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May 9, 2008

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

Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
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Attn: Vikie Bailey-Goggins, Administrator
Regulatory and Technical Support

RE: **UM 1360** – Supplemental Reply Comments of PacifiCorp

Enclosed for filing are the Supplemental Reply Comments of PacifiCorp in the above-referenced docket. PacifiCorp submits these comments in response to Commission Staff's request that the Company respond to the proposed conditions filed by Staff on April 25, 2008. A copy of this filing was served on all parties on the service list.

Informal inquiries on this matter may be directed to Joelle Steward, Regulatory Manager, at 503-813-5542.

Very truly yours,


Andrea L. Kelly
Vice President, Regulation

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1360

In the Matter of PacifiCorp's Request for
Approval of a Solicitation Process for a
Flexible Resource for the 2012-2017 Time
Period

**Supplemental Reply
Comments of PacifiCorp**

1 PacifiCorp d/b/a Pacific Power submits these supplemental reply comments in
2 response to the Staff's request that PacifiCorp advise Staff and parties whether it agrees with
3 the recommended conditions for All Source Request for Proposal ("RFP") approval. The
4 following comments outline the revisions PacifiCorp made in its April 25, 2008 version of
5 the final draft RFP which respond to Staff's reply comments (submitted the same day as
6 PacifiCorp's 4-25-08 version of the final draft RFP was filed (April 28, 2008)) and identifies
7 additional changes PacifiCorp will make in its final RFP in response to Staff's and parties'
8 reply comments, Accion Group's May 6, 2008 comments and issues raised by Utah parties
9 during the May 1, 2008 hearing held before the Public Service Commission of Utah.
10 PacifiCorp anticipates receiving orders from the Public Service Commission of Utah and the
11 Oregon Public Utility Commission that resolve any outstanding issues and impose any
12 conditions required for approval. Upon receipt of the orders, PacifiCorp proposes to prepare
13 a final RFP version consistent with the identified approval conditions and will file the final
14 RFP as a compliance filing in both states.

15 **I. Summary of PacifiCorp's Position on Oregon Staff's Recommended Conditions**

16 PacifiCorp agrees with the following recommended conditions proposed by Staff as
17 set forth on pages 11-13 of Staff's Reply Comments (dated April 28, 2008):

18 PacifiCorp agrees with Staff Conditions 1, 2, 3, 4, 8, 12, 13, 14, 15, 16, 17, and 18.
19 Further comments set forth below in Section II indicate that PacifiCorp has already adopted

1 proposed modifications in its 4-25-08 version of the Redlined RFP that address these
2 conditions and/or will make changes in the final RFP to be submitted as a compliance filing
3 as described above. In Section III, PacifiCorp responds to Staff Conditions 5, 6, 7, 9, 10, and
4 11 and proposes certain changes that the Company believes address the issues raised,
5 although not necessarily in the same manner as proposed by Staff. In Section IV, PacifiCorp
6 identifies additional changes that will be made in the final RFP to comply with Utah
7 requirements and recommendations received to date.

8 **II. PacifiCorp’s Agreement with Staff Conditions 1-4, 8, and 12-18**

9 1. *Addition of Purchases:* In response to OPUC Staff Data Request 23,
10 PacifiCorp added language to its 4-25-08 version that stated in the event purchases are made
11 outside of the RFP in response to, for example, PacifiCorp’s Petition for Waiver in Docket
12 No. UM 1374, the total resource need solicited under the RFP will be adjusted. *See* Redlined
13 RFP page 9. As a further modification, PacifiCorp will include the language proposed by
14 Staff to the extent a project is approved: “In the event the Company receives necessary
15 approvals from regulators, the total resource need will be adjusted to account for the
16 generating facility that is the subject of Oregon Docket UM 1374.” The Company may also
17 include the resource in its modeling for the final short-list evaluation if it proceeds with the
18 acquisition. *See* Staff Condition 1.

19 2. *Benchmark Proposals:* In its 4-25-08 version, PacifiCorp modified the due
20 date for benchmark proposals to provide that the Benchmark Team will submit their
21 proposals two weeks prior to market bid responses. This will allow the IEs time to validate
22 the Benchmark Resource proposals and the Evaluation Team will complete the initial
23 evaluation as required under the Oregon Guidelines. *See* Redlined RFP pages 25 and 29. The

1 Company will submit the detailed scores required by Guideline 8. PacifiCorp agrees to
2 comply with Staff Conditions 2 and 3 and will revise its RFP accordingly.

3 3. *Amount of Megawatts from Proposals Considered on Shortlists:* In its 4-25-
4 08 version of the RFP, PacifiCorp adopted the IEs' proposal and included language that (a)
5 the initial shortlist be comprised of resources that, in total, add up to no more than two times
6 the maximum acquisition from the RFP (4,000 MW) and (b) the quantity of bids selected to
7 the final shortlist be no more than 1.5 times the maximum acquisition from the RFP (3,000
8 MW). *See Redlined RFP pages 48-49.* PacifiCorp believes that it has complied with Staff
9 Condition 4.

