

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1360

In the Matter of

PACIFICORP, dba PACIFIC POWER

Requests Approval to Resume 2008
Request for Proposal.

ORDER

DISPOSITION: REQUEST APPROVED WITH CONDITIONS

On December 24, 2007, PacifiCorp, dba Pacific Power (Pacific Power or Company) filed an application with the Public Utility Commission of Oregon (Commission) to open a docket to address a request for proposals (RFP) for energy resources that the Company planned to file. With the application, Pacific Power requested expedited treatment for Commission selection of an Oregon Independent Evaluator (IE).

On January 16, 2008, the Commission opened Docket UM 1360 to address Pacific Power's 2008 RFP. The Commission also directed Pacific Power to negotiate a contract with Boston Pacific Company, Inc. and Accion Group for independent evaluator services regarding the 2008 RFP. On February 15, 2008, Pacific Power filed an initial Draft 2008 RFP to solicit up to 2,000 megawatts of unit contingent or firm resource capacity and associated energy for delivery to the east or west sides of Pacific Power's system.

On May 20, 2008, the Commission adopted staff's recommendation and approved Pacific Power's proposed RFP with conditions. *See* Order No. 08-310. On October 2, 2008, Pacific Power issued the 2008 RFP to the market and received bidders' proposals on December 16, 2008.

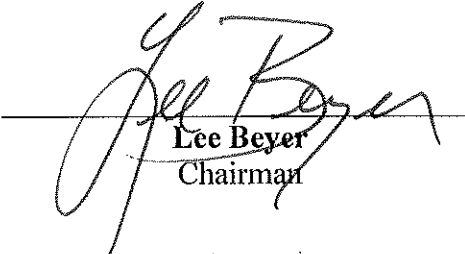
On February 27, 2009, Pacific Power provided the Commission with a notice of suspension of its 2008 RFP. On November 2, 2009, Pacific Power requested approval to resume and re-issue its 2008 RFP with "non-material changes." The details of the filing and Staff's recommendation are described in Staff's Report, attached as Appendix A, and incorporated by reference.

ORDER

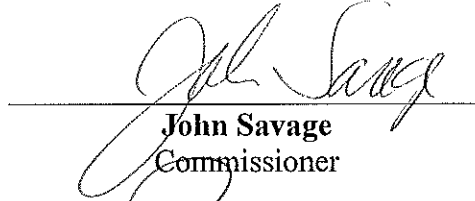
IT IS ORDERED that:

1. PacifiCorp, dba Pacific Power's, request to resume the 2008 request for proposals is approved with the following conditions.
2. Pacific Power will continue to work with the Oregon Independent Evaluators to draft request for proposals language.
3. Pacific Power is required to file for acknowledgement of the final shortlist in docket UM 1360.
4. Pacific Power will provide justification and analysis for the timing, type, and location of the resource need based on its most current evaluation of loads, market prices, and regulatory activity at the time it files for acknowledgement of the final shortlist.
5. The Oregon Independent Evaluators will include a review of Pacific Power's analysis and justification within their Final Closing Report.


Made, entered, and effective DEC 14 2009.



Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

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On February 15, 2008, PacifiCorp filed an initial Draft 2008 RFP to solicit up to 2,000 megawatts (MW) of unit contingent or firm resource capacity and associated energy for delivery to the east or west sides of PacifiCorp's system. The types of resource and timing were: base load, intermediate load and summer peaking resources available for dispatch or scheduling by June 1 of 2012 to 2016. Intermittent renewable resources and unspecified purchases were not eligible.

On May 20, 2008, the Commission adopted staffs recommendation and approved PacifiCorp's proposed RFP with conditions.²

On October 2, 2008, PacifiCorp issued the 2008 RFP to the market and received bidders' proposals on December 16, 2008.

On February 27, 2009, PacifiCorp provided the Commission with a notice of suspension of its 2008 RFP.

On November 2, 2009, PacifiCorp requested approval to resume and re-issue its 2008 RFP with "nonmaterial changes."

Review and Recommendations

On February 27, 2009, PacifiCorp provided the Commission with a notice of suspension of its 2008 RFP. Within its notice, the Company cited the dramatic economic downturn in 2008 which impacted not only customer loads, but also reductions in the price of commodities and costs of construction. The Company stated that there was a reasonable possibility that more favorable bids may be received in the future, as economic and market conditions continued to change.

In its current request to resume and re-issue its 2008 RFP the Company states that the reduction in customer loads has changed the timing of the resource, as stated in its 2008 Integrated Resource Plan (IRP), and that now is the time to take advantage of favorable economic conditions with regard to commodity prices and construction costs.

Within its request to resume the 2008 RFP the Company is proposing several modifications:

- The time period for the resource sought is 2014-2016, as opposed to 2012-2016.
- The Company's benchmark will be limited to a combined cycle natural gas fired plant (CCCT) at the Lake Side location, as opposed to a natural gas

² See Order No. 08-310.

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plant at three separate locations and three to seven simple cycle turbines at several locations.

- PacifiCorp has modified the RFP language with regard to the proposed schedule of bidding and indicative and final pricing.

