIGNMENT

Consultant shall not assign this Contract, or any part hereof, or any rights or responsibilities hereunder without the prior written consent of Company, and any attempted assignment in violation hereof shall be void.

No provision of this Contract shall be construed as limiting Company's right to permit its parent, divisions, affiliates, or subsidiary companies to use or benefit from the Services provided for in this Contract. The Company's parent, divisions, affiliates, or subsidiary companies agree to be bound by the terms and conditions, and applicable appendices or exhibits set forth herein to the extent they utilize this Contract.

ARTICLE 40. SUBCONTRACTS

Consultant shall neither subcontract nor permit any portion of the Work to be subcontracted without the prior written consent of Company; and Consultant shall be fully responsible for the acts or omissions of any Subcontractors of any tier and of all persons employed by them, shall maintain complete control over all such Subcontractors, and neither the consent by Company, nor anything contained herein, shall be deemed to create any contractual relation between the Subcontractors of any tier and Company.

ARTICLE 41. NONWAIVER

The failure of Company to insist upon or enforce strict performance by Consultant of any of the terms of this Contract or to exercise any rights herein shall not be construed as a waiver or relinquishment to any extent of Company's right to assert or rely upon such terms or rights on any future occasion.

ARTICLE 42. SEVERABILITY

Any provisions of this Contract prohibited or rendered unenforceable by law shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Contract.

ARTICLE 43. APPLICABLE LAW AND VENUE

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon. Any litigation between the parties arising out of or relating to this Contract will be conducted exclusively in federal or state courts in the State of Oregon and Consultant consents to jurisdiction by such courts.

ARTICLE 44. ENTIRE AGREEMENT/DOCUMENTS INCORPORATED BY REFERENCE

This Contract and any referenced attachments constitute the complete agreement between the parties. All understandings, representations, warranties, agreements and any referenced attachments, if any, existing between the parties regarding the subject of matter hereof are merged into and superseded by this Contract, which fully and completely expresses the agreement of the parties with respect to the subject matter hereof. Any scope of work, specifications, drawings, schedules or other documents listed in this Contract are incorporated by reference into this Contract.

Company assumes no responsibility for any understanding or representation made by any of its employees, officers, or agents during or prior to the negotiations and execution of this Contract, unless such understanding or representation is expressly stated in the Contract.

The parties intend that the terms and conditions of this Contract, its referenced attachments, and any purchase order or work releases that may be issued relating to this Contract should be complementary with each other; however, in the event of a conflict between the terms and conditions of any purchase order or work releases and those of the Contract, the terms and conditions of the Contract shall take precedence and control over any other correspondence, purchase order or work releases.

ARTICLE 45. EXECUTION AND EFFECTIVE DATE

This Contract has been executed by duly authorized representatives of the parties and shall be effective as of date of execution by the Company.

CONSULTANT:

By: _____
(Signature)

Name: _____
(Type or Print)

Title: _____

(Date Executed)

**COMPANY:
PacifiCorp**

By: _____
(Signature)

Name: _____
(Type or Print)

Title: _____

(Date Executed)

Attachment C

Oregon Public Utility Commission
Competitive Bidding Guidelines
Order No. 06-446

Those goals have guided us well over the years. Therefore, we are making only slight modifications to those 1991 goals. The revised goals are:

1. Provide the opportunity to minimize long-term energy costs, subject to economic, legal and institutional constraints;
2. Complement Oregon's integrated resource planning process;
3. Not unduly constrain utility management's prerogative to acquire new resources;
4. Be flexible, allowing the contracting parties to negotiate mutually beneficial exchange agreements; and
5. Be understandable and fair.

Finally, we agree with Staff that the Request For Proposal (RFP) process is a "means to promote and improve the resource actions identified in the utility's IRP [Integrated Resource Plan] Action Plan." *See*, Staff Reply Comments at 7. Changes occur from the time an Action Plan is acknowledged to when an RFP is released. The changes may be simple, due merely to the passage of time, or dramatic, such as the Western power crisis in 2000. While a utility's Action Plan establishes a roadmap, it is not in the customer's best interest for any utility to march lockstep without any deviation from the plan. We have found that flexibility is important in meeting the goals set out above.

Competitive Bidding Guidelines

After receiving considerable input from the parties, Staff prepared a straw proposal that updated the current competitive bidding process. This proposal was distributed to the parties, who then filed comments regarding the proposal. Staff made some suggested changes to its initial straw proposal in light of parties' comments. These changes are incorporated in Staff's reply comments.

We have considered all of the parties' comments and made our own changes to the straw proposal filed by Staff. In adopting our own, we have reorganized and renumbered the guidelines as originally presented by Staff in its straw proposal. In the following discussion, we will explain the rationale for our guidelines, and address some of the comments filed by the participants. We do not, however, summarize and address all of the comments. The revised competitive bidding guidelines, attached as Appendix A and incorporated herein, take into account the experience we have gained since we adopted the initial guidelines in 1991. While we are adopting a set of guidelines, we have drafted them with both mandatory and permissive language so that the involved utilities will clearly understand our preferences.

We address each as it appears in Appendix A, followed by comment about the specific guideline.

