

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 10, 2009**

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: February 2, 2009

TO: Public Utility Commission

FROM: Lisa Schwartz

THROUGH: Lee Sparling and Ed Busch

SUBJECT: PACIFIC POWER & LIGHT: (Docket No. UM 1208) Request for acknowledgment of final short-list of resources in the 2012 Request for Proposals.

STAFF RECOMMENDATION:

Staff does not have a recommendation at this time. The special public meeting is an opportunity for the Commissioners to hear initial comments from parties on PacifiCorp's request and ask questions of parties and the Independent Evaluator. Staff will provide its recommendation at the time set for reply comments. The Public Utility Commission of Oregon (Commission) will set over its ruling for a subsequent decision meeting.

DISCUSSION:

The Commission's updated guidelines for competitive bidding included a new process that allows a utility to request "acknowledgment" of its final short-list of resources in the Request for Proposals (RFP) process:

The utility may request that the Commission acknowledge the utility's selection of the final short-list of RFP resources. The IE [Independent Evaluator] will participate in the RFP acknowledgment proceeding. Acknowledgment has the same meaning as assigned to that term in Commission Order No. 89-507. RFP acknowledgment will have the same legal force and effect as IRP [Integrated Resource Plan] acknowledgment in any future cost recovery proceeding. The utility's request should discuss the consistency of the final short-list with the company's acknowledged IRP Action Plan.¹

¹ See Guideline 13 in Order No. 06-446 (Docket UM 1182) at 14, issued August 10, 2006.

Acknowledgment of a utility's selection of its final short-list means simply that it seems reasonable based on the information provided to the Commission at the time. The Commission explicitly stated that final short-list acknowledgment "... will not ... provide a guarantee of favorable ratemaking treatment during rate recovery."²

This is the first proceeding where the Commission is considering final short-list acknowledgment, and it is in the context of an RFP for which the Commission denied the utility's request for approval. The Commission has clarified that "... even in the absence of an approved RFP, a utility might be able to obtain acknowledgment of a short list if it can demonstrate the final choice of resources is aligned with its acknowledged IRP.... [I]n order to obtain acknowledgment, the utility must demonstrate that it has overcome the previously identified deficiencies that prevented Commission approval of the RFP."³

2012 RFP Process to Date

On July 11, 2006, PacifiCorp filed an RFP for base load resources to begin serving loads on the east side of its system during the period 2012 to 2014.⁴ The Company filed multiple modifications to its "2012 RFP" — first to conform to the Commission's updated competitive bidding guidelines and then in response to comments by staff and parties in Oregon and Utah.

At its meeting on November 7, 2006, the Commission selected Boston Pacific Company and Accion Group to jointly serve as the Oregon Independent Evaluator for the RFP.

On January 16, 2007, the Commission denied PacifiCorp's request to approve the 2012 RFP stating it was "... not aligned with the company's acknowledged [2004] integrated resource plan (IRP), and that PacifiCorp has failed to justify the need for 1,109 megawatts (MW) of baseload resources."⁵ The Commission further explained that PacifiCorp failed to establish that base load resources are best suited to fill its resource need and failed to consider additional short-term purchases, demand-side measures, and distributed resources as well as seasonal on-peak resources.⁶

² *Id.* at 15.

³ See Order No. 06-676 at 3-4. The Commission reiterated its position in Order No. 07-018 at 10.

⁴ PacifiCorp initiated this docket on June 28, 2005, with a draft RFP for a "flexible" resource on the east side of its system beginning in 2009.

⁵ See Order No. 07-018 at 1.

⁶ *Id.* at 5.

PacifiCorp issued its final 2012 RFP on April 5, 2007, for an even larger amount of base load resources — up to 1,700 MW — following approval by the Public Service Commission of Utah.⁷

On October 1, 2007, PacifiCorp filed a motion with the Utah Commission to amend its RFP, requesting expedited treatment. The proposed changes resulted from PacifiCorp's concern that development of its previously announced 2012 benchmark resource, a 340 MW share of Intermountain Power Project 3 (a proposed supercritical pulverized coal facility in Utah), was in jeopardy. The Company proposed to add natural gas-fired benchmark resources⁸ with a 2012 in-service date at its Currant Creek and Lake Side sites.