10 4. *Heat Rates:* In its 4-25-08 version of the RFP, PacifiCorp clarified that Base
11 Load Category proposals with heat rates below 9,600 may be submitted and that Intermediate
12 Category proposals with heat rates above 11,500 may be submitted. *See Redlined RFP pages*
13 *7 and 10.* Based on comments received, PacifiCorp will modify the Bid Categories to
14 eliminate the use of heat rates and instead use only capacity factors to define the categories.
15 This will allow for the consistent use of capacity factors across all resources and addresses
16 the concerns raised that renewable resources, and specifically geothermal projects, do not
17 have heat rates. PacifiCorp will comply with Staff Condition 8 as described herein.

18 5. *Planning Margin Analysis:* PacifiCorp will comply with Staff Condition 12
19 consistent with Order No. 07-002.

20 6. *Renewable Resources as Inputs in CEM:* PacifiCorp will comply with Staff
21 Condition 13 if renewable resources are timely received in its 2008R-1 and 2008R RFPs
22 ("Renewable RFPs") assuming such resources score well on the initial evaluation for the
23 Renewable RFPs.

1 7. *CHP Levels:* PacifiCorp acknowledges Staff Condition 14 and will reduce
2 need for this RFP consistent with the amount of CHP resources acknowledged in its 2007
3 IRP.

4 8. *Benchmark Resource Status:* PacifiCorp acknowledges Staff Condition 15.

5 9. *Pro Forma Agreements:* PacifiCorp acknowledges Staff Condition 16.

6 10. *Front Office Transactions:* PacifiCorp acknowledges Staff Condition 17.

7 11. *Efforts to Promote the RFP:* In its Reply Comments PacifiCorp provided a
8 summary of efforts undertaken to promote the RFP to date. Those comments are restated
9 here for ease of reference: “The IEs recommended that due to the lack of Bidder
10 participation in the RFP design and competitive bidding process, PacifiCorp should redouble
11 its efforts to publicize and promote the RFP. *See Boston Pacific Assessment* at page 7.
12 PacifiCorp believes it has made substantial efforts to advertise its RFP to bidders, including
13 direct emailings, posting on the PacifiCorp and Merrimack Energy websites, holding pre-bid
14 conferences in both Utah and Oregon, and coverage of the RFP processes in energy trade
15 publications.” PacifiCorp will agree to Staff Condition 18; however, it may not be possible
16 to report on the reasons market participants did not participate. To the extent PacifiCorp
17 receives this information from market participants, it will report this information to the
18 Commission.

19 **III. PacifiCorp’s Response to Remaining Staff Conditions 5-7, 9 and 10-11**

20 1. *Coal Bids and Indemnification:* PacifiCorp believes that the language
21 contained in its 4-25-08 version of the RFP provides sufficient definition as to what types of
22 coal bids may be accepted. *See Redlined RFP* at 7, 21 and 24. As Staff correctly notes,
23 PacifiCorp is requiring bidders to specify power sources, even for a PPA or TSA not backed
24 by an asset. At this point, PacifiCorp is not dictating what type of CO₂ securitization or

1 indemnification will be acceptable or required from bidders. This analysis will be conducted
2 as part of Step 4 of the Evaluation Process. See Redlined RFP at 59. See also Staff
3 Condition 5.

4 2. *Capital Costs of Benchmark Resources:* In response to Staff Condition 6,
5 PacifiCorp states that it has modified language in the 4-25-08 version of the RFP. PacifiCorp
6 has proposed to keep the same indices; however, the language provides that if the Bidder
7 proposes an alternate index than what is provided in the RFP the proposed Index must be
8 transparent and easily measurable (i.e. "publicly available"). PacifiCorp and the Bidder with
9 input from the IEs will need to ensure that there is no disagreement as to how costs will be
10 measured if a bid is successful using such alternate index. See Redlined RFP pages 42.
11 PacifiCorp will modify its Intent to Bid Forms to require Bidders to provide the proposed
12 indices to be used which will allow the IEs and the Company to evaluate index options
13 proposed by Bidders. The Company believes that it is unreasonable to allow 100% indexing
14 of prices, rather a 60/40 split provides sufficient float of price and the bidder is in a position
15 to hedge price risk, as well as the Company. In this regard, the Benchmark Resources and
16 market bids will be treated comparably, by allowing both the Company and Bidders to
17 propose the same indexing provisions.

18 3. *Transmission, Capital Costs and Off-System Sales:* In response to Staff
19 Condition 7, PacifiCorp notes that in its Reply Comments it has offered to hold a
20 transmission workshop to discuss issues of transmission costs and the impact on bid
21 selection. PacifiCorp acknowledged the IEs' comments on capital costs in its Reply
22 Comments, noting: "The IEs expressed concern about clarifying the risk assessment on
23 capital costs. PacifiCorp has referenced the ability of Bidders to index a portion of the capital
24 costs, but does not believe further flexibility is warranted at this time. Similar to the IEs,

1 PacifiCorp is also interested in receiving feedback from bidders on the indexing provisions.”
2 To date, PacifiCorp has not received feedback from bidders on the indexing provisions and
3 therefore does not believe further revision to the 4-25-08 version of the RFP is warranted at
4 this time. PacifiCorp would note that off-system sales will be modeled in the evaluation
5 models.

