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Portland, Oregon 97232

May 18, 2023

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High Street SE, Suite 100  
Salem, OR 97301-3398

**Re: UM 2283—PacifiCorp's Application for Waiver of Competitive Bidding Rules**

PacifiCorp d/b/a Pacific Power hereby submits for filing its Application for Waiver of Competitive Bidding Rules.

Please direct any inquiries about this filing to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,

Matthew McVee  
Vice President, Regulatory Policy and Operations

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 2283**

In the Matter of

PACIFICORP d/b/a PACIFIC POWER

Application for Waiver of Competitive  
Bidding Rules

**APPLICATION OF PACIFICORP FOR  
WAIVER OF COMPETITIVE  
BIDDING RULES**

PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) has been presented with a time-limited commercial opportunity to acquire two solar purchase power agreements (PPAs) with the developer D.E. Shaw Energy, Inc. (DESRI) at a favorable price. The PPAs are associated with the Hornshadow I (100 megawatts (MW) nameplate) and II (200 MW nameplate) solar generation projects situated in Emery County, Utah (Hornshadow PPAs). Once the PPAs are effective, renewable energy certificates (RECs) associated with the generation of these resources will be sold to Vitesse, LLC, a wholly owned subsidiary of Meta Platforms, Inc. (Meta) under Oregon Schedule 272—Renewable Energy Rider Optional Bulk Purchase Option (Schedule 272 Agreement). The combination of the Hornshadow PPAs and revenues from the Schedule 272 Agreement provides a unique value to customers.

However, this opportunity is time-limited, as the Company is currently conducting its 2022 All-Source Request for Proposals (2022AS RFP) to seek bids to develop resources identified in the Company’s 2021 Integrated Resource Plan (IRP) preferred portfolio, which includes 1345 MW of new proxy supply-side generation resources.<sup>1</sup> The current schedule for the

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<sup>1</sup> The 2021 IRP preferred portfolio includes the following resources: (1) 1345 MW of new proxy supply-side generation resources and 600 MW of collocated energy storage resources with commercial operation date (COD) by December 31, 2026; and (2) 274 MW of new proxy demand-side resources.

2022AS RFP required market bids to be submitted by March 14, 2023. The final short-list will be selected on or about June 26, 2023, and final agreements are forecast to be executed by November 21, 2023, with a target commercial operation date (COD) by December 31, 2027. Projects typically can begin development once the agreements are executed, and all condition precedents have been achieved or waived.

DESRI did not submit bids into the 2022AS RFP for the Hornshadow I and II solar generation projects **[Begin Highly Confidential]** [REDACTED] **[End Highly Confidential]** and adhering to the competitive bidding rules (CBRs)<sup>2</sup> for these projects would result in PacifiCorp having to forego this time-limited opportunity. Therefore, PacifiCorp, in accordance with to OAR 860-089-0010(2), requests that the Public Utility Commission of Oregon (Commission) waive the CBRs set forth in OAR Chapter 860, Division 089 to allow the Company to enter into two separate PPAs with DESRI, totaling 300 MW of solar generation for the benefit of its customers. Given the limited time frame and uniqueness of this opportunity, the Commission should find good cause to grant the waiver requested in this Application. Due to the time limited nature of this opportunity, PacifiCorp respectfully requests that the Commission issue an order granting this waiver by July 31, 2023, but no later than August 31, 2023. This will allow PacifiCorp to secure these valuable resources for the benefit of its customers.

## I. COMMUNICATIONS

Communications regarding this Application should be addressed to:

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<sup>2</sup> PacifiCorp requests to waive all relevant competitive bidding rules, including OAR 860-089-0200 through OAR 860-089-0500.

