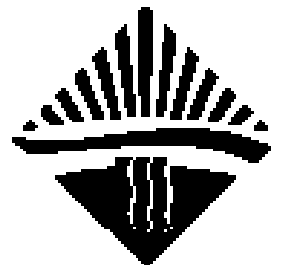


**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1208**

In the Matter of)
)
)
PACIFICORP,)
)
Draft 2009 Request for Proposals pursuant)
to Order No. 91-1383.)
_____)

**OPENING COMMENTS OF
THE CITIZENS' UTILITY BOARD OF OREGON
&
THE RENEWABLE NORTHWEST PROJECT**

September 19, 2006



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OF OREGON
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PACIFICORP,)	THE CITIZENS' UTILITY BOARD
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I. Introduction

The Citizens' Utility Board of Oregon and the Renewable Northwest Project file these comments jointly on PacifiCorp's Draft 2012 Request for Proposals for Base Load Resources. We raise two basic issues. First, we address whether this RFP is consistent with the requirements outlined in the Commission's recent Order on competitive bidding, Order No. 06-446. Second, we provide comments about the obvious problems with investing several billion dollars in two or more conventional pulverized coal plants given the increasing likelihood of a carbon constrained regulatory environment. This latter issue we believe to be relevant in this RFP proceeding because the Commission has not yet acknowledged the coal plants that are the subject of PacifiCorp's RFP.

II. Consistency With The Competitive Bidding Order

In its recent order on competitive bidding, the Commission set out three primary areas of focus in its review prior to acknowledging an RFP. The Commission expressed

its intent to focus on the following points: “(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.”

Order No. 06-446, p. 9 and Appendix A, p. 2.

i. Overall Fairness

We start with the third criterion, the overall fairness of the proposed bidding process. It is precisely because CUB does not profess to wield significant expertise regarding the inner workings of utility RFP matters to the extent that it can identify all sources of utility bias, that CUB joined NIPPC and ICNU in actively recommending to the Commission that it employ the use of an Independent Evaluator (IE) that aggressively challenges the specifics of PacifiCorp’s RFP, and that works exclusively for the Oregon process. The use of an IE dedicated to the Oregon process will be addressed at the Commission’s public meeting on September 19, 2006. At this point, before such an IE has had access to the details of the PacifiCorp RFP and has come to an independent conclusion as to its fairness, we are not in a position to comment on the overall fairness of the utility’s proposed bidding process.

An example of a fairness issue we are concerned about is whether the bid evaluation criteria are designed to give any credit to projects that are capable of carbon sequestration or are sited in a location where CO₂ sequestration is feasible. If bids are to be selected based primarily on impacts on revenue requirement, resources that offer sequestration opportunities may be penalized in the evaluation due to costs associated with carbon capture.

ii. Compliance With Competitive Bidding Guidelines

With regard to the second criterion, we must, again by necessity, provide incomplete comments. There are major areas where PacifiCorp's RFP process has complied with Order No. 06-446, even though the Order was issued after the RFP process was initiated. However, we have insufficient information to determine whether the RFP process has met the various requirements that are included in the Order. As an example, with regard to evaluation and scoring criteria under Guideline 6, we are not in a position at this point to say whether this RFP process has met the Commission's requirement 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." Order, at 9. The IE may be able to shed light on whether PacifiCorp's RFP process was sufficient in this area.

iii. Consistency With The Acknowledged IRP

Finally, the first criterion assumes some consistency with the acknowledged IRP. It is reasonable for the Commission to allow some deviation from the IRP and still acknowledge the RFP. While the IRP is the most complete and inclusive process, and therefore should be the baseline for decision-making, the utility should not blindly follow the IRP if conditions change significantly from those assumed in the IRP. However, it seems to us, that if the RFP deviates from the IRP, the utility must have a rationale for the change, and it must show that it considered all the significant changes that occurred between the IRP and the RFP. For example, if the utility cites changes to markets subsequent to the IRP as a reason the RFP deviates from the IRP, the utility should also examine regulatory paradigm shifts over the same period.

A concrete example is two momentous bills passed by the California legislature on August 31st which significantly call into question PacifiCorp's decision to go forward with the acquisition of conventional pulverized coal resources. The first, AB 32, was brokered by legislative leaders with Governor Schwarzenegger to cap greenhouse gas emissions at 1990 levels by 2020. This will represent a 25% reduction in California's emissions. The second bill, SB 1368, establishes a greenhouse gas emissions standard for new and existing base load power generation seeking long-term utility investment by all utilities in the state, including municipally-owned utilities. SB 1368 is based on California's existing utility procurement policy. In October 2005, the California PUC issued a policy on utility procurement for investor owned utilities. This procurement policy prohibits utilities from acquiring resources with greenhouse gas emissions greater than those from a combined cycle natural gas plant. It applies to all utility-owned generation and purchased contracts exceeding three years. The California Energy Commission has also adopted this standard, and the PUC is currently engaged in a rulemaking proceeding to implement the policy.

