

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: May 5, 2022**

**REGULAR**  X  **CONSENT** \_\_\_\_\_ **EFFECTIVE DATE** \_\_\_\_\_ **N/A** \_\_\_\_\_

**DATE:** April 25, 2022

**TO:** Public Utility Commission

**FROM:** Steve Storm

**THROUGH:** Bryan Conway and Marc Hellman **SIGNED**

**SUBJECT:** OREGON PUBLIC UTILITY COMMISSION STAFF:  
(Docket No. UM 2183)  
Commission authorization of a Request for Proposal for an Independent Evaluator for Review of Coal Plant Decommissioning Costs in PacifiCorp's Application for Authority to Implement a Decommissioning Cost Recovery Adjustment and Coal Removal Mechanism.

**STAFF RECOMMENDATION:**

Staff recommends the Public Utility Commission of Oregon (Commission) authorize the issuance and use of PacifiCorp's Draft Request for Proposal for an Independent Evaluator for PacifiCorp's Decommissioning Studies, pursuant to Section 4.3.4. of the 2020 Protocol.

Staff recommends the Commission direct PacifiCorp to file a deferral application pursuant to ORS 757.259 for the later recovery in rates of the cost of the Independent Evaluator, also pursuant to Section 4.3.4 of the 2020 Protocol.

**DISCUSSION:**

Issues

Whether the Commission should authorize the issuance and use of PacifiCorp's Draft Request for Proposal for an Independent Evaluator (Draft RFP) with the objective of identifying an Independent Evaluator for PacifiCorp's Decommissioning Studies, pursuant to Section 4.3.4. of the 2020 Protocol.<sup>1</sup>

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<sup>1</sup> See the 2020 Protocol, included as Exhibit PAC/101 of PacifiCorp's December 3, 2019, filing in Docket No. UM 1050, located [here](#) as of April 21, 2022, beginning on Lockey/1 (pdf page 45).

Whether the Commission should direct PacifiCorp to file for the deferral of costs associated with the IE for later ratemaking treatment.

### Applicable Law

Section 4.3.4. of the 2020 Protocol provides:

Any party, at its discretion and cost, may pursue actions it deems necessary or appropriate to review and evaluate the Decommissioning Studies or Decommissioning Costs and may take any positions based on its review and findings. If a Commission issues an order identifying an independent evaluator for the Decommission studies, and the Commission Order provides for the deferral and later recovery in rates of the cost of the independent evaluator, the Company agrees to initially pay for this independent evaluation.

Upon application, ORS 757.259(2)(e) provides the Commission with discretion to defer, for later ratemaking treatment, identifiable expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.

### Analysis

#### *Background*

PacifiCorp filed its most recently concluded general rate case, docketed as UE 374, on February 14, 2020. The Company's filing noted that, concurrent with its filing, it was filing supplemental testimony in Docket No. UM 1968, its then current depreciation proceeding, to "include the revised decommissioning costs consistent with a third-party study of demolition and decommissioning costs of seven of its coal-fueled resources."<sup>2</sup>

PacifiCorp filed a motion on March 31, 2020, to expand the scope of its UE 374 general rate case proceeding to include determination of the coal plant decommissioning cost estimate issue. This expansion was to include in UE 374 the testimony (and supplemental testimony) several Company and third-party witnesses previously filed in the depreciation proceeding, as well as the Kiewit Study for the Hunter, Huntington, Dave Johnston, Jim Bridger, Naughton, Wyodak, and Hayden coal plants and a second Kiewit Study covering the Colstrip coal plant. The Company's motion included that it had conferred with the parties to UE 374 and understood no party to object to its proposed

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<sup>2</sup> Page 4 of PacifiCorp's February 14, 2020, filing in Docket No. UM 2183, located [here](#) as of April 21, 2022.

expansion of scope. Administrative Law Judge (ALJ) Lackey granted PacifiCorp's motion in a ruling issued on April 2, 2020.

Parties to the 2020 Protocol, including Staff, PacifiCorp, Oregon Citizens' Utility Board (CUB), and Alliance of Western Consumers (AWEC) agreed to Section 4.3.4., which provides for the Commission to appoint an Independent Evaluator (IE) to review PacifiCorp's Decommissioning Studies related to decommissioning costs for its coal-fired plants. Section 4.3.4. also provides that PacifiCorp will pay the initial costs for an IE, provided that a Commission Order provides for the deferral and later recovery in rates of the costs.