Oregon Dockets  
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825 NE Multnomah Street, Suite 2000  
Portland, OR 97232  
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In addition, PacifiCorp requests that all data requests regarding this Application be sent to the following:

By email (preferred): [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)

By regular mail: Data Request Response Center  
PacifiCorp  
825 NE Multnomah Street, Suite 2000  
Portland, OR 97232

Informal questions may be directed to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

## II. BACKGROUND

The Hornshadow I and II solar generation projects, located in Emery County, Utah (Hornshadow I & II), were among the final projects vetted and shortlisted in the 2020AS RFP. However, these projects were not ultimately contracted under that solicitation **[Begin Highly Confidential]** [REDACTED] **[End Highly Confidential]**. Despite this, DESRI continued to assure PacifiCorp that it could complete the contractual negotiations and ultimately fully develop the projects. Following the 2020AS RFP, PacifiCorp and Meta engaged in discussions to identify an additional renewable resource for Meta to purchase the associated RECs under Schedule 272. The Oregon Schedule 272 tariff enables large non-residential customers to enter an individually negotiated agreement with the Company to purchase unbundled RECs on their behalf. Meta intends to purchase RECs under Schedule 272 to align with the expansion of its data center located in Oregon. Hornshadow I & II have been identified by PacifiCorp and Meta as appropriate resources under the Oregon Schedule 272 tariff. This is because these resources offer significant benefits for PacifiCorp's customers, meets an

identified resource need that aligns with the 2021 IRP preferred portfolio, and satisfies the requirements of Meta.

On April 25, 2023, PacifiCorp executed two separate PPAs with DESRI associated with the renewable generation from Hornshadow I & II. The effectiveness of the PPAs is contingent upon the Commission granting the waiver requested in this Application. The Hornshadow PPAs are expected to generate more than **[Begin Highly Confidential]** [REDACTED] **[End Highly Confidential]** megawatt-hours (MWh) in energy and RECs on a unit contingent basis in their first full year of operation starting in June 2025, at an energy price of **[Begin Highly Confidential]** [REDACTED] **[End Highly Confidential]** per MWh for a 25-year term. Following the execution of the Hornshadow PPAs, PacifiCorp and Meta executed an agreement on April 25, 2023, for the purchase of RECs generated by Hornshadow I & II under the Schedule 272 Agreement. The Schedule 272 Agreement outlines pricing, terms, and conditions for purchase of the RECs by Meta over a 25-year period. In particular, once the PPAs are effective, pursuant to the 272 Agreement, PacifiCorp would sell to Meta 100% of the RECs from the Hornshadow PPAs through 2029, and thereafter 90% of the RECs from the Hornshadow PPAs for the duration of their terms.<sup>3</sup> The agreed-upon sales price for the RECs associated with the Hornshadow PPAs is **[Begin Highly Confidential]** [REDACTED] **[End Highly Confidential]** per REC, which results in net a delivered energy price of **[Begin Highly Confidential]** [REDACTED] **[End Highly Confidential]** per MWh.

### III. DISCUSSION

Under the CBRs, an electric company must comply with the competitive-bidding requirements for the acquisition of a resource or contract greater than 80 MW and longer than

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<sup>3</sup> The 10% retention reflects PacifiCorp's compliance strategy for Washington's Clean Energy Transformation Act (CETA), which allows for compliance through RECs.

five years.<sup>4</sup> An electric company is not required to comply with the CBRs to acquire a resource when “there is a time-limited opportunity to acquire a resource of unique value to the electric company’s customers.”<sup>5</sup> When this language was originally adopted as part of the competitive-bidding guidelines, the Commission explained that sometimes specific-time limited opportunities, occur, and utility action is required without an RFP process. The Commission contemplated that under such pressing circumstances, the utility might not have the time to request a waiver in advance of the resource acquisition.<sup>6</sup> Accordingly, the Commission has provided that where such pressure exists, the utility should notify the Commission after the acquisition and provide an explanation as to why the utility was unable to comply with the CBRs.

The current opportunity *does* afford PacifiCorp the ability to request a waiver in advance of the acquisition of the Hornshadow PPAs. However, due to the time-limited nature of this opportunity, the Company requests that the Commission issue an order granting the waiver requested in this Application by July 31, 2023, but no later than August 31, 2023. The Commission may waive any of the Division 089 rules for good cause shown.<sup>7</sup> Good cause exists to grant the waiver requested in this Application because PacifiCorp’s acquisition of the Hornshadow PPAs falls within the principles underlying the exemption from the CBRs because it is a “time-limited” opportunity that provides a “unique value” to customers.