Adopted Bidding Guidelines

1. RFP Requirement: *A utility must issue an RFP for all Major Resource acquisitions identified in its last acknowledged Integrated Resource Plan (IRP). Major Resources are resources with durations greater than 5 years and quantities greater than 100 MW.*

Comment

The definition of Major Resources includes two thresholds: the duration of the resource must be greater than five years, and the resource output must be greater than 100 MW. The parties did not agree on either threshold.

In its straw proposal, Staff recommended a threshold of five years. In general, all parties agree with this threshold except for the utilities. The utilities believe that a ten-year duration is a more appropriate threshold for triggering an RFP, so that they would have the necessary flexibility to pursue mid-term resources. Further, the utilities express concern with regulatory time commitments needed for approval, as well as the time commitment by the utility in completing the RFP process.

As to output, Staff initially recommended a quantity threshold of 50 MW but, in response to the parties' comments, does not oppose a higher threshold. The utilities seek a higher threshold of 100 MW. In addition, PGE argues that the resource output should be defined as MWa rather than MW. PGE contends that MWa ensures that non-dispatchable, intermittent or energy limited resources, such as wind and hydro power, are treated on a comparable basis with other technology types with higher expected capacity factors. RNP and NWECC thought the resource quantity could be increased to 100 MW to accommodate some of the utilities' concerns. RNP, however, opposed PGE's proposed use of MWa, noting such use would allow a utility to acquire wind projects as large as 300 MW without bidding. ICNU and NIPPC support Staff's initial 50 MW threshold, but provide little justification for the lower standard.

We hold that the duration threshold should be five years and the resource output threshold should be 100 MW. While we understand the issues of regulatory time commitments, and the limited exposure to customers of utilities acquiring mid-term resources of five to ten years in duration, we believe that resources greater than five years, with a resource output of more than 100 MW, should undergo a bidding process to ensure obtaining least-cost resources for customers. We will review the practical effects of the duration threshold over the next several years and revise it, if necessary.

Idaho Power raises two concerns not related to the duration or size of these thresholds. First, Idaho Power explains that, unlike other Oregon utilities, its practice is to conduct RFPs on a resource-by-resource basis. Idaho Power hopes to continue this approach, enabling it to preserve the benefits associated with the diversity reflected in the IRP's preferred portfolio. Second, Idaho Power believes that the acquisition of certain large capital-intensive resources, such as a large jointly-owned thermal plant, might not lend itself

to a traditional RFP process because of project complexity, site-specific design and multiple parties which may be involved.

The guideline does not require a utility to conduct an all-resource bid. Accordingly, Idaho Power, or any other utility, may seek competitive bids on a resource-by-resource basis. Furthermore, as to questions on whether an RFP process may not be suitable for the acquisition of certain resources, a utility may seek a waiver of the bidding requirement under the next guideline discussed below.

2. Exceptions to RFP Requirement: *A utility is not required to issue an RFP under the following circumstances:*

- a. Acquisition of a Major Resource in an emergency or where there is a time-limited resource opportunity of unique value to customers.*
- b. Acknowledged IRP provides for an alternative acquisition method for a Major Resource.*
- c. Commission waiver on a case-by-case basis.*

Within 30 days of a Major Resource acquisition under Subsection (a) above, the utility must file a report with the Commission explaining how the requisite conditions have been met for acting outside of the RFP requirement. The report must be served on all the parties and interested persons in the utility's most recent rate case, RFP and IRP dockets.

When requesting a waiver under Subsection (c) above, the utility must file its request with the Commission and serve the request on all parties and interested persons in the utility's most recent general rate case, RFP and IRP dockets. The Commission will issue an order addressing the waiver request within 120 days, taking such oral and written comments as it finds appropriate under the circumstances.

Comment

Staff's straw proposal included an exception to the RFP process in emergencies or when action is needed to take advantage of a time-limited resource opportunity. PacifiCorp contends this waiver should also include similar situations involving "self-build" resources. Staff supports PacifiCorp's proposal. NIPPC does not oppose PacifiCorp's waiver proposal, but questions how a utility self-build resource could ever be utilized in response to an emergency or to take advantage of a time-limited opportunity.

We are cognizant that emergencies arise or specific, time-limited resource opportunities become available, requiring utility action without an RFP process. When those events occur, however, we want to be notified, in some detail, as to why the utility did not use an RFP process for acquiring the Major Resource.

Further, there may be situations, such as that previously discussed under Guideline 1, where a utility decides to ask for a waiver of the RFP process. We are

committed to resolving such requests quickly, using less than a full contested case process. We find this to be appropriate, as we are not making any ratemaking decisions when we waive an RFP requirement. We do not anticipate, however, that utilities will be asking for many such waivers, as we see competitive bidding to be the appropriate method for obtaining Major Resources.

3. Affiliate Bidding: *A utility may allow its affiliates to submit RFP bids. If affiliates are allowed to bid, the utility must blind all RFP bids and treat affiliate bids the same as all other bids.*

4. Utility Ownership Options: *A utility may use a self-build option in an RFP to provide a potential cost-based alternative for customers. A site-specific, self-build option proposed in this way is known as a Benchmark Resource. A utility may also consider ownership transfers within an RFP solicitation.*

Comment

These guidelines are taken from part of Guideline 9 in Staff's straw proposal. Staff's terminology used in its initial straw proposal generated comment. Idaho Power notes that, because it routinely employs an independent consultant in its RFP process, the company does not distinguish between "Standard" and "Non-Standard" RFPs. PacifiCorp and PGE propose more descriptive terms be used to differentiate between RFPs with and without a utility self-build option. PacifiCorp also cautions that the term "Benchmark Resource" should be limited to a utility's self-build options. PacifiCorp explains that other options may be evaluated against a "benchmark," which could be the market or other market options.