The recent events in California strongly support a conclusion that a carbon constrained regulatory regime may come to pass far sooner than what was assumed in PacifiCorp's 2004 IRP. The 2004 IRP includes a 75% chance of a carbon limit in 2011, the year AB 32 goes into effect. 2004 IRP, p. 62. The IRP does not consider California's procurement standard or SB 1368, both of which have significant implications for the value of a new coal plant in the West. PacifiCorp's 2006 IRP is not far enough along in the process to consider these events.

It is not clear whether PacifiCorp considered these changes since the publication of the 2004 IRP, but PacifiCorp did consider other such interim changes, for the RFP deviates significantly on its face from the IRP. The preferred portfolio that emerged from the 2004 IRP included new CCCTs in 2009, 2012 and 2013, and two conventional pulverized coal plants, a 575 MW unit in 2011 and a 383 MW unit in 2014. IRP, p. 178. The Commission's review of PacifiCorp's 2004 IRP specifically did not acknowledge the coal plants in the preferred portfolio. Order No. 06-029, p. 50-51, 60.

Regardless of acknowledgement particulars, the current RFP deviates from the 2004 IRP which PacifiCorp presented to the stakeholders and the Commission. As we read the current RFP, PacifiCorp is seeking bids on the equivalent of three conventional pulverized coal plants by 2013 (600 MW, 340 MW and 750 MW as represented by the benchmark resources—these do not include an additional 250 to 600 MW of IGCC without actual sequestration of carbon dioxide). See Attachment 2 of the RFP filing. This represents an additional 700 MW of coal compared to the 2004 IRP, with the newly proposed coal plants replacing 700 MW of shorter-term “front office transaction” market purchases assumed in the IRP.

Staff's Data Request 1 raises the question of whether the RFP is consistent with the 2004 IRP. In its response, PacifiCorp says the IRP is “intended to provide guidance” for the Company and is a “snapshot” of a given point in time. Attachment A. PacifiCorp says that since the IRP, natural gas and electricity market prices increased and that this has caused PacifiCorp to replace short-term market purchases with a long-term base load resource, *i.e.* another coal unit. *Ibid.* PacifiCorp sees the natural gas price increase as reducing the attractiveness of CCCTs and short-term purchases. It is not clear how the

passage of AB 32 and SB 1368, the two bills passed in California mentioned above, will affect the attractiveness of coal resources, because PacifiCorp has not included that analysis here. We are afraid the PacifiCorp RFP may also be a snapshot of a point in time that has already passed. The RFP itself is based on an analysis that does not fully recognize the policy changes in California which is both a part of the PacifiCorp system and the equivalent of the world's eighth largest economy – all to the detriment of coal resources. California Gross State Product: US Bureau of Economic Analysis, June 6, 2006.

Staff Data Request 1 more specifically asks how the RFP can be consistent with the 2004 IRP when the Commission did not acknowledge the coal plants expressly to see if other measures could be taken to buy time until IGCC technology becomes commercialized. Not only does PacifiCorp's RFP go off in the other direction, adding an additional 700 MW of pulverized coal, but PacifiCorp also seems to have misunderstood the Commission's whole point. PacifiCorp responds to the Commission by saying the RFP is consistent with Order No. 06-029, because the RFP delays the addition of the 2004 IRP's first thermal generation unit for 3 years (although the RFP replaces that gas plant with a coal plant) and because the delay has allowed PacifiCorp to include an IGCC in the RFP (although not only does this IGCC not replace any of the pulverized coal plant included in the IRP, but the IGCC is "not replacing" 700 MW more coal than was proposed in the 2004 IRP). In other words, the RFP is not consistent with either the 2004 IRP or Order No. 06-029.

III. Global Warming & The RFP

RNP and CUB believe that global warming is one of the greatest risks to Oregon's utility customers. Any new investment in conventional coal plants simply ignores the overwhelming scientific evidence and growing regulatory response to climate change. We strongly believe a more prudent resource strategy would focus on energy efficiency and demand side management programs, greater reliance on renewable resources, and potential short-term transactions to bridge the time until IGCC technology with carbon capture can be investigated as a commercially viable alternative. We believe this strategy is more consistent with Order No. 06-029 than is PacifiCorp's RFP.

RNP and CUB also have concerns about whether this RFP is consistent with the commitments made as part of the MidAmerican acquisition of PacifiCorp. Oregon Commitment 31 required PacifiCorp to form an IGCC Working Group. Specifically, O31 provided that this Working Group would consider "the allocation of risk between shareholders and ratepayers of additional carbon dioxide emissions in the event PacifiCorp proceeds with a coal unit that is not able to capture and store carbon emissions." We know the IGCC Working Group has been meeting since May. We think this RFP process should, at the very least, be informed by any work done to date on the issue of CO₂ risk allocation.

