

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1429

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Request for Approval of Draft 2009R
Request for Proposals for New Renewable
Resources.

ORDER

**DISPOSITION: STAFF RECOMMENDATION APPROVED; FINAL
2009R RFP SHORTLIST ACKNOWLEDGED**

On April 28, 2009, PacifiCorp, dba Pacific Power (Pacific Power), filed an application with the Public Utility Commission of Oregon (Commission) to open a docket for the approval of a solicitation process for new renewable resources (2009R RFP), and to appoint Boston Pacific Company as the Oregon Independent Evaluator (OIE) for the 2009R RFP. The Commission approved Boston Pacific Company as the OIE in Order No. 09-181, and directed Staff to review the final draft negotiated contract, prior to its execution by Pacific Power and the OIE, to ensure it conformed with Order No. 06-446.¹

At its July 7, 2009, public meeting, the Commission approved Pacific Power's proposed 2009R RFP, subject to various conditions recommended by Commission Staff (Staff). The Commission conditioned this approval on Boston Pacific Company's continuing to serve as independent evaluator through the end of the contract negotiation stages for both the 2009R RFP and Pacific Power's 2008R-1 RFP.²

On October 15, 2009, Pacific Power filed a request for the Commission to acknowledge its 2009R RFP final shortlist, pursuant to Guideline 13 in Order No. 06-446.³ On November 16, 2009, Staff filed the Oregon Independent Evaluator's Final Closing Report

¹ Order No. 06-446 addresses competitive bidding requirements for new supply-side resource acquisitions for Oregon's investor-owned electric utilities.

² See Order No. 09-272.

³ Guideline 13 allows a utility to seek acknowledgement of the utility's selection of its final shortlist of RFP resources. See Order No. 06-446 at 14-15.

on Pacific Power's 2009R RFP (Final Report). Staff reached the following conclusions in a November 13, 2009, memorandum:⁴

1. Pacific Power conducted its 2009R RFP fairly and properly;
2. Pacific Power selected the best bids for the final shortlist consistent with the cost-risk decision criteria used to develop the renewable resource schedule acknowledged in the 2007 IRP and currently filed 2008 IRP; and
3. Pacific Power's final shortlist represents the best options from a very competitive procurement process, including the evaluation and selection of a Company benchmark resource.

Based on these conclusions, Staff recommended that the Commission acknowledge Pacific Power's final shortlist of bidders.

The Northwest and Intermountain Power Producers Coalition (NIPPC) and the Industrial Customers of Northwest Utilities (ICNU) both filed written comments addressing the shortlist.⁵ NIPPC did not object to the Commission's acknowledgement of Pacific Power's 2009R RFP shortlist of bidders, but supported the imposition of a number of conditions on the acknowledgement, including some suggested by the OIE in its Final Report. ICNU objected to Commission acknowledgement of the shortlist, but in the alternative, asked the Commission to impose certain conditions on any acknowledgement.

At its public meeting on November 24, 2009, the Commission adopted Staff's recommendation and acknowledged Pacific Power's shortlist.⁶

⁴ Staff's memorandum is attached as Exhibit A and incorporated by reference.

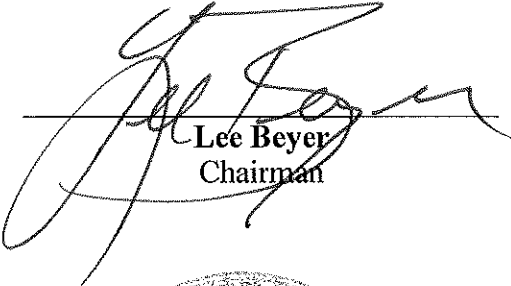
⁵ The OIE's Final Closing Report was designated "highly confidential," as were NIPPC's and ICNU's comments, and for that reason they are not discussed in detail.

⁶ Conditions proposed by the commenters were deferred for decision to future proceedings in which they may appropriately be raised and addressed.

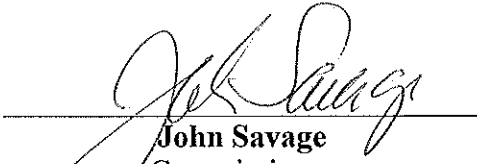
ORDER

IT IS ORDERED that PacifiCorp, dba Pacific Power's final shortlist of bidders in the 2009R request for proposals is acknowledged.


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.