We have addressed the parties' concerns about terminology by dispensing with labels. Indeed, as further discussed below, such distinctions generally are not needed because all RFPs now require the use of an independent evaluator. To address PacifiCorp's specific concern, we define a Benchmark Resource as a site-specific, self-build option for which there is a commitment to proceed if it is the resource selected through the RFP. This definition does not preclude a utility from designating the market as an alternative comparator during the RFP evaluation process. If no resources are acquired through the RFP because bids are inferior to the evaluation benchmark, we do not expect an emergency self-build shortly thereafter.

Other comments focused on whether independent power producers should be given an opportunity to build on the utility's site as part of an RFP that includes a self-build option. NIPPC, ICNU, and CUB are in favor of such an opportunity; PGE and PacifiCorp oppose it. PGE explains that, if bidders have access to the utility's site, then the utility should be given access to bidders' sites. Staff raises some legal problems with requiring utilities to provide independent bidders access to utility sites.

We will not require a utility to offer its site locations for development by independent power producers. Granted, a utility could allow a resource to be built upon a particular named piece of utility property. However, that is a decision to be made by the

utility. We share Staff's concerns, raised after consultation with the Department of Justice, whether this Commission has the legal authority to implement the NIPPC and ICNU recommendation. Rather, we adopt Staff's suggestion that the utility be encouraged to offer its site for third party development, as PacifiCorp proposed in its RFP for resources in 2012, docket UM 1208.

Finally, CUB and ODOE argue that independent bidders should be given the right to use a utility's transmission facilities. Again, PGE opposes such access, and contends that any use of PGE transmission facilities would have to comply with requirements mandated by the Federal Energy Regulatory Commission (FERC).

We will not impose third party access to a utility's transmission facilities beyond the access allowed under FERC rules. We encourage utilities, however, to provide information on the availability of transmission facilities and planned projects to bidders.

5. Independent Evaluator (IE): *An IE must be used in each RFP to help ensure that all offers are treated fairly. Commission Staff, with input from the utility and interested, non-bidding parties, will recommend an IE to the Commission, which will then select or approve an IE for the RFP. The IE must be independent of the utility and likely, potential bidders, and also be experienced and competent to perform all IE functions identified in these Guidelines. The IE will contract with and be paid by the utility. The IE should confer with Commission staff as needed, on the IE's duties under these Guidelines. The utility may request recovery of its payments to the IE in customer rates.*

Comment

The parties addressed various issues related to the use, qualifications, selection, reporting, and costs of an IE. As to use, the parties generally focus on need for an IE when an affiliate or self-build option is involved. NIPPC explains that, in such situations, an IE is integral to assuring a comparable evaluation of resources.

We conclude that an IE should be used for all RFPs. While an IE's role is not as involved for an RFP without ownership options or Affiliate Bidding, we find that using an IE has value. We want an independent overseer of the process. As for qualifications, all parties agree on the need for impartiality, but the utilities claim Staff's straw proposal—excluding all candidates providing, or those that have recently provided, consulting services to participants in the western energy markets—is too limiting. Such a restriction, according to PacifiCorp, would preclude the ability to obtain an IE with sufficient experience. PacifiCorp contends that guidelines should balance the need for both independence and experience, without sacrificing one or the other. Staff is persuaded by this argument and supports PacifiCorp's recommendation.

We adopt PacifiCorp's proposal that the guidelines should seek a qualified IE in terms of both independence and experience. We also adopt PacifiCorp's recommendation that any IE candidate disclose any actual or potential conflicts to help the Commission assess independence.

Parties have different views on the process used to select an IE. Staff originally proposed that the IEs be selected by the utility and Staff from a list of qualified candidates. ICNU believes that only Staff, with input from non-bidding parties, should select the IE. ODOE proposes that the utility should be allowed to participate in the IE selection, but not have the final authority to select. Most parties agree that, once selected, the IE should report to Staff, not the utility.

We believe the utility and non-bidders should participate in the process and provide input to Staff. Staff, however, should make a final recommendation to the Commission for approval, which could be accomplished at a public meeting. In approving a final selection, we will give due consideration to an IE already selected for the RFP by another state commission.

We further conclude that the contract for the IE's services should be entered into by the utility and IE. The utility should pay the IE and otherwise manage and administer the contract. The Commission should not be a party to the contract. We recognize that such a contractual arrangement fails to provide the Commission or Staff the legal right to control or direct the IE's activities in response to any reporting requirement and may be problematic. Nonetheless, we are confident that, in the interest of obtaining RFP acknowledgement, the utility will encourage the IE to consult and confer with Staff to help address any actions needed on the part of the IE.

Finally, with regard to IE costs, Staff originally proposed that the IE be paid by the utility through assessments on all bidders, including the utility. In comments, however, most parties, including Staff, favor the payment by the utility with possible recovery from customers. ODOE explains that adding IE costs to the already high cost of preparing a bid might discourage bidder participation, particularly for small projects, as is often the case with renewable resource and cogeneration projects.