#### *Decommissioning Costs in UE 374*

The Commission, in Order No. 20-473 entered December 18, 2020, in Docket No. UE 374, included that—due to the magnitude of the costs to Oregon ratepayers associated with decommissioning PacifiCorp's coal-fueled generating plants—a robust review and verification of the cost estimates included in the two Kiewit Studies included in UE 374 was critical.<sup>3</sup>

The Commission found the record in UE 374, based on the concerns raised by intervenors, to be inadequate to establish final decommissioning costs and stated it would “open a separate proceeding to determine final decommissioning cost estimates” for those plants included in the two Kiewit Studies included in the UE 374 proceeding.<sup>4</sup> The Commission would establish a mechanism for recovery of the final decommissioning cost estimates “on a prospective basis based on the results of that investigation.”<sup>5</sup>

The Commission included that the investigation was to also address how to ensure transparency and facilitate a thorough review of the future coal decommissioning studies for the Craig, Hunter, Huntington, and Wyodak plants, as contemplated by Section 4.3.1.2 of the 2020 Protocol.<sup>6</sup> The Commission's expectation was for significant involvement in the proceeding by a new IE, that was to include providing an evaluation of the Kiewit Studies, and “developing an alternative, independent Association for the Advancement of Cost Engineering (AACE) Class 3 estimate as originally contemplated.”<sup>7</sup> The process was to be structured to provide the IE and parties with an opportunity for full review, including review of all PacifiCorp-supplied inputs and

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<sup>3</sup> Page 17 of Order No. 20-473 in Docket No. UE 374 located [here](#) as of April 21, 2022.

<sup>4</sup> Id.

<sup>5</sup> Id., page 18.

<sup>6</sup> See; e.g., page 26 of the 2020 Protocol.

<sup>7</sup> Page 18 of Order No. 20-473 in Docket No. UE 374.

assumptions. The process was to include opportunity for direct communication between the IE and all parties.

Additionally, the Commission's Order included a reminder that PacifiCorp bears the burden of demonstrating the costs are sufficiently reliable to be included in rates and its expectation that the process would include interim status reports to facilitate timely involvement by the Commission with any further issues regarding access to information.<sup>8</sup>

#### *Decommissioning Costs in UM 2183*

PacifiCorp filed an application for authority to implement a decommissioning cost recovery adjustment and coal removal mechanism on July 8, 2021, which was docketed as Docket No. UM 2183. The Company proposed "a new tariff to collect an increase to estimated decommissioning costs of coal-fired generation resources (including remediation and closure costs) reflected in independent estimates conducted by Kiewit Engineering Group, Inc. (Kiewit) and approval of a coal removal mechanism to reduce regulatory lag when coal units are no longer used to serve Oregon customers."<sup>9</sup> PacifiCorp's application included testimony sponsored by five of its employees, and the application served to initiate the UM 2183 proceeding.

To date, petitions to intervene in Docket No. UM 2183 have been granted to the following parties: Alliance of Western Energy Consumers (AWEC), Calpine Energy Solutions, LLC (Calpine), and the Klamath Basin Water Users Protective Association, dba Klamath Water Users Association (KWUA). The Oregon Citizens' Utility Board (CUB) filed a notice of intervention on August 17, 2021.

Parties held a conference call on August 27, 2021, to discuss process and the preparation and management of a new Request for Proposal (RFP) for a new IE.<sup>10</sup> One outcome was that PacifiCorp would draft the RFP, with input from other participants, manage the RFP process, and serve as the contracting party.

ALJs Rowe and Lackey scheduled an August 30, 2021, prehearing conference for UM 2183. Parties communicated that developing a procedural schedule would be more relevant once a contract with an IE was finalized.

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<sup>8</sup> Id.

<sup>9</sup> Page 1 of PacifiCorp's initial filing in Docket No. UM 2183 on July 8, 2021.

<sup>10</sup> Invitees included PacifiCorp, CUB, AWEC, KWUA, Small Business Utility Advocates (SBUA), Oregon Department of Justice (DOJ) and Staff.

### *RFP Process*

On August 30, 2021, DOJ provided PacifiCorp with a copy of the RFP used for the IE in UE 374 that reflected material changes drafted by Staff and DOJ to incorporate direction from the Commission in UE 374 and related issues.

PacifiCorp provided a draft RFP for the new IE on December 23, 2021, to Staff, CUB, AWEC, Calpine, KWUA, and certain attorneys and consultants for these parties. Parties then engaged in a cycle of recommending edits and changes to the draft RFP, and Staff, KWUA, AWEC, and CUB indicated to PacifiCorp on March 16, 2022, they had no additional changes. The resulting Draft RFP can be found in Attachment A to Staff's Report.

### *Key Provisions in the Scope of Work*

The Draft RFP's Scope of Work (SOW) is separated into five sections, labelled A - E: A. Evaluation of the Kiewit Studies; B. Independent Cost Estimates; C. Information Available to the IE in Performing the Independent Evaluation and Independent Cost Estimate; D. Filing of the Independent Evaluation and Independent Cost Estimates; and E. Appearance by IE and OPUC and Responses to Discovery. Staff includes below the A and B portions of the SOW.

#### A. Evaluation of the Kiewit Studies

The scope of work (SOW) of the IE is to prepare and submit an evaluation of the Kiewit Studies, to include a narrative report and working spreadsheet reports ("Independent Evaluation"). The Independent Evaluation needs to determine if the Kiewit Studies provide reasonable assumptions and estimated costs, current as of the time the Studies were performed using the same timeframe assumptions in the Kiewit Studies and stated in Q4 2019 dollars that are consistent with industry standards and prudent utility practices to decommission, decontaminate, demolish, and reclaim certain of PacifiCorp's coal-fueled generating facilities. The cost estimates in the Kiewit Studies were prepared in general accordance with AACE International (formerly known as the Association for the Advancement of Cost Engineering) Class 3 guidelines, using information available as of Q4 2019, and stated in then current (Q4 2019) dollars for each Plant.