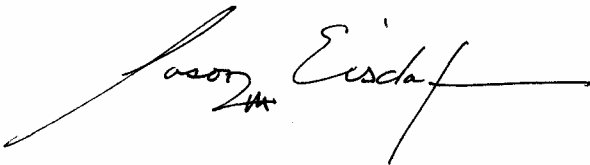
Further, Oregon Commitment 32 provides that PacifiCorp will "study the economics and viability of an IGCC option" and agreed to "file the results of this study and the draft RFP with the OPUC for review and public comment." To our knowledge, this preliminary study has not been filed as part of this RFP. The Company was also to provide "potential resource alternatives if an IGCC design is not reasonably achievable in

time to economically meet the resource need presently identified in 2012 from a customer and shareholder perspective.”

We asked MidAmerican to explore IGCC and global warming as part of their commitments in UM 1209, because, as a coal-reliant utility, PacifiCorp and its customers are especially vulnerable to legislative and regulatory responses to global warming. It appears to us, that PacifiCorp deviated from the 2004 IRP based on interim changes that make coal look more attractive, but did not consider changes in the policy environment that make coal look decidedly less attractive. Furthermore, the RFP is not responsive to the Commission’s desire in Order No. 06-029 to see if it is reasonable to postpone pulverized coal investment until IGCC becomes commercially viable. Even though we gave PacifiCorp the tools and motivation in the UM 1209 settlement to construct that analysis, PacifiCorp did not incorporate any part of that analysis here. We have repeatedly said that it is unhealthy for both the planet and PacifiCorp customers for this coal-heavy utility to acquire more coal resources.

This RFP represents an imprudent direction for PacifiCorp, and based on the facts before us at this point, we think there are sufficient grounds to reject the RFP in its current form.

Respectfully Submitted,
September 19, 2006



Jason Eisdorfer
The Citizens’ Utility Board of Oregon



Ann Gravatt
Renewable Northwest Project

OPUC Data Request 1

Order No. 06-029 states (at 51):

[W]e cannot conclude, based on the information before us, that it is reasonable to commit to either one of these resources [a gas-fired CCCT or a pulverized coal plant] without additional analysis.

Coupled with reasonable measures that could be taken to avoid outages (e.g., additional short-term purchases, demand response programs and distributed resources), analysis of the coal plant delay scenarios indicates that it may be reasonable to wait a couple of years until IGCC technology is further developed before the Company commits to its next large thermal resource.

In considering approval of an RFP for such a resource, the Commission would first need to determine whether the Company has demonstrated the need for it. We also expect the Company to fully explore whether delaying a commitment to coal until IGCC technology is further commercialized is a reasonable course of action. We believe it may be possible to do so within the RFP process by providing flexibility for bidders regarding online date, contract length, resource type and technology.

Please explain how PacifiCorp's filed *2012 Request for Proposals – Base Load Resources* meets the following Commission requirements in Order No. 06-029:

- a. Demonstration of resource need
- b. Demonstration that delaying the commitment to coal (through measures such as additional short-term purchases, demand response programs and distributed resources) until Integrated Gasification Combined Cycle (IGCC) technology is further commercialized is not a reasonable course of action.

Response to OPUC Data Request 1

In a recent order in this docket, the Commission indicated that it would soon issue an order in UM 1182, the Commission's investigation on resource procurement, and apply the order retroactively to PacifiCorp's draft 2012 RFP. The retroactive application of still-to-be-announced new standards to this draft RFP raises various issues and concerns, especially given the importance of expedited review of this RFP. One of these issues is the difficulty that it creates for PacifiCorp in responding to discovery before the UM 1182 Order is issued. PacifiCorp submits this and all other discovery responses provisionally, subject to revision or modification after the UM 1182 Order is issued.

The quote from Order 06-029 in this Data Request addressed action items 7 and 8 from PacifiCorp's 2004 Integrated Resource Plan. These items proposed procurement of a 550 MW resource in 2009 (proxy gas resource) and a 600 MW resource in 2011 (proxy coal resource). The Commission's Order made clear that its concerns were primarily focused on the timing of the new resource additions, rather than on the underlying need. See Order 06-029 at 50 (citing Staff's statement that it was unlikely that the company's planning was so amiss as to obviate the need for the new resources). Based upon the data that demonstrated that it might be reasonable for the Company "to wait a couple of years" before it committed to a new large thermal resource, the Commission refused to acknowledge action items 7 and 8. *Id.* at 51. The point of the delay, according to the Commission, was to permit IGCC technology to further develop. *Id.*

Consistent with Order 06-029, PacifiCorp's draft 2012 RFP effectively delays the addition of the first new large thermal resource by three years from the proposals contained in the 2004 IRP, from 2009 to 2012. Also consistent with the Order, this delay has permitted PacifiCorp to include an IGCC benchmark in the draft 2012 RFP.