ITEM NO. 2

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 24, 2009**

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: November 13, 2009

TO: Public Utility Commission

FROM: Kelcey Brown

THROUGH: Lee Sparling, Ed Busch and Maury Galbraith
in MG for EB MG

SUBJECT: PACIFICORP: (Docket No. UM 1429) Requests Acknowledgment of Final Shortlist of Bidders in 2009R Request for Proposals.

STAFF RECOMMENDATION:

Staff recommends the Commission acknowledge the final shortlist of bidders in PacifiCorp's 2009R request for proposals (RFP) for renewable resources.

DISCUSSION:

Pursuant to Guideline 13 in Order No. 06-446, PacifiCorp requests that the Commission acknowledge the final shortlist of bidders in its 2009R request for proposals (2009R RFP) for renewable generating resources. Staff's discussion of PacifiCorp's acknowledgment request is organized into three sections. The first section recaps the procedural history of Docket No. UM 1429. The second section lays out the standards against which a request for RFP shortlist acknowledgement should be judged. The final section contains Staff's analysis and recommendations.

Much of the information contained in Docket No. UM 1429 is highly confidential. Staff has attempted to minimize the amount of redacted text in this report, however some redaction is unavoidable. PacifiCorp has selected [REDACTED] projects for the final shortlist. Attachment A is a confidential table that shows the ranking of bids for the final shortlist.

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Procedural History

On April 28, 2009, PacifiCorp filed an application requesting that the Commission open a docket and appoint an independent evaluator for the company's 2009 request for proposals for supply-side renewable resources. The targeted acquisition quantity was for up to 500 megawatts (MW) of capacity capable of commercial operation between 2010-2012.

On May 22, 2009, the Commission selected Boston Pacific Company (Boston Pacific) to serve as the Oregon Independent Evaluator (Oregon IE) for the 2009R RFP.¹

On July 15, 2009, the Commission approved PacifiCorp's application for the 2009R RFP with conditions.² One of those conditions was that PacifiCorp not exceed a combined total of 600 MW with the selection of bids from the 2008R-1 and 2009R RFPs. In its 2008R-1 RFP, PacifiCorp successfully negotiated a contract with Duke Energy for a resource of 200 MW. Therefore, the acquisition limit in the 2009R RFP for renewable resources decreased to 400 MW from the original request of 500 MW.³

PacifiCorp filed its request for acknowledgment of the 2009R RFP final shortlist on October 15, 2009.

Finally, on November 16, 2009, Staff filed the Oregon Independent Evaluator's Final Closing Report on PacifiCorp's 2009R Renewable RFP (Final Closing Report) with the Commission.

Standards of Review

Staff considers three questions when it reviews a utility's request for RFP shortlist acknowledgement:

1. Has the utility conducted the RFP fairly and properly?
2. Has the utility selected the best resource on behalf of customers for the final RFP shortlist based on overall system cost and risk and the decision criteria used to develop the utility's acknowledged IRP Action Plan?
3. Is continued utility negotiation with the final shortlist of bidders reasonable based on the information provided to the Commission at this time?

¹ See Order No. 09-181.

² See Order No. 09-272.

³ *Id.*

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The first question addresses the procedural fairness of the RFP. Guideline 10(b) in Order No. 06-446 instructs the IE to oversee the RFP process to ensure that it is conducted fairly and properly.

The second question addresses the substantive evaluation of the competing bids. Guideline 9(b) in Order No. 06-446 states that the selection of the final RFP shortlist must be consistent with the modeling and decision criteria used to develop the utility's acknowledged IRP Action Plan. The emphasis placed on consistent modeling and decision criteria promotes flexibility in achieving the Commission's competitive bidding goals. It does this by providing a means to promote and improve upon the roadmap established in the utility's IRP Action Plan.⁴ Deviations from the IRP roadmap should be evaluated, in part, in terms of overall system cost and risk. Guidelines 10(c-e) instruct the IE to independently review the utility's bid scoring and shortlist selection, including the evaluation of a Benchmark resource.

The third question addresses the overall reasonableness of the utility's continued negotiations with the final shortlist bidders. Guideline 13 in Order No. 06-446 states that final shortlist acknowledgment will have the same meaning, legal force, and effect as IRP acknowledgement. For a final RFP shortlist to be acknowledged, the Commission must find that the utility's continued negotiation with final shortlist bidders is reasonable based on the information known at the time.⁵

Analysis and Recommendation

Staff's analysis of PacifiCorp's request for Commission acknowledgment of its final shortlist begins with Boston Pacific's Final Closing Report on PacifiCorp's 2009R RFP. Staff recognizes the expertise of the Oregon IE and in most instances will defer to its opinions and judgments.

