

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1208

In the Matter of)	THE INDUSTRIAL CUSTOMERS OF
)	NORTHWEST UTILITIES' REPLY TO
PACIFICORP)	PACIFICORP'S MOTION FOR
)	CLARIFICATION REGARDING THE
Draft 2009 Request for Proposals pursuant to)	ROLE OF OREGON INDEPENDENT
Order No. 91-1383.)	EVALUATOR
_____)	

I. INTRODUCTION

The Industrial Customers of Northwest Utilities (“ICNU”) submits this reply to PacifiCorp’s Motion for Clarification (“Motion”) regarding the role of the Oregon independent evaluator (“IE”). In its Motion, PacifiCorp also requests that the Public Utility Commission of Oregon (“OPUC” or the “Commission”) provide guidance on the role of the IE in the event the Commission rejects or conditionally approves PacifiCorp’s Request for Proposal (“RFP”). PacifiCorp raises four issues in its Motion that assume the Commission rejects or conditionally approves the RFP. These are: 1) should the IE still be retained; 2) should PacifiCorp be able to defer and recover appropriately incurred IE fees; 3) can PacifiCorp still seek acknowledgement of the final short-list in the RFP; and 4) will rate recovery be appropriate for resources acquired through a rejected RFP.

II. ARGUMENT

1. PacifiCorp Should Retain an Oregon IE to Review Its RFP

ICNU recommends that PacifiCorp retain the IE, as long as PacifiCorp intends to issue the RFP to acquire new thermal resources and may include the costs of these resources in future Oregon rates. The report from the IE will assist the parties and the Commission in evaluating whether PacifiCorp's RFP is fair or complies with the competitive bidding guidelines. In addition, the IE's report may be relevant if PacifiCorp seeks acknowledgement of the short-list of resources or rate recovery of any resource acquisitions. Therefore, ICNU believes that it is not imprudent for PacifiCorp to hire the Oregon IE, and that all reasonable and prudently incurred costs related to the IE should be eligible for rate recovery.

2. The Commission's Ruling Regarding the RFP Is Not a Ratemaking Determination

The Commission's decision to approve or reject the RFP does not prevent the Company from seeking future rate recovery. Contrary to PacifiCorp's assertions, the Commission has addressed a similar issue and concluded that acceptance or rejection of an RFP does not resolve ratemaking issues. Motion at 2; Re an Investigation Regarding Competitive Bidding, OPUC Docket No. UM 1182, Order No. 06-446 at 9-10 (Aug. 10, 2006) ("Order No. 06-446"). The Commission clarified that its decision "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." Order No. 06-446 at 9.

The Commission's acceptance or rejection of the RFP may be relevant evidence in a future ratemaking proceeding, especially if PacifiCorp takes actions inconsistent with the Commission's decision. Essentially, the Commission's decision does not guarantee or prohibit future rate recovery of resources.

3. The Commission's Decision Regarding the RFP May Be Relevant if PacifiCorp Seeks Acknowledgement of Its Resource Short-List

The Commission's decision to approve or reject the proposed RFP does not prevent PacifiCorp from seeking acknowledgement of the final resource short-list. In adopting the new competitive bidding rules, the Commission authorized, but did not require, a utility to seek acknowledgement of the final resource short-list. Id. at 14-15. The Commission explained the meaning of acknowledgement and clarified that acknowledgement of the short-list will not "provide a guarantee of favorable ratemaking treatment during rate recovery." Id. at 15.

The Commission's decision on the RFP's fairness, consistency with the last acknowledged IRP, and compliance with the competitive bidding guidelines may be highly relevant to whether the Commission should acknowledge the resource short-list. For example, PacifiCorp's final short-list should not be acknowledged if the Company cannot explain how the "final short-list is consistent with the near-term resource acquisitions identified in its acknowledged IRP." Id. Similarly, acknowledgement may be inappropriate if the Company ignores the grounds upon which the Commission rejects or conditionally approves its RFP.

ICNU recommends that the Commission more fully address this issue if PacifiCorp requests acknowledgement of a final short-list. Since the Commission has yet

to rule on whether it will reject or conditionally approve PacifiCorp's RFP, or what its proposed conditions might be, it is premature to speculate on how the Commission's order will impact a potential request to acknowledge a resource short-list. Due to the unique factual and procedural history of this particular RFP proceeding, it may be appropriate for PacifiCorp not to seek acknowledgement of any final short-list.

III. CONCLUSION

ICNU recommends that PacifiCorp hire an Oregon IE, unless the Company decides not to seek additional resources or commits never to include their costs in Oregon rates. The Commission should also reaffirm its previous conclusion that any order regarding the RFP does not address ratemaking treatment. Finally, the Commission should clarify that its order regarding the fairness and consistency of the RFP is likely to be a relevant factor in any request to receive acknowledgement of a resource short-list.

Dated this 11th day of December, 2006.

Respectfully submitted,

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December 11, 2006

Via Electronic and U.S. Mail

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

Dear Filing Center:

Enclosed please find the original and two copies of the Reply of the Industrial Customers of Northwest Utilities to PacifiCorp's Motion for Clarification in the above-referenced docket.

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

Sincerely,

/s/ Christian Griffen
Christian W. Griffen

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

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

Dated at Portland, Oregon, this 11th day of December, 2006.

/s/ Christian Griffen
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