Time Period and Need

In its opening comments on PacifiCorp's 2008 IRP, staff expressed a concern with PacifiCorp's load forecast and the continued need for the CCCT resource in 2014 due to the declines in load and the current economic climate. In its reply comments, the Company argued that the IRP preferred portfolio is not intended as a rigid resource acquisition schedule that the Company must match verbatim. For example, the 2008 IRP preferred portfolio shows the acquisition of a CCCT in 2014. However, Action item number three designates a span of time, 2012-2016, during which the Company intends to procure a resource. According to the Company, this procurement will be based on a "prospective evaluation of loads, market conditions, prices, and regulatory activity."³

Subsequent to the Company's reply comments, staff has worked with the Company to perform additional analysis associated with the fixed CCCT resource in 2014. Specifically, the Company allowed the capacity expansion model to optimize the timing of the CCCT, given reductions in load in 100 MW increments. The results of this additional analysis showed that the capacity expansion model not only selected the CCCT in 2014, but that the resource has an 88 percent capacity factor in that year.⁴ Additionally, a peak load reduction in the 200-300 MW range is needed to defer the CCCT to 2015. Therefore, staff believes that the resumption of the 2008 RFP is consistent with the currently filed 2008 IRP and the additional analysis requested by staff in Docket No. LC 47.

However, staff recommends that PacifiCorp be required to file for acknowledgement of the final shortlist from the 2008 RFP. At that time, PacifiCorp should provide further justification and analysis for the timing, type and location of the resource need based on its most current evaluation of loads, market prices, and regulatory activity. The Oregon IE should review this analysis and justification and provide comments within its Final Closing Report.

³ See Oregon Docket LC 47, Response to Oregon Party Comments, at 2.

⁴ For this run, the Company used the preferred portfolio development input assumptions (October 2008 forward price curves and a \$45/ton CO2 tax). Because stochastic production cost modeling has consistently found that CCCT capacity is more cost-effective on a risk-adjusted basis than simple-cycle combustion turbine (SCCT) capacity, SCCT resources were excluded as resource options for the capacity expansion run.

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Company Benchmark

The Company has narrowed its benchmark proposal to a single CCCT at the Lake Side site, as compared to three CCCT's and three to seven simple cycle facilities. The Company attributes this change to the fact that it has "now acquired the rights for the active development permits at the Lake Side site in connection with its termination of the Master Development, Engineering, Procurement and Construction Agreement for the proposed Lake Side 2 plant."

Within its filing, on November 2nd, the Company did not provide the modified RFP language associated with this proposed change in benchmarks. Therefore, the Oregon IE's have not had an opportunity to provide staff with formal comments on either the implications of this change on the RFP process, or the specific language in the RFP associated with this change. Since the Company has not provided its revised RFP documents, staff recommends that the Commission condition its approval of the re-issuance of the RFP on the IE's full participation in the drafting of this language. Ultimately, if the Oregon IE reaches the conclusion that the proposed modifications are not in-line with Guideline 7, that the overall fairness of the bidding process is maintained, then it is unlikely that a final shortlist would be acknowledged.⁵

Proposed Schedule

PacifiCorp has proposed modifications to its RFP document that would allow it to accept indicative proposals from bidders 75 days from the time that it re-issues its RFP to the market, with the benchmark indicative pricing due 60 days from the time that the RFP is re-issued.⁶ Subsequently, the Company would analyze the indicative bids to develop an initial shortlist. Once this initial shortlist is developed the shortlisted bidders, and the benchmark, would be asked to provide a firm bid at a later specified date.⁷ The Company has commented that this proposed change in its current RFP is subsequent to "lessons learned in the 2012 Request for Base Load Resources (2012 RFP)."

Without having the benefit of the proposed language in the Company's RFP, staff and the Oregon IE's have several concerns associated with the language that will be included in the RFP. First, if the firm bid is markedly different than the bid that it received in the indicative pricing phase, will the Company be able to request a firm proposal from a non-shortlisted bidder? Second, will the Company language constrain the bidder from making significant price changes from indicative to firm, and to what degree? Lastly, will the Company language allow for any change in manufacturer, site change, fuel change, or other such modifications? The Company has had discussions

⁵ See Order No. 06-446, at 2.

⁶ The Company intends to re-issue its RFP to the market on December 2, 2009.

⁷ The Company is not suggesting that the provisions allowing 40 percent of the bid price to change based on specified indexes following an award of contract be eliminated.

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with the Oregon IE's and staff regarding these concerns. Staff is confident that the Company will continue to work with the Oregon IE's to reach language that is agreeable to all parties.

Finally, the Oregon IE's have not had an opportunity to report to Staff on any impact this change may have on the bidding process itself, and specifically, on whether the modified RFP continues to comply with the Commission's Competitive Bidding Guidelines. Therefore, if the Oregon IE reaches the conclusion that the modifications are not in-line with the Competitive Bidding Guidelines, it is unlikely that staff would recommend acknowledgement of the final shortlist.

PROPOSED COMMISSION MOTION:

PacifiCorp's request to resume the 2008 request for proposal (RFP) be approved with the following conditions:

- PacifiCorp continue to work with the Oregon IE's to draft RFP language.
- PacifiCorp be required to file for acknowledgement of the final shortlist in this docket.
- PacifiCorp shall provide justification and analysis for the timing, type and location of the resource need based on its most current evaluation of loads, market prices and regulatory activity at the time it files for acknowledgement of the final shortlist. The Oregon IE will include a review of the Company's analysis and justification within its Final Closing Report.

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