The IE may communicate with Kiewit Engineering Group, Inc. to discuss its methodology and process used in the development of the Kiewit Studies. The IE may also submit information requests to PacifiCorp and Kiewit Engineering Group, Inc. regarding specific information, subject to

execution of any protective orders in Docket UM 2183 and in accordance with their terms.

Independent Evaluation requires three deliverables. The first is a narrative report documenting the IE's audit and assessment of the Kiewit Studies on a plant-by-plant basis and discussing its findings with reference to each specific coal plant in the Kiewit Studies and indicating whether the Kiewit Studies represent reasonable AACE Class 3 estimates using the same timeframe assumptions in the Kiewit Studies and stated in Q4 2019 dollars. The second deliverable is a working electronic version of all spreadsheet reports the IE relied upon in developing and documenting its Independent Evaluation. The spreadsheet reports are to be created and developed using Microsoft Excel, with all cell formulae intact with no worksheet access protections. The third deliverable is an electronic copy of all other materials relied upon by the IE in developing its Independent Evaluation, including all information provided by Kiewit, subject to protective orders in Docket UM 2183. The narrative report prepared by the IE will include [a list of specific information pertaining to content and process].

**B. Independent Cost Estimates**

As a part of the Independent Review, the IE is to prepare and deliver an AACE Class 3 cost estimate for any item in the Kiewit Studies where the Independent Evaluation identifies that the Kiewit Studies do not present a reasonable AACE Class 3 estimate due to the process employed; the assumptions, methodology, index, or forecast used; or the cost estimate (or the range of cost estimates) obtained in the Kiewit Studies. Additionally, the IE is to prepare and deliver an AACE Class 3 cost estimate for those items that were not included in the Kiewit Studies which the IE believes should have been included given the indicated scope of the Kiewit Studies (collectively, the "Independent Cost Estimates"). Each individual cost estimate developed by the IE is to be consistent with AACE Class 3 cost estimate guidelines, using the same timeframe assumptions in the Kiewit Studies and stated in Q4 2019 dollars, and consistent with estimates in the Kiewit Studies. The narrative report prepared by the IE is to include [a list of specific information pertaining to content and process].

Staff cited on page 3 of this memorandum the Commission's expectation for significant involvement in the proceeding by a new IE, to include "developing an alternative, independent Association for the Advancement of Cost Engineering (AACE) Class 3

estimate as originally contemplated.” The RFP used in procurement of the IE used in UE 374 included the following regarding the IE’s preparation of Class 3 estimates:

As a part of OPUC’s Review, OPUC’s IE is to prepare and deliver an AACE Class 3 cost estimate for each item in PacifiCorp’s Study<sup>11</sup> where OPUC’s IE does not concur with either the process employed; the assumptions, methodology, index, or forecast used; or with the cost estimate (or the range of cost estimates) obtained in PacifiCorp’s Study.

Additionally, OPUC’s IE is to prepare and deliver an AACE Class 3 cost estimate for those items that were not included in PacifiCorp’s Study which OPUC’s IE believes should have been included given the indicated scope of PacifiCorp’s Study. Each individual cost estimate developed by OPUC’s IE is to be consistent with AACE Class 3 cost estimate guidelines and stated in Q4 2019 dollars.<sup>12</sup>

Staff points to the conditional nature of preparation of the independent estimates as originally contemplated; i.e., they are to be prepared in one of two circumstances: 1) where the IE does not concur with one or more aspects of how the estimate in the Kiewit Study—which includes estimates prepared by both Kiewit and by PacifiCorp—was prepared or with the resulting value or 2) where the Kiewit Study does not include an estimate the IE believes should have been included.

#### *Identification of IE*

Under the Draft RFP, PacifiCorp will score the IE bids using the scoring methodology and process in Section V and based on any modifications to price and project experience scores agreed by consensus of the parties in Docket No. UM 2183. PacifiCorp will then award the contract to the highest-ranking bidder. Staff recommends the Commission approve the issuance of the Draft RFP and

#### *Deferral of IE Costs*

Section 4.3.4. of the 2020 Protocol provides that PacifiCorp will initially pay the costs for the IE if the Commission issues an order which both identifies the IE and provides for the deferral and later recovery in rates of the cost of the independent evaluator. Staff recommends that the Commission direct PacifiCorp to file such a deferral under ORS 757.259, pursuant to the 2020 Protocol.

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<sup>11</sup> The RFP used to procure an IE in UE 374 defined “PacifiCorp’s Study” as essentially the two Kiewit Studies. See; e.g., page 4 of Attachment A to Staff’s Report regarding Agenda Item 1 of the May 7, 2020, Special Public Meeting. Staff’s Report is located [here](#).