We agree that if an IE is useful to the process, and we believe that to be so, then the cost of the IE should be included in rates. Utilities may request deferred accounting to track the costs of IEs for later prudence review and potential inclusion in rates.

6. RFP Design: *The utility will prepare a draft RFP and provide it to all parties and interested persons in the utility's most recent general rate case, RFP and IRP dockets. The utility must conduct bidder and stakeholder workshops on the draft RFP. The utility will then submit a final draft RFP to the Commission for approval, as described in Guideline 7 below. The draft RFPs must set forth any minimum bidder requirements for credit and capability, along with bid evaluation and scoring criteria. The utility may set a minimum resource size, but Qualifying Facilities larger than 10 MW must be allowed to participate. The final draft submitted to the Commission must also include standard form contracts. However, the utility must allow bidders to negotiate mutually agreeable final contract terms that are different from ones in the standard form contracts. The utility will consult with the IE in preparing the RFPs, and the IE will submit its assessment of the final draft RFP to the Commission when the utility files for RFP approval.*

Comment

This guideline combines features originally set forth in Guidelines 9 and 10 of Staff's straw proposal. In Guideline 9, Staff referred to the joint responsibility of the utility and IE to draft certain RFP requirements and develop minimum bidder criteria. Staff also proposed the utility allow opportunities for public involvement in the RFP and, to facilitate such input, provide 60-day advanced notice of its intention to conduct an RFP and possibly conduct workshops. In Guideline 10, Staff recommended that the utility may propose minimum bidder requirements for credit and capability, and that such requirements would also be subject to public comment during the RFP design.

In comments, RNP supports the proposed public input opportunities. Idaho Power, however, raises concerns about the release of bid evaluation and scoring criteria during public workshops. Idaho Power considers the criteria to be proprietary information that should be afforded protection. PacifiCorp also raises concerns about Staff's use of the word "may" in recommending that a utility may propose minimum bidder requirements. PacifiCorp is concerned that such language might suggest that minimum bidder requirements are not necessary. On this issue, Idaho Power provides a list of minimum bidder attributes the company customarily establishes, with the assistance of an independent consultant. PacifiCorp and Staff agree that the IE and other parties should be allowed to review the proposed minimum bidder requirements, which should be approved by the Commission. Lastly, ODOE contends that all resources over 10 MW should be allowed to bid, in order to be consistent with the Commission's limit for standard avoided cost rates and standard contracts for Qualifying Facilities, and that bids should not be excluded because of the lack of transmission capabilities.

In adopting the guideline above, we revise the language to clarify that the utility is responsible for preparing the draft RFP, conducting bidder and stakeholder workshops, and submitting the final RFP to the Commission for approval. The utility must, however, consult with the IE during these activities, and the IE will submit an assessment of the final RFP to the Commission during the approval phase discussed below.

We also modify the language used in the straw proposal to require the utility to conduct bidder and stakeholder workshops. We required PacifiCorp to utilize this open process in its 2004 RFP, and believe it should be mandatory to allow all interested persons the ability to participate and provide input on the RFP design. We remove, however, the 60-day advance notice requirement proposed in Staff's straw proposal. This requirement apparently was based on current practice under Order No. 91-1383, which contemplates Commission review and approval of a draft IRP in 60 days. Under the guideline adopted above, the utility must widely distribute copies of the draft RFP and conduct workshops with interested parties. We decline to establish a minimum time period for such activities, but expect the utilities to provide ample time to ensure an adequate opportunity for public input.

In response to PacifiCorp's concerns about minimum bidder requirements, we accept Staff's explanation that its straw proposal was not intended to alter the principles,

articulated in Order No. 91-1383, that utilities should address the credit and capability of prospective bidders in order to protect ratepayers.

We agree with ODOE with respect to qualifying facilities under the Public Utility Regulatory Policies Act, and include language that prohibits utilities from excluding Qualifying Facilities larger than 10 MW from participating. In addition, we add language to the guideline to make clear that a utility should be willing to negotiate on the terms of the standard contract to achieve comparable outcomes. We conclude, however, that ODOE's other concern about bidders that lack transmission capabilities is more appropriately addressed during the review of an individual RFP.

Finally, with respect to evaluation and scoring criteria, we conclude that bidders should be given enough information during the RFP design process to determine how important different project and bidder characteristics are to the utility. Specific scoring criteria, such as points awarded for non-price factors, will be limited to non-bidding parties under the terms of Guideline 12, further addressed below.

7. RFP Approval: *The Commission will solicit public comment on the utility's final draft RFP, including the proposed minimum bidder requirements and bid scoring and evaluation criteria. Public comment and Commission review should focus on: (1) the alignment of the utility's RFP with its acknowledged IRP; (2) whether the RFP satisfies the Commission's competitive bidding guidelines; and (3) the overall fairness of the utility's proposed bidding process. After reviewing the RFP and the public comments, the Commission may approve the RFP with any conditions and modifications deemed necessary. The Commission may consider the impact of multi-state regulation, including requirements imposed by other states for the RFP process. The Commission will target a decision within 60 days after the filing of the final draft RFP, unless the utility requests a longer review period when it submits the final draft RFP for approval.*

Comment

We made two primary modifications to Staff's straw proposal to address concerns raised by commenting parties. First, in response to ICNU's questions about the length of time needed for Commission approval of an RFP, we extend the review period by 15 days, to 60 days. While we expect that interested persons will have been involved in the RFP process during its drafting and will have the opportunity to raise concerns and obtain information prior to the utility formally filing the RFP, we extend the process to address any concerns about discovery. Second, we add language proposed by PacifiCorp to clarify the focus of the Commission's review in approving an RFP, and to acknowledge that this review may include consideration of requirements imposed by other state commissions.