**A. The Hornshadow PPAs Represent a “Unique Value to Customers.”**

The Hornshadow PPAs, including the associated Schedule 272 Agreement, will provide a significant and unique value to customers consistent with the resource need identified in the 2021

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<sup>4</sup> OAR 860-089-0100(1)(a).

<sup>5</sup> OAR 860-089-0100(3)(b).

<sup>6</sup> *See Re Investigation Regarding Competitive Bidding*, Docket UM 1182, Order 06-446 (Aug. 10, 2006).

<sup>7</sup> OAR 860-089-0010(2).

IRP preferred portfolio.<sup>8</sup> An initial assessment of delivered costs from 2022AS RFP bids received during the first quarter of 2023 indicates an offered weighted average delivered solar price [Begin Highly Confidential] [REDACTED] [End Highly Confidential] per MWh. This weighted average price is [Begin Highly Confidential] [REDACTED] [REDACTED] [End Highly Confidential] of the net delivered energy price of [Begin Highly Confidential] [REDACTED] [End Highly Confidential] per MWh contemplated herein. Furthermore, from the 2023 IRP preferred portfolio, the net present value of total resource cost of Utah South proxy resources with a COD of June 2025, term of 25 years, and assuming 100 percent PTC, is [Begin Highly Confidential] [REDACTED] [End Highly Confidential], approximately [Begin Highly Confidential] [REDACTED] [End Highly Confidential] than the net delivered energy price contemplated herein. This comparison illustrates that the Hornshadow PPAs provide substantial value to customers that would [Begin Highly Confidential] [REDACTED] [End Highly Confidential] net power costs, if the Commission grants the waiver requested in this Application.

PacifiCorp also conducted an economic analysis of the Hornshadow PPAs. The methodology used to perform the economic analysis of the Hornshadow PPAs is consistent with the methodology used to perform the economic analysis of bids submitted into the 2020AS RFP. In that proceeding, PacifiCorp performed its economic analysis under a range of price-policy scenarios to quantify how net benefits or net costs change with changes in natural-gas prices and carbon dioxide (CO<sub>2</sub>) price assumptions. These studies showed that net benefits for new renewable projects are lowest when low natural gas price assumptions are paired with no CO<sub>2</sub>

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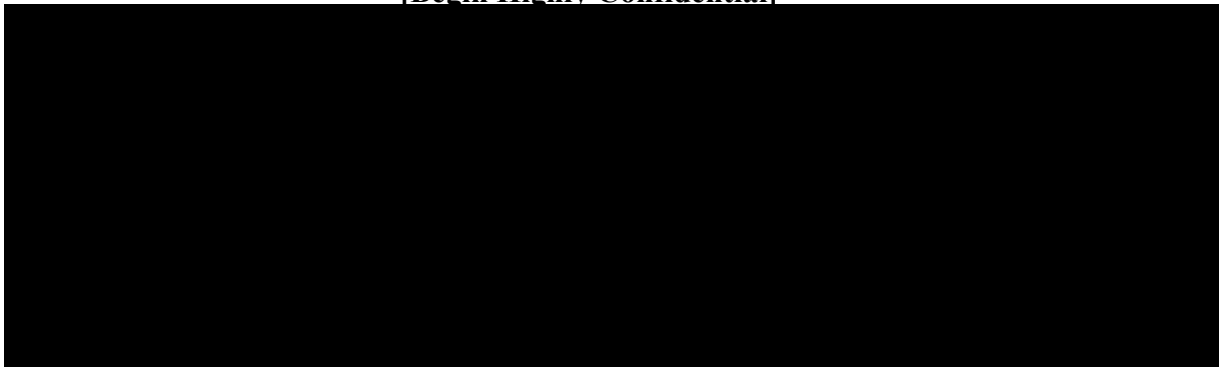
<sup>8</sup> *Supra* footnote 1.

price and that net benefits are greatest when high natural gas price assumptions are paired with high CO<sub>2</sub> price assumptions.