<sup>12</sup> Section IIB on page 4 of the final draft version of the RFP PacifiCorp provided to Staff via email on March 15, 2022.

Conclusion

Staff and Parties engaged in an extended process to develop an RFP for procuring an IE pursuant to Section 4.3.4 of the 2020 Protocol and following direction provided by the Commission in Order No. 20-473. Staff finds that Section 4.3.4. of the 2020 Protocol allows for the procurement of an IE by PacifiCorp on behalf of all Parties, and therefore recommends that the Commission allow PacifiCorp to proceed with the RFP and file a deferral for IE costs pursuant to that provision.

**PROPOSED COMMISSION MOTION:**

Authorize the issuance and use of PacifiCorp's Draft Request for Proposal for an Independent Evaluator for PacifiCorp's Decommissioning Studies, pursuant to Section 4.3.4. of the 2020 Protocol.

Direct PacifiCorp to file a deferral application pursuant to ORS 757.259 for the later recovery in rates of the cost of the Independent Evaluator.



Request for Proposals  
For  
Independent Evaluation of Thermal Power Plant  
Demolition Estimates Study

Issued: [DATE]  
Proposals Due: [DATE]

Issuing Entity: PacifiCorp  
C/O: XXXXX  
825 NE Multnomah Avenue  
Suite XXX  
Portland, OR 97232  
XXX  
XXX

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## **I. INTRODUCTION AND BACKGROUND**

PacifiCorp, d/b/a Pacific Power (“PacifiCorp”), an Oregon corporation, is seeking expert consulting services (“Independent Evaluator” or “IE”) to provide a neutral, independent evaluation of estimated decommissioning and remediation costs for certain of PacifiCorp’s coal-fired generating units. PacifiCorp is a vertically integrated electric utility serving approximately 2.0 million customers in six states throughout the West, including approximately 610,000 customers in Oregon.

In Public Utility Commission of Oregon (“OPUC”) Docket UE 374, PacifiCorp’s 2020 general rate case, PacifiCorp included in its rate request estimates of decommissioning costs for eight of its coal-fired generating facilities. These estimates were based on an Association for the Advancement of Cost Engineers International (“ACEC”) Class 3 study performed by Kiewit Engineering Group, Inc. (the “Kiewit Studies”), using information available as of Q4 2019, and stated in Q4 2019 dollars for each plant.

In Order No. 20-473, the final order in Docket UE 374, the OPUC found that “robust review and verification of these costs is critical” and that “the record of this proceeding is inadequate to establish final decommissioning costs.” The OPUC, therefore, resolved to “open a separate proceeding to determine final decommissioning cost estimates.” It also “expect[ed] significant [Independent Evaluator] involvement in this proceeding, which includes providing an evaluation of the Kiewit Studies,” and potentially developing “an alternate, independent ACEC Class 3 estimate.” The Commission opened Docket UM 2183 for this purpose.

This request for proposals (“RFP”) will be used to identify the Independent Evaluator the OPUC has requested be used in Docket UM 2183 to evaluate the reasonableness of PacifiCorp’s estimated decommissioning and remediation costs. PacifiCorp will be financially responsible for the costs of the contract that results from this RFP. While PacifiCorp will be the contracting party for this engagement, the selected IE will work independently to evaluate the reasonableness of the Kiewit Studies.

## **II. SCOPE OF WORK**

### **A. Evaluation of the Kiewit Studies**

The scope of work of the IE is to prepare and submit an evaluation of the Kiewit Studies, to include a narrative report and working spreadsheet reports (“Independent Evaluation”). The Independent Evaluation needs to determine if the Kiewit Studies provide reasonable assumptions and estimated costs, current as of the time the Studies were performed using the same timeframe assumptions in the Kiewit Studies and stated in Q4 2019 dollars that are consistent with industry standards and prudent utility practices to decommission, decontaminate, demolish, and reclaim certain of PacifiCorp’s coal-fueled generating facilities. The cost estimates in the Kiewit Studies were prepared in general accordance with ACEC International (formerly known as the Association for the Advancement of Cost Engineering) Class 3 guidelines, using information available as of Q4 2019, and stated in then current (Q4 2019) dollars for each Plant.

The IE may communicate with Kiewit Engineering Group, Inc. to discuss its methodology and process used in the development of the Kiewit Studies. The IE may also submit information requests to PacifiCorp and Kiewit Engineering Group, Inc. regarding specific information, subject to execution of any protective orders in Docket UM 2183 and in accordance with their terms.