As the Oregon IE for PacifiCorp's 2009R RFP, Boston Pacific participated in the entire RFP process from design of the RFP through the independent evaluation of the benchmark resource, receipt of the bids, bid evaluation, and final shortlist selection. Based on its participation in the RFP process, Boston Pacific concluded that PacifiCorp's 2009R RFP was a fair and transparent process. Staff agrees with the Oregon IE that PacifiCorp conducted the 2009R RFP fairly and properly.

⁴ See Order No. 06-446 at 2.

⁵ For an IRP Action Plan to be acknowledged, the Commission must find that the utility's continued implementation of the plan is reasonable based on information known at the time of acknowledgment.

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As compared to the most recent RFP process, 2008R-1, PacifiCorp included a benchmark resource in the 2009R RFP. Guideline 10(d) instructs the Oregon IE to not only independently score the benchmark resource, but also to evaluate the unique risks and advantages, taking into consideration regulatory treatment of costs and benefits related to actual construction costs.⁶ The analysis conducted by the Oregon IE associated with the benchmark resource included: (a) confirmation of the accuracy of the benchmark costs and scoring prior to bid receipt, (b) a review of the initial and final shortlist scores and models, (c) independent scoring of the project's non-price characteristics, and (d) an evaluation of the bid costs using its own cost model. Furthermore, the Oregon IE took into consideration that [REDACTED] capital costs are under fixed price or not-to-exceed contracts and the wind output projections were reviewed by a third-part consultant. Therefore, Staff concludes that the Oregon IE conducted its analysis of the benchmark resource consistent with Guideline 10(d). *Id*

The Commission's RFP guidelines clearly distinguish between selection of the initial shortlist of bids and the selection of the final shortlist of bids. Guideline 9(a) indicates that initial shortlist selection should be based on price and non-price factors, and result in a diversity of resource types. Guideline 9(b) indicates that final shortlist selection should be based on overall system cost and risk and use modeling and decision criteria consistent with the utility's acknowledged IRP Action Plan. Boston Pacific's Final Closing Report recognizes this distinction and provides a thorough review of both PacifiCorp's initial and final shortlist selection.

PacifiCorp's initial shortlist selection was divided into three categories of renewable resources: (1) Wind resources located on the east-side of PacifiCorp's system; (2) Wind resources located on the west-side of PacifiCorp's system; and (3) Non-wind resources. PacifiCorp selected [REDACTED] for the east-side wind shortlist. The [REDACTED] [REDACTED] PacifiCorp selected [REDACTED] for the west-side wind shortlist. The [REDACTED] Finally, PacifiCorp selected [REDACTED] to the non-wind shortlist.

Altogether, the initial shortlists were comprised of the bids with the highest combined price and non-price scores and represented a diverse mix of transaction and project types. Boston Pacific independently reviewed PacifiCorp's price and non-price scoring, reconciled differences between their own scoring and the company's scoring, and concurred with PacifiCorp's selection of the initial shortlists. Based on the evidence

⁶ See Order No. 06-442 at 3.

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provided in PacifiCorp's filings and in the Oregon IE's Final Closing Report, Staff concludes that PacifiCorp selected the best bids for the initial shortlist.

PacifiCorp's final shortlist selection was based on a system benefit analysis using the company's alternative cost of compliance (ACC) methodology. The ACC method used the company's IRP model to calculate the overall system benefit of the proxy wind resources included in the 2008 IRP preferred resource portfolio. Initial shortlist bids were then assigned an ACC value equal to the estimated costs of the bid minus the proxy wind system benefit (on a \$/MWh basis). For the final shortlist selection, the lower a bid's ACC value the better. Boston Pacific independently reviewed PacifiCorp's ACC models, terminal value and incremental capacity contribution of individual bids, and concluded that the ACC method accurately identifies bids with the greatest net benefits to ratepayers.

As stated above, Guideline 9(b) in Order No. 06-446 specifically focuses on the decision criteria and tradeoff between system cost and risk used to develop the utility's acknowledged IRP Action Plan. In the context of a targeted-source RFP, like PacifiCorp's 2009R RFP, it is harder to judge the consistency of a utility's decision making. The overall mix of new resources is being determined on multiple fronts. In targeted-source RFP's, to judge compliance with Guideline 9(b), Staff recommends focusing on consistent resource acquisition schedules.