The economic analysis of the Hornshadow PPAs relies on an assessment of system value based on two PLEXOS (PacifiCorp’s current stochastic modeling tool) model runs with a simulation period covering the 2025-2042 time frame. This is the same modeling tool used to perform cost and risk analysis in PacifiCorp’s 2023 IRP. These simulations were performed considering two different price-policy scenarios—one assuming medium natural gas price and medium CO<sub>2</sub> price assumptions (the “MM” price-policy scenario) and one assuming medium natural gas price and no CO<sub>2</sub> price assumptions (the “MN” price-policy scenario). This economic analysis shows a present-value revenue requirements net-system benefit of **[Begin Highly Confidential]** [REDACTED] **[End Highly Confidential]**, and **[Begin Highly Confidential]** [REDACTED] **[End Highly Confidential]** respectively.

*Highly Confidential Figure 1. System Value Used in the Economic Analysis of Hornshadow PPAs*

**[Begin Highly Confidential]**



**[End Highly Confidential]**

The Hornshadow PPAs are expected to provide significant net benefits for customers. Table 1 summarizes present-value revenue-requirement differential (PVRR(d)) benefits calculated from changes in system costs through 2055. This table also presents the same information on a levelized dollar-per-megawatt-hour basis. Under the MM price-policy scenario,



net benefits range between [Begin Highly Confidential] [Redacted] [End Highly Confidential] and [Begin Highly Confidential] [Redacted] [End Highly Confidential].

Under the MN price-policy scenario, the PVRR(d) varies between a [Begin Highly Confidential] [Redacted] [End Highly Confidential] and [Begin Highly Confidential] [Redacted] [End Highly Confidential] cost, depending upon the period used to extrapolate benefits beyond 2042. The execution of the Schedule 272 Agreement with Meta was a necessary milestone to ensure the Hornshadow PPAs could move forward and mitigates the risk of deteriorating value under a variety of price and policy scenarios. Additionally, while not explicitly analyzed, customer benefits would increase significantly with high natural-gas price and/or high CO<sub>2</sub> price assumptions.

*Highly Confidential Table 1. Net Benefits from the Hornshadow PPAs*  
**[Begin Highly Confidential]**

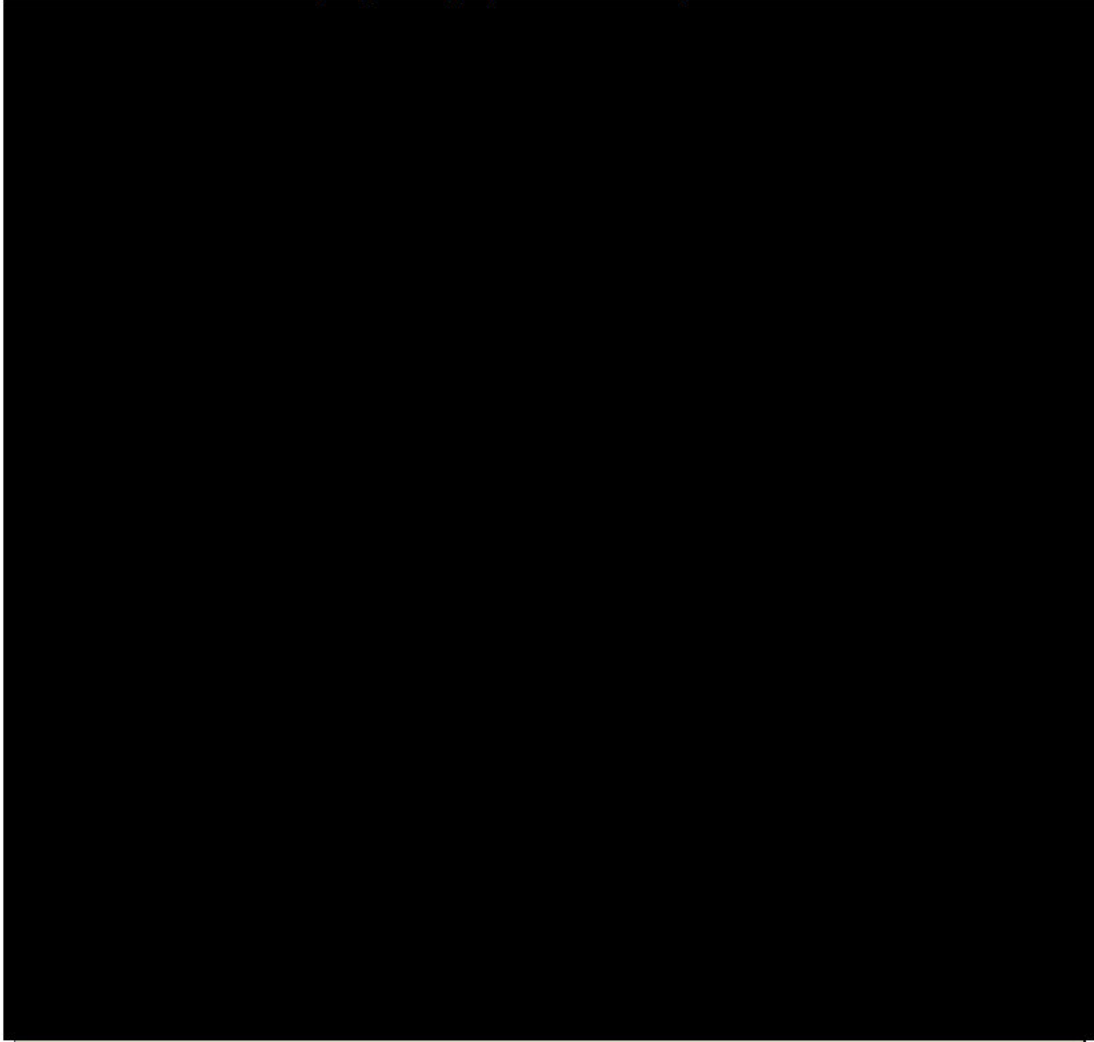
	<b>PVRR(d) Net (Benefit)/Cost (\$million)</b>	<b>Nom. Lev. Net Benefit (\$/MWh of Incremental Energy)</b>
Medium Natural Gas, Medium CO <sub>2</sub>	( [Redacted] )	[Redacted]/MWh
Medium Natural Gas, No CO <sub>2</sub>	( [Redacted] )	[Redacted]/MWh