The generating facilities in question are:

- Dave Johnston Units 1, 2, 3 and 4
- Jim Bridger Units 1, 2, 3 and 4
- Hayden Units 1 and 2
- Hunter Units 1, 2 and 3
- Huntington Units 1 and 2
- Naughton Units 1, 2 and 3
- Wyodak Unit 1
- Colstrip Units 3 and 4

Independent Evaluation requires three deliverables. The first is a narrative report documenting the IE's audit and assessment of the Kiewit Studies on a plant-by-plant basis and discussing its findings with reference to each specific coal plant in the Kiewit Studies and indicating whether the Kiewit Studies represent reasonable AACE Class 3 estimates using the same timeframe assumptions in the Kiewit Studies and stated in Q4 2019 dollars. The second deliverable is a working electronic version of all spreadsheet reports the IE relied upon in developing and documenting its Independent Evaluation. The spreadsheet reports are to be created and developed using Microsoft Excel, with all cell formulae intact with no worksheet access protections. The third deliverable is an electronic copy of all other materials relied upon by the IE in developing its Independent Evaluation, including all information provided by Kiewit, subject to protective orders in Docket UM 2183. The narrative report prepared by the IE will include the following:

1. Names and roles of the individuals involved in preparing the Independent Evaluation.
2. Relevant professional certifications and training for each individual named as involved in the preparation of the Independent Evaluation.
3. Discussion documenting the IE's review and assessment of the process used to prepare the Kiewit Studies.
4. Discussion documenting the IE's review and assessment of the scope and limitations of the Kiewit Studies, specifically including but not limited to:
  - 4.1. The applicability and appropriateness of using a single design basis template for each coal plant included in the Kiewit Studies.
  - 4.2. Completeness of the cost estimates included in the Kiewit Studies.

5. Discussion documenting the IE's audit and assessment of any indices used and how they were used in preparing the Kiewit Studies.
6. Discussion documenting the IE's audit and assessment of any quantitative forecasts, including of indices, used in preparing the Kiewit Studies.
7. Discussion documenting the IE's audit and assessment of the assumptions used in preparing the Kiewit Studies.
8. Discussion documenting the IE's audit and assessment of the methodologies used in preparing the Kiewit Studies.
9. Discussion documenting the IE's audit and assessment of the high-level schedules included in the Kiewit Studies.
10. Discussion documenting the IE's audit and assessment of cash flows included in the Kiewit Studies.
11. Discussion documenting the IE's audit and assessment of owner's (or, where applicable, owners') permitting requirements, as documented in the Kiewit Studies.
12. Discussion documenting the IE's audit and assessment of the summary of typical owner's responsibilities for demolition, salvage, and scrap, as documented in the Kiewit Studies.
13. Discussion documenting the IE's audit and assessment of any other information relevant to the cost estimates included in the Kiewit Studies.
14. Conclusion indicating for each of the items 3-13 whether the Kiewit Studies provide reasonable assumptions and estimated costs, using the same timeframe assumptions in the Kiewit Studies and stated in Q4 2019 dollars, that comply with the requirements of an AACE Class 3 estimate, and which reflect industry standards and prudent utility practices for the decommissioning, decontamination, demolition and reclamation of PacifiCorp's coal-fueled generating facilities.

The spreadsheet reports IE delivers will include clear identification of:

1. Each spreadsheet report file included;
2. Each tab contained within each spreadsheet file;
3. Each column and row heading within each spreadsheet, where the indicated cell(s) contain data or formulae; and
4. Each parameter used in each spreadsheet.

The electronic copy of all other materials IE relied upon in developing the Independent Evaluation will include clear identification of each document, including its source (and hyperlink where applicable) and the date of IE's retrieval of each document if from electronic sources such

as websites. These materials are to be in spreadsheet or pdf format, as applicable, and be clearly labeled.

## **B. Independent Cost Estimates**

As a part of the Independent Review, the IE is to prepare and deliver an AACE Class 3 cost estimate for any item in the Kiewit Studies where the Independent Evaluation identifies that the Kiewit Studies do not present a reasonable AACE Class 3 estimate due to the process employed; the assumptions, methodology, index, or forecast used; or the cost estimate (or the range of cost estimates) obtained in the Kiewit Studies. Additionally, the IE is to prepare and deliver an AACE Class 3 cost estimate for those items that were not included in the Kiewit Studies which the IE believes should have been included given the indicated scope of the Kiewit Studies (collectively, the “Independent Cost Estimates”).

Each individual cost estimate developed by the IE is to be consistent with AACE Class 3 cost estimate guidelines, using the same timeframe assumptions in the Kiewit Studies and stated in Q4 2019 dollars, and consistent with estimates in the Kiewit Studies. The narrative report prepared by the IE is to include the following:

1. Names and roles of the individuals involved in preparing Independent Cost Estimates.
2. Relevant professional certifications and training for each individual named as involved in the preparation of the Independent Cost Estimates.
3. Discussion of the reason(s) an individual cost estimate or set of related cost estimates prepared by the IE represents a more reasonable basis for estimating the costs of decommissioning one or more of PacifiCorp’s coal-fueled generating plant units than does the corresponding cost estimate in the Kiewit Studies.
4. Discussion documenting why any index the IE used in preparing Independent Cost Estimates, including the source and vintage of each such index, is a more reasonable basis for estimating the costs than what was used in the Kiewit Studies or why it was necessary for the IE to use an index where it may not have been for Kiewit; e.g., to deflate any cost estimates made on a contemporary basis.
5. Discussion identifying the nature of any proprietary information included in the Independent Cost Estimates.
6. Discussion documenting why any forecast the IE used in preparing Independent Cost Estimates, including the source and vintage of each such forecast, is a more reasonable basis for estimating the costs than what was used in the Kiewit Studies.
7. Discussion documenting each assumption the IE used in preparing Independent Cost Estimates, including the reason(s) each such assumption was necessary and appropriate, and indicating why each such assumption provides a more reasonable basis for estimating the costs than what was used in the Kiewit Studies.