To respond to other concerns about the effect of Commission approval of an RFP, we clarify that Commission approval is simply a determination on the three criteria set out in the guideline—that is, whether the utility's RFP is consistent with its acknowledged IRP, whether the RFP satisfies these guidelines, and whether the utility's proposed bidding process is fair. The approval is simply that: the RFP meets these criteria, does not meet the

criteria, or would meet the criteria with certain conditions and modifications. Any ratemaking determinations would occur at a later time.

8. Benchmark Resource Score: *The utility must submit a detailed score for any Benchmark Resource, with supporting cost information, to the Commission and IE prior to the opening of bidding. The score should be assigned to the Benchmark Resource using the same bid scoring and evaluation criteria that will be used to score market bids. Information provided to the Commission and IE must include any transmission arrangements, and all other information necessary to score the Benchmark Resource. If, during the course of the RFP process, the utility, with input from the IE, determines that bidder updates are appropriate, the utility may also update the costs and score for the Benchmark Resource. The IE will review the reasonableness of the score(s) for the Benchmark Resource. The information provided to the Commission and IE will be sealed and held until the bidding in the RFP has concluded.*

Comment

We adopt this guideline without substantive modification from Staff's straw proposal. We acknowledge PGE's concern about the inclusion of transmission arrangements, and agree that a utility should not be required to reveal this information to other bidders. As PGE notes, a utility should have the same opportunity as other bidders to keep this type of information blinded from other bidders.

We reject ICNU's suggestion that, if bidder updates are allowed, the IE should evaluate whether the opportunity for updates resulted in favoring the utility or an affiliate resource. We are satisfied that, in such situations, the opportunity to rebid or provide updates would be extended to all bidders. Any concerns about the timing of the updates may be raised during the acknowledgement for the final short-list of bids. We also find that the guidelines are clear enough on the equal treatment of the Benchmark Resource, and conclude there is no need to add language, proposed by ODOE, to clarify that the term "bids" includes the Benchmark Resource.

9. Bid Scoring and Evaluation Criteria:

a. Selection of an initial short-list of bids should be based on price and non-price factors, and provide resource diversity (e.g., with respect to fuel type and resource duration). The utility should use the initial prices submitted by the bidders to determine each bid's price score. The price score should be calculated as the ratio of the bid's projected total cost per megawatt-hour to forward market prices, using real-levelized or annuity methods. The non-price score should be based on resource characteristics identified in the utility's acknowledged IRP Action Plan (e.g., dispatch flexibility, resource term, portfolio diversity, etc.) and conformance to the standard form contracts attached to the RFP.

b. Selection of the final short-list of bids should be based, in part, on the results of modeling the effect of candidate resources on overall system costs and risks. The portfolio modeling and decision criteria used to select the final short-list of bids must be

consistent with the modeling and decision criteria used to develop the utility's acknowledged IRP Action Plan. The IE must have full access to the utility's production cost and risk models.

c. Consideration of ratings agency debt imputation should be reserved for the selection of the final bids from the initial short-list of bids. The Commission may require the utility to obtain an advisory opinion from a ratings agency to substantiate the utility's analysis and final decision.

Comment

CUB, NWECC, and RNP filed joint comments recommending several modifications to Staff's straw proposal on bid scoring and evaluation criteria. First, the public interest parties recommend that the selection of the initial short-list of bids should not be based on a comparison of resources of different fuel types. Rather, they prefer selection from pools of each type of resource. Staff disagrees, and responds that a utility may improve diversity by having an initial short-list with different fuel types from an all-source bid, or by running simultaneous resource specific solicitations. Staff explains that resource-specific bids should occur at the same time in case the market yields different costs than assumed in the IRP, indicating a preference to acquire some types of resources over others. We agree with Staff's proposed approach, but add language in subsection (a) to require resource diversity in the initial short-list.

CUB, NWECC, and RNP also recommend additional procedures be used if the bids and other updated information are significantly different from the original inputs used in the IRP. The parties define "significantly different" to mean that the average bids in the initial short-list for each resource type differ by more than 20 percent from those modeled in the IRP. If that threshold is met or exceeded, the public interest parties contend that the utility should re-run the modeling used in the IRP. Staff, PGE and PacifiCorp oppose the proposal. Staff explains that such additional process would divert time and resources determining whether any bid differences are significant, rather than focusing those resources on determining the best combination of bids. We agree and prefer to view the competitive bidding process as a search process aimed at helping find the best combination of resources for ratepayers. As stated in subsection (b) of this guideline, we expect the utility to apply the same analytical approach and judgment in selecting the final short-list as it did in developing its acknowledged IRP Action Plan. For example, it should apply the same tradeoff between cost and risk in the bid process as it did in the IRP, and not simply focus on expected cost at the acquisition stage.