**[End Highly Confidential]**

Highly Confidential Figure 2 shows the estimated change in nominal annual revenue requirement due to the Hornshadow PPAs for the MM price-policy scenario. This figure reflects the change in nominal revenue requirement associated with Hornshadow PPAs netted against system benefits, which were calculated as described above. Considering both the MN and MM case (illustrated below), the Hornshadow PPAs reduce nominal revenue requirement during a majority of its depreciable life.

*Highly Confidential Figure 2. (Reduction)/Increase in Total-System Annual Revenue Requirement from the Hornshadow PPAs*

**[Begin Highly Confidential]**



**[End Highly Confidential]**

The economic analysis presented, along with the comparison of bids submitted into the 2022AS RFP, provides sufficient grounds to establish good cause for the Commission to grant the waiver requested in this Application. This is because the Hornshadow PPAs offer a unique value proposition to customers and will fill an identified need from the 2021 IRP preferred portfolio.

**B. The Hornshadow PPAs are a “Time-Limited Opportunity.”**

A significant portion of the value that customers derive from the Hornshadow PPAs is

due to the Schedule 272 Agreement, which offers a unique opportunity for Meta to purchase RECs from specified resources while providing cost-effective energy to the Company's customers. However, the opportunity to enter both the PPAs and Schedule 272 Agreement is time-limited and requiring compliance with the CBRs would not allow Hornshadow I & II to reach commercial operation at a date that aligns with Meta's need to purchase RECs and would likely substantially delay development of the projects.

*I. Meta's need to procure RECs under the 272 Agreement is time limited.*

Meta's need to procure additional renewable resources under Schedule 272 is time-limited, due to already-underway expansion of its Oregon Data Center. In early 2021, Meta announced its plan to expand its Oregon Data Center, and in the same month, PacifiCorp and Meta signed a memorandum of understanding (MOU) for PacifiCorp to seek long-term supply opportunities for RECs from new renewable generation resources that would come online as early as 2023. The timing of the MOU was critical to Meta's commitments necessary for the commencement and scheduling of the Oregon Data Center expansion. After signing the MOU in 2021, Meta invested capital in expanding the Oregon Data Center while working in parallel with PacifiCorp to source a new renewable resource under Schedule 272. The COD of Hornshadow I & II in June 2025 is essential because it aligns with increased loads at the Oregon Data Center, allowing Meta to continue meeting its 100% renewable energy commitment as it grows and progress its goal of net zero emissions by 2030.