6 4. *Credit Issues:* PacifiCorp acknowledges Staff Condition 9 and has made
7 several revisions in the 4-25-08 version of the RFP to address these issues. For Appendix B,
8 additional Credit Matrices have not been provided; however in the Credit Matrix notes,
9 language was added showing percentages of matrix amounts required for Intermediate and
10 Summer Peaking Bid Categories. *See* Redlined RFP pages 30-32, and Appendix B. *See also*
11 changes to Attachments 3 and 5 (*See* “Credit Support” definition and Sections 7.1 and 10.8).
12 In addition to the changes already proposed, PacifiCorp will tie its formula for calculating the
13 Intermediate Bid Category credit requirements to a Heat Rate and Capacity Factor table
14 being developed. PacifiCorp will also include an example of how the credit security amount
15 for the Intermediate Bid Category would be determined. Additionally, PacifiCorp will
16 provide a method in the RFP describing how credit security amounts can be adjusted for non-
17 asset backed bids that are less than the five years. PacifiCorp will also hold a credit workshop
18 and review the revised credit requirements with the IEs. PacifiCorp has also identified
19 several additional clean-up items which will be corrected in the RFP and Pro Forma
20 Agreements (*e.g.*, references to the 2012 RFP instead of the 2008 RFP in Attachment 6,
21 Exhibit C and Attachment 18, Exhibit C and the need to replace “S&P” with “a third party”
22 in Sections 6.1(b) of Attachments 6 and 18).

23 5. *Change of Law Risk:* PacifiCorp does not intend to include language about
24 change of law risk in its Pro Forma Agreements; rather, PacifiCorp intends to negotiate with

1 counterparties any such language depending on the circumstances presented. *See* Staff
2 Condition 10.

3 6. *Bid Success Fees:* A proposal to provide for “success fees” rather than bid
4 fees has been offered and is supported by Staff Condition 11. *See also* Accion Group
5 Assessment at page 19. At this time, PacifiCorp has not adopted this recommendation in
6 light of the uncertainty of bidder participation. Under this success fee proposal, the party(ies)
7 that is successful in the RFP process will cover the IEs costs. PacifiCorp recognizes that this
8 is a creative option; however, PacifiCorp does not want to put up barriers for bidders’
9 participation to encourage as much participation as possible given the magnitude of the
10 expected IE costs. PacifiCorp recommends that this approach not be adopted for this RFP,
11 but is open to further consideration based on market feedback in a future RFP process.

12 **IV. Additional Changes to Comply With Utah Requirements and Recommendations**

13 1. *Blinding of Bids:* Despite PacifiCorp’s agreement with the recommendations
14 proposed by the IEs based on lessons learned from the 2012 RFP to not require bids to be
15 blinded, Utah rules requires blinding of all bids¹ and a waiver of this requirement is not
16 possible at this time. PacifiCorp will conduct the Intent to Bid process as an unblinded
17 process, but will conduct the bidder question and answer process and the bid process on a
18 blinded basis. Revisions to the RFP, Code of Conduct (Attachment 20) and Role of the IEs
19 (Attachment 4) will be proposed to accommodate this change.

20 2. *Flexibility of Proposals:* PacifiCorp will modify Form 2 based on
21 recommendations from the Utah IE and the Utah Division of Public Utilities to provide
22 specific milestones for bidders for deferral, acceleration and buyout options. The following
23 milestones will be added to Form 2: six (6) months after contract execution, prior to securing

¹ Utah Administrative Code R746-420-3(10).

1 major permits, prior to securing major equipment, pouring of the foundation, and
2 performance testing.

3 3. *Price Evaluation:* PacifiCorp will agree to re adjust the price ranges, if
4 required based on the receipt of the proposals and based on the actual prices in relationship to
5 the forward price curve at the time.

6 4. *Other Clean-Up Changes:* PacifiCorp will continue to modify any cross
7 references or typographical or grammatical errors identified by parties.

8 **Conclusion**

9 PacifiCorp understands the importance of developing a transparent and fair process
10 consistent with the Commission's Guidelines and believes that with the adoption of these
11 changes, the final RFP accomplishes these goals. PacifiCorp requests that the Commission
12 issue an order approving the RFP consistent with the proposed modifications adopted by
13 PacifiCorp.

DATED: May 9, 2008

/s/ Natalie L. Hocken _____

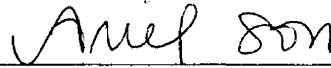
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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document on the service list in Docket No. UM 1360 on the following named person(s) below by e-mail and U.S. mail (unless paper service has been waived) addressed to said person(s) at his or her last-known address(es) indicated below:

DATED: May 9, 2008.



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