Staff, PGE and ODOE recommend other refinements to the guideline. Following publication of its straw proposal, Staff filed comments proposing that utilities be allowed to propose environmental scoring based on the environmental analysis included in its acknowledged IRP. PGE supports Staff's suggestion, adding that it provides the flexibility needed to adapt to changing circumstances and links the environmental scoring to the IRP analysis process. We share Staff's and PGE's view, but conclude that no modifications are required, given the guideline's link to the IRP in subsections (a) and (b). Similarly, we agree

with ODOE that utilities should, in selecting initial short-list bids and the final short-list, include the transmission and generation integration costs. Again, we believe the guideline, as written, includes that requirement.

Idaho Power and PGE raise questions about the ability of a utility to provide an IE with access to production cost and risk models. The utilities explain that certain licensing agreements with software vendors may preclude an IE's ability to access these analytical tools. We acknowledge the utilities' concerns. We expect, however, that utilities will take all reasonable actions necessary to obtain a license that allows an IE to access these models, and will justify any failure to do so when seeking RFP approval.

Finally, many parties focus on how to address debt imputation for power purchase agreements (PPA). PGE and PacifiCorp want debt imputation considered at all stages of bidding and scoring, while Staff recommends that debt imputation only be considered at the final stage. Other parties, such as NIPPC, recommend that debt imputation not be considered at all in the bid scoring and evaluation.

To consider debt imputation at all stages is too cumbersome a process and not necessary to meet the goals of these guidelines. We understand that by considering debt imputation solely at the final stage, we risk giving an advantage to resources with imputed debt in determining the initial short-list. We do not consider that risk to be significant, however. Further, we agree with Staff that reserving analysis of imputed debt until the final stage decreases the possibility of disqualifying a power purchase agreement that should be considered.

10. Utility and IE Roles in the RFP Process:

a. The utility will conduct the RFP process, score the bids, select the initial and final short-lists, and undertake negotiations with bidders.

b. The IE will oversee the RFP process to ensure that it is conducted fairly and properly.

c. If the RFP does not allow affiliate bidding and does not include ownership options (i.e., the utility is not including a Benchmark Resource or considering ownership transfers), the IE will check whether the utility's scoring of the bids and selection of the short-lists are reasonable.

d. If the RFP allows affiliate bidding or includes ownership options, the IE will independently score the utility's Benchmark Resource (if any) and all or a sample of the bids to determine whether the selections for the initial and final short-lists are reasonable. In addition, the IE will evaluate the unique risks and advantages associated with the Benchmark Resource (if used), including the regulatory treatment of costs or benefits related to actual construction cost and plant operation differing from what was projected for the RFP.

e. Once the competing bids and Benchmark Resource (if used) have been scored and evaluated by the utility and the IE, the two should compare results. The utility and IE should attempt to reconcile and resolve any scoring differences. If the two are unable to agree, the IE should explain the differences in its Closing Report.

Comment

We made several revisions to this guideline as originally proposed in Staff's straw proposal. First, we modify the language to make it consistent with our earlier decision to require an IE for all RFPs. Second, we clarify the role of the IE in the RFP process. ICNU recommends, and Staff concurs, that the IE should independently review, rather than merely "validate," the utility's bid scoring. We agree, provided that the RFP allows affiliate bidding or includes ownership options. We add language to clarify this role, and to require the IE to score the Benchmark Resource, and as many bids as the IE believes to be necessary to conclude that the process was fair and the result was reasonable. We do not impose such a requirement where the utility is not including a Benchmark Resource or considering ownership transfers or affiliate bids. In such cases, the IE need only validate the utility's scoring.

Third, ICNU also proposes that, if differences arise between the utility's and the IE's scoring, the IE should be under no obligation to work with the utility to reconcile the differences. On this matter, we share Staff's opinion that the IE and the utility should attempt to resolve differences in bid scoring and evaluation. We agree with ICNU, however, that compromise should not be required, and have added language accordingly.

Fourth, pursuant to PGE's proposal, we modify language, set forth in subsection (d), to make the discussion on risk more neutral. We reject, however, PacifiCorp's recommendations that the Benchmark Resource option should not be treated and evaluated like a bid and that non-price factors, such as possible cost overruns, should not be considered. We recognize that Benchmark Resources are different from other bids in that price and performance is not fixed. Such differences, however, emphasize the need to consider the additional risk customers bear in deciding the best option from the RFP. This risk to customers is present even if the actual costs of the Benchmark Resource are equally likely to be lower or higher than projected in the RFP.

11. IE Closing Report: *The IE will prepare a Closing Report for the Commission after the utility has selected the final short-list. In addition, the IE will make any detailed bid scoring and evaluation results available to the utility, Commission staff, and non-bidding parties in the RFP docket, subject to the terms of a protective order.*

Comment

While this guideline generated little discussion or dissension, we modify the language of straw proposal to recognize that the IE will be involved in the acknowledgment process (*See* Guideline 13), and should complete the Closing Report before then, and to clarify that the IE's bid scoring and evaluation results will be subject to protective order (*See* Guideline 12).