8. The individual cost estimates prepared by the IE, with each estimate clearly identified as to the task or component to which it applies, as well as the coal plant or coal plant unit(s) to which it applies. The individual cost estimates are to include the range of expected costs as well as the point estimate.
9. For each individual cost estimate prepared by the IE, the value of the corresponding (where applicable) individual cost estimate in the Kiewit Studies for a basis of comparison. This is to include specifying the location within the Kiewit Studies of each corresponding (where applicable) individual cost estimate.
10. The individual cost estimates prepared by the IE are to be organized and presented by coal plant or unit(s) of a coal plant, as appropriate. The IE shall prepare and submit to OPUC the Independent Cost Estimates, to include a narrative report and working Microsoft Excel spreadsheet reports.

**C. Information Available to the IE in Performing the Independent Evaluation and Independent Cost Estimates**

In performing the Independent Evaluation and, if necessary, any Independent Cost Estimates, the IE will have access to all information controlled by PacifiCorp, including all information PacifiCorp provided to Kiewit, subject to protective orders in Docket UM 2183. The IE will also have access to all relevant and necessary information controlled by Kiewit, subject to protective orders in Docket UM 2183. Responses to this RFP should identify how the IE will perform the Independent Evaluation and develop any Independent Cost Estimates without access to Kiewit's proprietary modeling software. The IE will also be able to speak directly to PacifiCorp and Kiewit representatives and can participate in, or request, a workshop with parties to better understand the available information.

Some information provided to the IE will be confidential or highly confidential in nature and the IE will be required to execute confidentiality agreements or protective orders to ensure nondisclosure of the confidential information.

**D. Filing of the Independent Evaluation and Independent Cost Estimates**

The IE will file its Independent Evaluation of the Kiewit Studies and any Independent Cost Estimates it developed with the OPUC in accordance with the timeline agreed upon with PacifiCorp. The Independent Evaluation of the Kiewit Studies and any Independent Cost Estimates will include discussion documenting the IE's audit and assessment of the Kiewit Studies and the methods and assumptions used and the results obtained in the Independent Cost Estimates.

PacifiCorp shall provide any assistance to the IE to facilitate the IE's filing of the Independent Evaluation of the Kiewit Studies and any Independent Cost Estimates, but will not edit or review the Independent Evaluation of the Kiewit Studies or any Independent Cost Estimates before filing.



**E. Appearance by IE at OPUC & Responses to Discovery**

The IE will present the results of the Independent Evaluation of the Kiewit Studies and any Independent Cost Estimates to the parties to Docket UM 2183 during a one-day workshop. The IE will also present the results of the Independent Evaluation of the Kiewit Studies and any Independent Cost Estimates and be available to respond to questions from the OPUC during a public meeting or evidentiary hearing. The IE is also subject to discovery related to assumptions and data used in its review of the Kiewit Studies, with the exception of trade secret or otherwise proprietary information, in accordance with the discovery rules in OAR 860-001-0500 and OAR 860-001-0540.

1. PacifiCorp will provide the IE with advance notice via email of any workshop, public meeting, or evidentiary hearing.
2. Such an appearance will be virtual or at OPUC's location in Salem, Oregon as requested by OPUC.
3. The IE may be required to appear at an evidentiary hearing and be subject to cross examination by any party at the hearing, as well as questioning from the OPUC Commissioners and the Administrative Law Judge.

**III. MINIMUM BIDDER REQUIREMENTS**

Offeror must submit each of the following with its Offer to be considered for evaluation:

1. Offeror's written acknowledgment of and consent to IE's work product(s) being shared with third parties in regulatory proceedings.
2. Evidence the Offeror is a professionally licensed Engineer or Engineering firm in one or more of the States of Oregon, Washington, Utah, and Wyoming.
3. Documentation of relevant project experience by providing project details and reference contact information<sup>1</sup> for projects which involved one or more of six discipline areas of power generation. The six discipline areas as used here are: (1) Boiler/HRSG; (2) large electric apparatus; (3) balance of plant systems (pumps, valves, piping systems, fans, blowers, air cooled condensers, and cooling towers); (4) electrical systems (including switch gear and system protection); (5) control systems; and (6) water treatment systems. Offeror should include a sufficient number of projects so that each of the six discipline areas has three or more projects indicating experience in that discipline area. Offeror is to include no less than 10 projects in total. All projects listed on this document are to have been completed within the last 10 years.
4. Disclosure of any past, present or bids for future work with PacifiCorp or any affiliate of Berkshire Hathaway and annual dollars of revenues from such business.

Regarding the third requirement, Offeror is to use the separate document, Attachment

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<sup>1</sup> Reference contact information for each listed project is to include company name, contact person's name, and contact person's telephone number.