A delay in issuance or rejection of the waiver request would be detrimental to the customer's interest, because of the likely significant delays and or termination risks imposed on the underlying solar projects. If the opportunity related to the Hornshadow PPAs elapses,

alternative projects (likely sourced via the 2022AS RFP) would achieve commercial operations too late to match Meta’s load at the Oregon Data Center.

*II. The opportunity to enter into the Hornshadow PPAs is time limited.*

The Hornshadow PPAs provide a unique value to customers, but there are time constraints for DESRI to enter into these agreements. One such constraint is related to the large generator interconnection agreements (LGIA) for both projects. **[Begin Highly Confidential]**

[REDACTED]

**[End Highly Confidential]** Such changes could materially impact DESRI’s requirements and timelines for their attempts at having their projects fully interconnected, which could significantly impact their ability to complete the projects under the proposed terms in the PPAs.

Another constraint that DESRI faces is related to the real estate agreements required to fully construct and operate Hornshadow I & II. **[Begin Highly Confidential]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[End Highly Confidential]**

In addition, DESRI has secured conditional use permits (CUPs) for the projects, which may require reissuance if construction is delayed. Typically, CUPs in Utah are only valid for one year before construction and can be extended twice, each for one year. The Hornshadow I & II solar generation projects were granted initial permits in September 2021. In late 2022, DESRI filed petitions with the county to amend these permits, allowing for an extension to the construction start date and making modifications to the project area. However, permit amendments usually take around 3-4 months to complete, including submission to the county and placement on the agenda for consideration. In Emery County, both the Planning Commission and County Commission need to approve the amendments, which requires additional coordination. While DESRI's most recent requests were approved, further delays to the project timelines could **[Begin Highly Confidential]** [REDACTED]

[REDACTED] **[End Highly Confidential]** Permit extensions beyond two years are discretionary processes and can be rejected, meaning there is a potential risk that the project could be terminated if the project construction start date is further delayed and the permit expires.

**[Begin Highly Confidential]** [REDACTED]

[REDACTED]

[REDACTED] **[End Highly Confidential]** contractual negotiations could only begin until after the final shortlist was determined and the projects were selected, as per the 2022AS RFP

schedule. The negotiation and execution of final agreements are not expected to be completed until late 2023, and the 2022AS RFP pro forma agreements have conditions precedent terms tied to PacifiCorp's ability to request and obtain transmission service in order to utilize the PPAs net output to serve PacifiCorp's load. These conditions precedent terms stipulate a 210-day period from date of PPA execution to address them. Until such time that all PPA conditions precedents have been resolved, it is not unusual to see PPA sellers not securing final financing, and not commencing major project construction work, until such time the PPAs are fully effective and all conditions precedents are resolved. It is not unreasonable to assume that a bid selected to the final shortlist of the 2022AS RFP may not begin major construction of their project(s) until second half of 2024.

**[Begin Highly Confidential]** [REDACTED]

[REDACTED] **[End Highly Confidential]** This is especially true when considering the potentially fast construction cycle beginning late in the calendar year and early in the next, which brings weather and climate challenges attempting such work, including the delivery and assembling of equipment, at the site in less-than-optimal conditions. **[Begin Highly Confidential]** [REDACTED]

[REDACTED] **[End Highly Confidential]** Therefore, granting the waiver of the CBRs requested in this Application is necessary for the Company to acquire these time-limited resources that provide a unique value to customers.

#### IV. CONCLUSION

PacifiCorp is presented with a unique time-limited opportunity to acquire resources at an attractive price that will generate significant customer benefits, even when applying conservative price-policy assumptions. If the Company is required to comply with the CBRs, it will be unable to complete the acquisition of the Hornshadow PPAs and the Schedule 272 Agreement, due to the time-limited nature of the opportunity, and customers will lose the unique value explained above. Accordingly, the Commission should find there is good cause to grant the waiver requested in this Application. Due to the time-limited nature of this opportunity, the Company requests that the Commission issue an order granting this Application by July 31, 2023, but no later than August 31, 2023.

DATED: May 18, 2023



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*Attorney for PacifiCorp*