12. Confidential Treatment of Bid and Score Information: *Bidding information, including the utility's cost support for any Benchmark Resource, as well as detailed bid scoring and evaluation results will be made available to the utility, Commission staff and non-bidding parties under protective orders that limit use of the information to RFP approval and acknowledgment and to cost recovery proceedings.*

Due to the competitive nature of the power market and generation development business, PacifiCorp raises concerns about the disclosure of detailed bid scoring and evaluation results to non-bidding consumer advocates. PacifiCorp explains that these parties may include entities that could use this information to the commercial disadvantage of bidders or the utility. RNP and Staff believe that such information should be made available. Staff suggests that PacifiCorp's concerns could be addressed through heightened protective procedures. We agree with RNP and Staff that non-bidding parties should have access to this information and have written the guideline accordingly.

13. RFP Acknowledgment: *The utility may request that the Commission acknowledge the utility's selection of the final short-list of RFP resources. The IE will participate in the RFP acknowledgment proceeding. Acknowledgment has the same meaning as assigned to that term in Commission Order No. 89-507. RFP acknowledgment will have the same legal force and effect as IRP acknowledgment in any future cost recovery proceeding. The utility's request should discuss the consistency of the final short-list with the company's acknowledged IRP Action Plan.*

The final suggested guideline by Staff in its straw proposal provides the utility an opportunity to ask for Commission acknowledgment of the final short-list of RFP resources. ICNU questions the value of this process, noting that it does not appear to limit utility bias or otherwise improve the process. To the contrary, ICNU suggests such approval only benefits utilities by providing greater assurance that their resource procurement process will be found reasonable in a subsequent rate proceeding. If the Commission is inclined to acknowledge the results of the RFPs, ICNU recommends the Commission defer this issue until it has been proven that the utilities are not biasing the results. PacifiCorp, Idaho Power, PGE, NIPPC and Staff favor Commission acknowledgement. These parties contend such acknowledgement would have the same meaning as that used in the IRP process. Consequently, Staff and the other parties believe that acknowledgment would not restrict the Commission's ability to disallow costs of resources acquired through the RFP process.

We adopt the proposal to allow the utilities the ability to request Commission acknowledgement. Such Commission action would carry the same weight as an

acknowledgment of an IRP—that is, a conclusion that the final short-list seems reasonable, based on the information provided to the Commission at that time. It will not, as ICNU fears, provide a guarantee of favorable ratemaking treatment during rate recovery. Moreover, Commission acknowledgement is not mandatory. The Commission may decline to acknowledge. We also direct the utility to explain whether its final short-list is consistent with the near-term resource acquisitions identified in its acknowledged IRP.

ODOE recommends that the Commission should acknowledge resource amounts, rather than final short-lists. ODOE provides little explanation to support this recommendation, but it appears the agency is concerned that the utility will not acquire sufficient resource diversity. We decline ODOE's proposal. If adopted, we are concerned that such acknowledgment would segment the short-list and weaken the utility's bargaining position. Moreover, ODOE's apparent concerns about resource diversity are mitigated by the utility's ultimate responsibility for obtaining the best deal in terms of cost and risk through the RFP process.

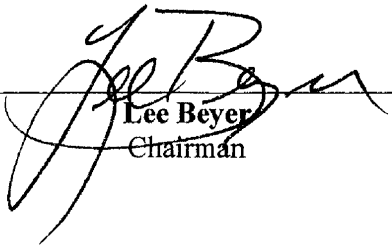
CONCLUSION

For the reasons set forth above, we conclude that the RFP guidelines, attached as Appendix A, should be adopted. These guidelines become effective on the date this order is entered, and apply to all pending and future RFP proceedings.

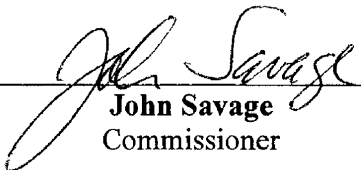
ORDER

IT IS ORDERED that the RFP guidelines, attached as Appendix A, are adopted.


Made, entered, and effective AUG 10 2006 .



Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum BB
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

UM 1182
Competitive Bidding Guidelines

1. **RFP Requirement:** A utility must issue an RFP for all Major Resource acquisitions identified in its last acknowledged IRP. Major Resources are resources with durations greater than 5 years and quantities greater than 100 MW.
2. **Exceptions to RFP Requirement:** A utility is not required to issue an RFP under the following circumstances:
 - a. Acquisition of a Major Resource in an emergency or where there is a time-limited resource opportunity of unique value to customers.
 - b. Acknowledged IRP provides for an alternative acquisition method for a Major Resource.
 - c. Commission waiver on a case-by-case basis.

Within 30 days of a Major Resource acquisition under Subsection (a) above, the utility must file a report with the Commission explaining how the requisite conditions have been met for acting outside of the RFP requirement. The report must be served on all the parties and interested persons in the utility's most recent rate case, RFP and IRP dockets.

When requesting a waiver under Subsection (c) above, the utility must file its request with the Commission and serve the request on all parties and interested persons in the utility's most recent general rate case, RFP and IRP dockets. The Commission will issue an order addressing the waiver request within 120 days, taking such oral and written comments as it finds appropriate under the circumstances.