The Commission acknowledged PacifiCorp's 2007 IRP renewable acquisition schedule on April 24, 2008. The acknowledged acquisition schedule called for PacifiCorp to acquire 2,000 MW of renewable resources by 2013. In our opening comments in this proceeding, Staff determined that PacifiCorp's 2009R RFP was consistent with this renewable resource acquisition schedule as long as the combined acquisition with the 2008R-1 and 2009R RFPs did not exceed 600 MW.⁷ Therefore, based on the consistency of the acquisition schedules and the evidence provided in the Oregon IE's Final Closing Report, Staff concludes that PacifiCorp selected the best bids for the final shortlist.

In its Final Closing Report the Oregon IE makes two additional recommendations. The first recommendation is that at the time of rate-making the Commission hold the Company to its cost estimates based on the premise that [REDACTED] of these costs are under fixed or not-to-exceed contracts. The Oregon IE's second recommendation is for the availability of the benchmark wind project to be held to the same standard as a standard PPA contract.

⁷ See Order No. 09-272, Appendix A at 9.

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The ratemaking treatment for the prudently incurred costs of the PacifiCorp benchmark resource is the proper subject of a future rate proceeding. The Commission's review of PacifiCorp's benchmark costs at the time of rate-making come under several forms of scrutiny, including, a thorough review of what the Company's estimated or bid costs were at the time it made the decision to go forward. With regard to the Oregon IE's second recommendation, staff believes that with the pending stipulation with PacifiCorp in docket UM 1355, in which the Company agreed to provide annual wind availability reports for its owned wind resources,⁸ the Commission will have the means necessary in a future rate proceeding to determine whether the utility is prudently maintaining its facilities.

The remaining question is whether it is reasonable for PacifiCorp to continue negotiations with the final shortlist of bidders given what is known at this time. Or, stated somewhat differently, has the passage of time provided good reason to deviate from the acknowledged IRP roadmap or the 2009R RFP final shortlist?

Deviation from PacifiCorp's 2007 IRP renewable resource acquisition schedule is not justified at this time. State renewable portfolio standard requirements and uncertainty regarding future greenhouse gas policy continue to favor acquisition of renewable resources. In its recently filed 2008 IRP, PacifiCorp recommends a cumulative renewable resource inventory of 2,540 MW by 2018. Staff and the Commission will be reviewing PacifiCorp's 2008 IRP in Docket No. LC 47.

In its 2009R RFP, PacifiCorp evaluated [REDACTED] Initial bids were received on September 10, 2009. Staff agrees with the Oregon IE's assessment that the final shortlist of bidders consists of the best options from a very competitive process. Based on these considerations, Staff concludes that it is reasonable for PacifiCorp to continue negotiations with its final shortlist bidders.

In summary, Staff has concluded that:

1. PacifiCorp conducted its 2009R RFP fairly and properly;
2. PacifiCorp selected the best bids for the final shortlist consistent with the cost-risk decision criteria used to develop the renewable resource schedule acknowledged in the 2007 IRP and currently filed 2008 IRP; and
3. PacifiCorp's final shortlist represents the best options from a very competitive procurement process, including the evaluation and selection of a Company benchmark resource.

⁸ See UM 1355, PacifiCorp, Staff, CUB, and ICNU's Partial Stipulation, Appendix A.

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Based on these conclusions, Staff recommends that the Commission acknowledge the final shortlist of bidders in PacifiCorp's 2009R RFP.

In the 2008R-1 and 2009R process, PacifiCorp has repeatedly indicated a desire to continuously test the market for renewable resources. The Company has stated that its intent is to continuously re-use the existing 2009R RFP form and process. Staff supports the Company's proposal to re-issue its "shelf" RFP, the success of the 2008R-1 and 2009R are evident in the quantity and quality of bids received. However, staff believes that the Company should set specific dates for the issuance of future renewable RFP's. PacifiCorp has already stated in its 2008 IRP that it intends to acquire additional renewable resources through 2013, and staff believes that this change would provide for better planning and certainty with regard to third-party bidders and consequently a more open and fair RFP process. Staff intends to comment further on the possibility of an annual renewable RFP issuance date in Docket LC 47, PacifiCorp's 2008 IRP.

PROPOSED COMMISSION MOTION:

The final shortlist of bidders in PacifiCorp's 2009R request for proposals be acknowledged.

UM 1429 Shortlist Acknowledgment