

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1374**

In the Matter of
PACIFICORP, dba Pacific Power
Petition for Waiver of Competitive Bidding
Guidelines

STAFF'S OPENING COMMENTS¹

On April 1, 2008, PacifiCorp, dba Pacific Power (Pacific or Company) filed with the Oregon Public Utility Commission (OPUC) a Petition for Waiver of the Competitive Bidding Guidelines under Order No. 06-446. Concurrent with the Petition, the Company filed a Motion for Protective Order. The OPUC docketed the filing as UM 1374.

The Commission issued a General Protective Order for UM 1374 on April 4, 2008 (see *Order No. 08-191*). On April 14, 2008, the OPUC received the confidential testimony and exhibits of Gregory N. Duvall and Stefan A. Bird supporting Pacific's Petition. Pacific maintains that a waiver of the competitive bidding guidelines is justified in order to allow the Company to proceed with the acquisition of a time-limited resource opportunity that will provide value to its system and customers.

A UM 1374 Prehearing Conference was held on May 1, 2008. The Administrative Law Judge adopted the following schedule:

Opening Comments on PacifiCorp's Petition Due	May 14, 2008
Pacific Power files Reply Comments	May 21, 2008
Staff files Public Meeting Memorandum	June 5, 2008
Commission Public Meeting	June 10, 2008

The Citizens' Utility Board of Oregon (CUB), The Industrial Customers of Northwest Utilities (ICNU), and the Northwest and Intermountain Power Producers Coalition (NIPPC) are participating parties in UM 1374.

OVERVIEW: The Commission's Competitive Bidding guidelines provide that a utility is not required to issue an RFP under the following circumstances:

- a. Acquisition of a Major Resource is an emergency or where there is a time-limited resource opportunity of unique value to customers.

¹ Staff's comments are designed to maintain the confidentiality of information presented in Pacific's filing and testimony.

- b. Acknowledged IRP provides for an alternative acquisition method for a Major Resource.
- c. Commission waiver on a case-by-case basis.

The Competitive Bidding Order states that the Commission will issue an order addressing a waiver request within 120 days of receiving the filing (see *Order No. 06-446, p.4*).

In its confidential testimony, Pacific states that it has a time-limited opportunity to acquire a Major Resource (*i.e., defined in Order No. 06-446 as a resource greater than 100 MW with a duration of more than 5 years*). In its testimony, Pacific defines the subject resource and provides analysis to support its contention that the proposed acquisition will benefit its customers and is in the public interest. The Company maintains that circumstances “a” and “c” listed above are satisfied and that its request for a waiver should be approved by the Commission.

STAFF’S PRELIMINARY REVIEW: Staff’s initial review is based solely on the confidential testimony provided by Pacific. At the time of this writing, the data requests of UM 1374 parties and Pacific’s responses to those data requests have not been fully evaluated. The Staff review considers the following questions:

1. Is this a time-limited resource acquisition opportunity?
2. Does Pacific’s system need additional generating resources?
3. Based on the available evidence, is this resource opportunity superior to potential resource acquisitions that have been offered in Pacific’s 2012 RFP (*RFP for up to 1700 MW for the 2012 to 2014 time period*) or may be offered in Pacific’s forthcoming 2008 RFP (*RFP for 2012 to 2016 time period*)?
4. Does waiving the Competitive Bidding Guidelines and allowing Pacific to proceed with acquisition of the subject resource provide value to Pacific’s Oregon customers and promote the public interest?

Specifically note that any Commission decision to waive the Competitive Bidding Guidelines offers no assurance to the utility of future cost recovery for any capital investment and other expenses associated with acquisition of the subject resource.

Response #1: Given the Closing Date specified in the Purchase and Sale Agreement for the subject resource, Pacific has a few months to obtain all necessary regulatory approvals and finalize the agreement. Regulatory approvals are required from the Utah Public Service Commission (*Bidding waiver and pre-approval of resource acquisition*), Oregon Public Utility Commission (*Bidding waiver*), and the Federal Energy Regulatory Commission (*Approval of resource sale*). The Agreement does provide for some delay in the Closing Date if all required regulatory approvals have not been obtained.

Given the Agreement’s specified Closing Date, this appears to be a time-limited resource acquisition opportunity. With the potential for delay in the Closing Date,

however, the time frame may not be as strictly constrained as indicated in Pacific's confidential testimony. Nevertheless, Staff's preliminary conclusion is that this is a time-limited resource acquisition opportunity.

Response #2: Staff's review of the 2008 RFP (UM 1360) shows a system-wide resource deficit that is significantly larger than the size of the subject resource. In addition, in its confidential testimony, Pacific states that it does not anticipate that it will receive a resource bid, from either the 2012 RFP or 2008 RFP, that will have an availability date of 2012 that is comparable in cost to the subject resource. Therefore, at this time Staff concludes that, over the next several years, Pacific's system has a need for additional resources.

Response #3: Based on the confidential testimony and information provided in Pacific's filing, the subject resource is of comparable technology to similar resources that have been identified in the 2012 RFP or may be identified in the yet to be issued 2008 RFP. The Company states that it has evaluated the subject resource's operational integrity and environmental compliance and found them to be acceptable.² Pacific predicts the subject plant will have a high availability factor for generating electricity to meet system needs.

The purchase price of the subject resource is considerably less than resource acquisition prices identified in the 2012 RFP. Pacific further claims that it is unlikely that the 2008 RFP will identify a new resource that will materially change its analysis supporting the ratepayer benefits of acquiring the subject resource. In addition, Pacific correctly states that purchase of the existing subject resource avoids the risk of exposure to the escalation in new resource construction costs and associated expenses.

At this time, it is Staff's preliminary conclusion that Pacific's acquisition of the subject resource is a superior economic value to the Company's system and its Oregon customers than resource acquisition opportunities that could derive from either the 2012 RFP or 2008 RFP.

Response #4: Recognizing the Company's resource need date of 2012 and contingent on new information obtained from Pacific's responses to party data requests and the May 14, 2008, written comments of the UM 1374 parties, Staff believes that acquisition of the subject resource in 2008 should provide value to Pacific's Oregon customers. In addition, the acquisition will promote the public interest by contributing to Pacific's ability to supply the region with reliable and reasonably priced electricity. Therefore, Staff's preliminary recommendation is that the Commission approve Pacific's Petition for Waiver of the Competitive Bidding Guidelines under Order No. 06-446.³

² The Purchase and Sale Agreement lists some minor violations for air emissions and water discharges.

³ On April 30, 2008, the Utah Public Service Commission issued an order approving Pacific's request for a waiver of Utah's solicitation process (see *Docket No. 08-035-35*).

Dated at Salem, Oregon, this 14th day of May 2008.

A handwritten signature in black ink, appearing to read "William A. McNamee". The signature is written in a cursive style with a horizontal line drawn through the middle of the letters.

William A. McNamee
Resource Economist
Resource and Market Analysis

CERTIFICATE OF SERVICE

UM 1374

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 14th day of May, 2008.

Kay Barnes

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UM 1374
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