3. **Affiliate Bidding:** A utility may allow its affiliates to submit RFP bids. If affiliates are allowed to bid, the utility must blind all RFP bids and treat affiliate bids the same as all other bids.
4. **Utility Ownership Options:** A utility may use a self-build option in an RFP to provide a potential cost-based alternative for customers. A site-specific, self-build option proposed in this way is known as a Benchmark Resource. A utility may also consider ownership transfers within an RFP solicitation.
5. **Independent Evaluator (IE):** An IE must be used in each RFP to help ensure that all offers are treated fairly. Commission staff, with input from the utility and interested, non-bidding parties, will recommend an IE to the Commission, which will then select or approve an IE for the RFP. The IE must be independent of the utility and likely, potential bidders and also be experienced and competent to perform all IE functions identified in these Guidelines. The IE will contract with and be paid by the

utility. The IE should confer with Commission staff as needed on the IE's duties under these Guidelines. The utility may request recovery of its payments to the IE in customer rates.

6. RFP Design: The utility will prepare a draft RFP and provide it to all parties and interested persons in the utility's most recent general rate case, RFP and IRP dockets. The utility must conduct bidder and stakeholder workshops on the draft RFP. The utility will then submit a final draft RFP to the Commission for approval, as described in paragraph 7 below. The draft RFPs must set forth any minimum bidder requirements for credit and capability, along with bid evaluation and scoring criteria. The utility may set a minimum resource size, but Qualifying Facilities larger than 10 MW must be allowed to participate. The final draft submitted to the Commission must also include standard form contracts. However, the utility must allow bidders to negotiate mutually agreeable final contract terms that are different from ones in the standard form contracts. The utility will consult with the IE in preparing the RFPs, and the IE will submit its assessment of the final draft RFP to the Commission when the utility files for RFP approval.

7. RFP Approval: The Commission will solicit public comment on the utility's final draft RFP, including the proposed minimum bidder requirements and bid scoring and evaluation criteria. Public comment and Commission review should focus on: (1) the alignment of the utility's RFP with its acknowledged IRP; (2) whether the RFP satisfies the Commission's competitive bidding guidelines; and (3) the overall fairness of the utility's proposed bidding process. After reviewing the RFP and the public comments, the Commission may approve the RFP with any conditions and modifications deemed necessary. The Commission may consider the impact of multi-state regulation, including requirements imposed by other states for the RFP process. The Commission will target a decision within 60 days after the filing of the final draft RFP, unless the utility requests a longer review period when it submits the final draft RFP for approval.

8. Benchmark Resource Score: The utility must submit a detailed score for any Benchmark Resource, with supporting cost information, to the Commission and IE prior to the opening of bidding. The score should be assigned to the Benchmark Resource using the same bid scoring and evaluation criteria that will be used to score market bids. Information provided to the Commission and IE must include any transmission arrangements and all other information necessary to score the Benchmark Resource. If, during the course of the RFP process, the utility, with input from the IE, determines that bidder updates are appropriate, the utility may also update the costs and score for the Benchmark Resource. The IE will review the reasonableness of the score(s) for the Benchmark Resource. The information provided to the Commission and IE will be sealed and held until the bidding in the RFP has concluded.

9. Bid Scoring and Evaluation Criteria:

- a. Selection of an initial short-list of bids should be based on price and non-price factors and provide resource diversity (e.g., with respect to fuel type and resource duration). The utility should use the initial prices submitted by the bidders to determine each bid's price score. The price score should be calculated as the ratio of the bid's projected total cost per megawatt-hour to forward market prices using real-levelized or annuity methods. The non-price score should be based on resource characteristics identified in the utility's acknowledged IRP Action Plan (e.g., dispatch flexibility, resource term, portfolio diversity, etc.) and conformance to the standard form contracts attached to the RFP.
- b. Selection of the final short-list of bids should be based in part on the results of modeling the effect of candidate resources on overall system costs and risks. The portfolio modeling and decision criteria used to select the final short-list of bids must be consistent with the modeling and decision criteria used to develop the utility's acknowledged IRP Action Plan. The IE will have full access to the utility's production cost and risk models.
- c. Consideration of ratings agency debt imputation should be reserved for the selection of the final bids from the initial short-list of bids. The utility should obtain an advisory opinion from a ratings agency to substantiate its analysis and final decision, if requested by the Commission.

10. Utility and IE Roles in RFP Process:

- a. The utility will conduct the RFP process, score the bids, select the initial and final short-lists, and undertake negotiations with bidders.
- b. The IE will oversee the RFP process to ensure that it is conducted fairly and properly.
- c. If the RFP does not allow affiliate bidding and does not include ownership options (i.e., the utility is not including a Benchmark Resource or considering ownership transfers), the IE will check whether the utility's scoring of the bids and selection of the short-lists are reasonable.
- d. If the RFP allows affiliate bidding or includes ownership options, the IE will independently score the utility's Benchmark Resource (if any) and all or a sample of the bids to determine whether the selections for the initial and final short-lists are reasonable. In addition, the IE will evaluate the unique risks and advantages associated with the Benchmark Resource (if used), including the regulatory treatment of costs or benefits related to actual construction cost and plant operation differing from what was projected for the RFP.

- e. Once the competing bids and Benchmark Resource (if used) have been scored and evaluated by the utility and the IE, the two should compare results. The utility and IE should attempt to reconcile and resolve any scoring differences. If the two are unable to agree, the IE should explain the differences in its Closing Report.

11. IE Closing Report: The IE will prepare a Closing Report for the Commission after the utility has selected the final short-list. In addition, the IE will make any detailed bid scoring and evaluation results available to the utility, Commission staff, and non-bidding parties in the RFP docket subject to the terms of a protective order.

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