“D”, “Bidder Submittal List of Projects by Discipline.xlsx,” that is available in the bid documents to provide the requested documentation.

## **IV. MINIMUM SUBMISSION REQUIREMENTS**

### **A. Offer Format and Quantity; Public Record/Confidential or Proprietary Information**

Offer must address each of the items listed in this section and all other requirements set forth in this solicitation. Offeror shall submit one electronic copy of its Offer to PacifiCorp.

PacifiCorp is subject to regulation by the OPUC. The OPUC, in turn, is subject to the Oregon Public Records Law (ORS 192.311 through 192.478). Because the retention of an IE is subject to OPUC approval, Offeror is cautioned that cost information generally is not considered a trade secret under Oregon Public Records Law and identifying the Offer, in whole, as exempt from disclosure is not acceptable. Offeror is advised to consult with its own legal counsel regarding disclosure issues.

If Offeror fails to identify the portions of the Offer that Offeror claims are exempt from disclosure, Offeror has waived any future claim of non-disclosure of that information.

### **B. Offer Certification Sheet**

The Offeror shall complete and submit the Offeror Information and Certification Sheet (Attachment C).

### **C. Costs**

Submit a detailed Price Offer (Attachment D) that includes the following items:

- For each activity described in the Scope of Work, the costs must include identifiable costs, time estimates for completing each activity, and a summary of all proposed costs;
- The Price Proposal must include separate line items for personnel, travel, supplies, other costs, and administrative and overhead charges; and
- For all fully loaded personnel costs, the costs offered must include the name and title of all positions for each individual staff person who will perform the work, and list the salary/wage and fringe rate separately for each such individual.

Submission of a Price Offer should include submission as a separate electronic file.

### **D. Cost Subtotals**

Costs must be subtotaled by the following components: 1) the Independent Evaluation; 2) the Independent Cost Estimates; 3) testimony supporting the Independent Evaluation and Independent Cost Estimates; and 4) appearance as an expert witness.

**E. Work Product to be Shared with Third Parties**

Offer must include Offeror's written acknowledgment of and consent to OPUC's IE's work product being shared with third parties in regulatory proceedings. Any confidential information will be subject to the terms of the protective orders in the proceeding. The OPUC requires that a successful bid meet this requirement.

**F. Authorized Representative**

A representative authorized to bind the Offeror shall sign the Offer. Failure of the authorized representative to sign the Offer may subject the Offer to rejection.

**V. EVALUATION PROCESS**

**A. Responsiveness and Responsibility Determination**

Offers received prior to Closing will be reviewed for responsiveness to all solicitation requirements including compliance with the Minimum Bidder Requirements and Minimum Offer Requirements. If the Offer is unclear, PacifiCorp may request clarification from Offeror. However, clarifications may not be used to rehabilitate a non-Responsive Offer. If PacifiCorp finds the Offer non-Responsive, the Offer may be rejected.

**B. Evaluation Criteria**

Proposal will be evaluated on the following criteria:

*1. Relevant Project Experience*

List the relevant project experience in Attachment "D" by providing project details and reference contact information for each project included in each of six discipline areas of power generation. The six discipline areas as used here are (1) Boiler/HRSG; (2) large electric apparatus; (3) balance of plant systems (pumps, valves, piping systems, fans, blowers, air cooled condensers, and cooling towers); (4) electrical systems (including switch gear and system protection); (5) control systems; and (6) water treatment systems.

SCORE	EVALUATION OF RELEVANT PROJECT EXPERIENCE
60	OUTSTANDING – Response shows that each of the six areas has at least 12 projects indicating experience in that area and includes all requested information.
54	VERY GOOD – Response shows that each of the six areas has at least 10 projects indicating experience in that area and includes all requested information.
48	GOOD – Response shows that each of the six areas has at least 7 projects indicating experience in that area and includes all requested information.
42	ADEQUATE – Response shows that each of the six areas has at least 5 projects indicating experience in that area and includes all requested information.
30	FAIR – Response shows that each of the six areas has at least 3 projects indicating experience in that area and includes all requested information.
0	RESPONSE OF NO VALUE – Response does not meet PacifiCorp’s minimum requirement.

2. *Price Evaluation*

PacifiCorp will award a price score to each Price Proposal based upon the percentage of the proposed price as compared to the lowest Offeror’s price using the following formula:

$$\frac{\text{lowest price of qualified Offeror}}{\text{price being scored}} \times \text{price points possible} = \text{price score}$$

**C. Next Step Determination**

Additional rounds of competition may be conducted, but are not guaranteed. Additional rounds of competition may consist of, but will not be limited to:

- Establishing a Competitive Range
- Presentations/Demonstrations/Additional Submittal Items
- Interviews
- Best and Final Offers

If additional round(s) are conducted, PacifiCorp shall provide written notice to all Offerors describing the next step.