Additionally, as suggested by Order No. 06-029 at 51, the draft 2012 RFP allows PacifiCorp to further analyze the trade-offs among different resource options by providing flexibility for bidders regarding the online date, contract length, resource type and technology in case new, more appropriate technologies are developed. For example, page 2 of the draft request for proposal says: "To the extent Bidders want to propose in service date deferral options and or contract buyout options as a component of their bids, they should be sure to identify them clearly with specific triggers (i.e., triggers associated with specific milestones) within the Bidder's proposal."

The company has solicited the market to provide proposals from eight eligible resources and two exceptions. These proposals include flexibility of resource type, technology and the ability to build resources to specified criteria on the company's sites. The solicitation offers contract length flexibility with a minimum of ten years and a maximum of the life for the asset as determined in the Integrated Resource plan.

With respect to resource need, an IRP is intended to provide guidance and rationale for PacifiCorp's resource procurement over the next few years. It provides a snapshot of the company's future needs and resource options at a given point in time. The 2004 Integrated Resource Plan was provided to the Oregon Commission in January 2005, over 18 months ago, and was based on data that is now two years old. Even so, at that time the company anticipated that over 2,000 megawatts of new large thermal resources, both coal-fired and natural gas-fired, would be required on the east-side of the company's system by 2014. This was in addition to 700 megawatts of short-term market purchases.

When determining the benchmark resources for the draft 2012 RFP, the company conducted additional load-resource balance analysis. Resource needs on the east side of the system are now about 1,250 MW in 2012, rising to over 2,000 MW by 2016 as shown in the response to OPUC Request 11b. At the same time, the west-side of the system is 1,000 to 1,200 MW short. With the addition of all or some of the benchmark resources, the company remains short on the east-side of the system in most years as shown in the response to OPUC Requests 15 and 16. Even after the addition of the benchmark resources, the company remains 1,000 to 1,200 MW short on the west-side of the system.

To meet its large resource needs, the company has been vigorously pursuing renewable resource additions and recently announced the acquisition of the 100 MW Leaning Juniper 1 wind power facility. The company is actively reviewing Requests for Proposal for both Class 1 and Class 2 demand side management programs. With regard to the availability of distributed resources, PacifiCorp had a conference call with Utah Department of Air Quality staff subsequent to the filing of the draft RFP to determine if customer-owned standby generators represented a viable resource option for the east control area. The purpose of the call was to address Action Item No. 4 in the 2004 IRP Update--"Investigate, with Air Quality Officials, the viability of this resource option". The takeaway from the call was that re-permitting of standby generators for non-emergency use would be difficult in most areas of the state, and that diesel generators in particular could not be re-permitted at all in the Salt Lake City area. Based on the Utah Department of Air Quality's assessment, PacifiCorp has decided to exclude standby generators as an eligible resource in the 2012 RFP.

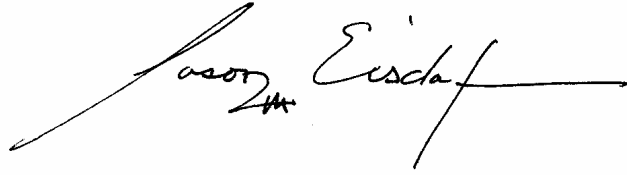
Notwithstanding successes in these various procurement efforts, it is clear that the size resource needed for the term cannot be filled by renewables, demand response and distributed resources alone. Nor can PacifiCorp simply wait and hope for early and effective commercialization of new technologies such as Integrated Gasification Combined Cycle technology. In order to fill this large remaining gap, the practical question becomes one of evaluating the trade-offs among coal, natural gas and short-term market purchases.

Since PacifiCorp's last IRP, natural gas and market prices have increased sharply and there is no indication that they will stabilize or come down soon. On July 20, 2006, the Commission was alerted by the local distribution companies to expect 4-12 percent higher natural gas prices this upcoming heating season. These market realities have increased the risk associated with reliance on short-term market purchases and have caused the company to move to replace these purchases on the east side of its system with long-term resources, as reflected in the draft 2012 RFP. The company will continue to address the resource trade-offs in its bid evaluation in the 2012 RFP and will also be addressing these trade-offs in its 2006 Integrated Resource Planning analysis which is currently underway.

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2006, I served the foregoing Opening Comments of the Citizens' Utility Board of Oregon and The Renewable Northwest Project in docket UM 1208 upon each party listed below, by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending 6 copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

Respectfully submitted,



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W=Waive Paper service Q=Confidential

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