**D. Point and Score Calculations**

Relevant Project Experience	XX Points	60 Points total
Cost Proposal	XX Points	40 points total

<b>Total</b>		<b>100 points</b>
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## **VI. AWARD AND NEGOTIATION**

PacifiCorp will evaluate all responsive Offers using the scoring methodology and process described in Section V. Within 10 business days of initial scoring, PacifiCorp shall provide its evaluation and a description of any bids rejected under Section V.A to parties in Docket UM 2183. The parties to Docket UM 2183 may agree, by consensus, to modify the price and relevant project experience scores of each Price Proposal.

### **A. Award Notification Process**

#### *1. Award Consideration*

PacifiCorp shall award a Contract to the highest-ranking Offeror based upon the scoring methodology and process described in Section V, and any score modification by the parties to Docket UM 2183. PacifiCorp may award less than the full Scope of Work defined in this solicitation.

#### *2. Notice of Award*

PacifiCorp will notify all Offerors in writing that PacifiCorp is awarding a Contract to the selected Offeror(s) subject to successful negotiation of any negotiable provisions.

### **B. Successful Offeror Submission Requirements**

#### *1. Insurance*

Prior to execution of the Contract, the apparent successful Offeror shall secure and demonstrate to PacifiCorp proof of insurance coverage meeting the requirements identified in the solicitation or as otherwise negotiated.

Failure to demonstrate coverage may result in PacifiCorp terminating negotiations and commencing negotiations with the next highest-ranking Offeror. Offeror is encouraged to consult its insurance agent about the insurance requirements contained in Insurance Requirements (Exhibit XX of Attachment A) prior to Offer submission.

#### *2. Taxpayer Identification Number*

The apparent successful Offeror shall provide its Taxpayer Identification Number (TIN) and backup withholding status on a completed [W-9 form](#) if either of the following applies:

- When requested by PacifiCorp (normally in an intent to award notice), or
- When the backup withholding status or any other information of Offeror has changed since the last submitted W-9 form, if any.

PacifiCorp will not make any payment until PacifiCorp has a properly completed W-9.

3. *Business Registry*

If selected for award, Offeror shall be duly authorized by the State of Oregon to transact business in the State of Oregon before executing the Contract. The selected Offeror shall submit a current Oregon Secretary of State Business Registry number, or an explanation if not applicable.

All Corporations and other business entities (domestic and foreign) must have a Registered Agent in Oregon. See requirements and exceptions regarding Registered Agents. For more information, see Oregon Business Guide, How to Start a Business in Oregon and Laws and Rules. The titles in this subsection are available at the following Internet site: <http://www.filinginoregon.com/index.htm>.

**C. Contract Negotiation**

By submitting an Offer, Offeror agrees to comply with the requirements of the solicitation, including the terms and conditions of the Sample Contract (Attachment A), with the exception of those terms reserved for negotiation. Offeror shall review the attached Sample Contract and note exceptions. Unless Offeror notes exceptions in its Offer, PacifiCorp intends to enter into a contract with the successful Offeror substantially in the form set forth in Sample Contract (Attachment A). It may be possible to negotiate some provisions of the final contract; however, many provisions cannot be changed.

In the event that the parties have not reached mutually agreeable terms within 30 calendar days, PacifiCorp may terminate Negotiations and commence Negotiations with the next highest-ranking Offeror.

**VII. ADDITIONAL INFORMATION**

**A. Certified Firm Participation**

Pursuant to Oregon Revised Statute (ORS) Chapter 200, PacifiCorp encourages the participation of small businesses, certified by the Oregon Certification Office for Business Inclusion and Diversity (“COBID”) in all contracting opportunities. This includes certified small businesses in the following categories: disadvantaged business enterprise, minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business. PacifiCorp also encourages joint ventures or subcontracting with certified small business enterprises. For more information, visit: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp?XID=6787&TN=oregon4biz>

If the Contract has potential subcontracting opportunities, the successful Offeror may be required to submit a completed Certified Disadvantaged Business Outreach Plan (Attachment F) prior to execution.

**B. Ownership/Permission to Use Materials**

All Offers submitted in response to this RFP become the Property of PacifiCorp. By submitting an Offer in response to this RFP, Offeror grants PacifiCorp a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Offer solely for the purpose of evaluating the Offer, negotiating an Agreement, if awarded to Offeror, or as otherwise needed to administer the RFP process, and to fulfill obligations under applicable Oregon laws and regulations, or any order of the OPUC. Offers, including supporting materials, will not be returned to Offeror unless the Offer is submitted late.

**C. Cancellation of RFP; Rejection of Offers; No Damages**

PacifiCorp may reject any or all Offers in-whole or in-part, or may cancel this solicitation at any time when the rejection or cancellation is in the best interest of PacifiCorp, as determined by PacifiCorp. PacifiCorp shall not be liable to any Offeror for any loss or expense caused by or resulting from the delay, suspension, or cancellation of the solicitation, award, or rejection of any Offer.

**D. Cost of Submitting a Proposal**

Offeror shall pay all the costs in submitting its Offer, including, but not limited to, the costs to prepare and submit the Offer, costs of samples and other supporting materials, costs to participate in demonstrations, or costs associated with protests.