On November 2, 2007, the Oregon Commission held a special public meeting to hear concerns about PacifiCorp's proposed changes to the bidding process, long after the RFP had been issued and bids were received. In the end, the Company proceeded with the RFP process unchanged.

PacifiCorp established a "conditional" final short-list in December 2007 consisting of three top-ranked bids. The Company gave these bidders an opportunity to cure any bid provisions deemed non-compliant with the RFP.⁹ PacifiCorp's request for acknowledgment of the final short-list, as well as the Independent Evaluator's Closing Reports and comments on January 21, 2009, detail subsequent activities.

On December 4, 2008, PacifiCorp filed a request for acknowledgment of the final short-list, comprised of two bidders. On December 17, 2008, the Company amended its request to remove one of the resources following consultation with the Independent Evaluators in Oregon and Utah "... because one of the bidders was not an original bidder...."¹⁰ The Oregon Independent Evaluator's January 21, 2009, comments (at 11-12) more fully explain its position on this issue. Among them: PacifiCorp had issued its 2008 all-source RFP, which seeks capacity for an overlapping period with the 2012 RFP, and the removed resource should bid into the new RFP.

⁷ The amount of resources to be solicited through the Utah Commission-approved RFP was determined after removal of short-term market purchases in PacifiCorp's 2004 IRP as acknowledged by the Oregon Commission. See Utah Docket No. 05-035-47.

⁸ Utility self-build options.

⁹ See the Oregon Independent Evaluators' Closing Reports for details. Staff filed Boston Pacific Company's Closing Report on April 9, and Accion Group's Closing Report on April 10, 2008.

¹⁰ See PacifiCorp's letter dated December 17, 2008, accompanying its amended request for acknowledgment.

The revised final short-list consists solely of a 607 MW¹¹ natural gas-fired, combined-cycle combustion turbine at the Company's Lake Side site in Utah. PacifiCorp would own the facility upon completion.

Other Resource Acquisition Activities

Especially in light of the one-year lag between PacifiCorp's establishment of the 2012 RFP final short-list and its request for final short-list acknowledgment, the Commission should consider the Company's other resource acquisition activities.

First is its recent acquisition of the 520 MW Chehalis generating plant in Washington state.¹² Second, the Company is now reviewing bids for its "2008 all-source RFP" for up to 2,000 MW of base load, intermediate load and summer peak resources that are available to begin serving loads system-wide in the 2012 to 2016 timeframe.¹³ Third, PacifiCorp recently acquired hundreds of megawatts of wind generating facilities.¹⁴ In addition, the Company has issued an RFP for up to 500 MW of renewable resources serving customers starting in 2009, 2010 or 2011.¹⁵

Criteria for Final Short-List Acknowledgment

Guideline 13 - Under Order No. 06-446, the Commission established "consistency of the final short-list with the company's acknowledged IRP Action Plan" as a factor for approval or denial of a utility's request for acknowledgment of its final short-list selection. This guideline parallels the first criterion for RFP approval – alignment of the utility's RFP with its acknowledged IRP.¹⁶ In its order denying PacifiCorp's request for approval of the 2012 RFP, the Commission found PacifiCorp's decision to pursue 1,109 MW of base load resources – the base load need specified in the draft RFP filed – was not aligned with the acknowledgment order on the Company's 2004 IRP.

In its order on the 2004 IRP, the Commission said that, while PacifiCorp may need one large thermal plant on the east side of its system, the Commission cannot tell when such a plant would be needed due to deficiencies in the IRP analysis including planning

¹¹ The size of the plant was disclosed in PacifiCorp's February 2, 2009, IRP presentation (at 44).

¹² See Order No. 08-376 in Docket UM 1374.

¹³ The Commission approved the Oregon version of the RFP in Order No. 08-310 (Docket UM 1360) issued June 5, 2008. The Utah version allows long-term coal resources to bid, as required by the Utah Commission. PacifiCorp issued both versions of the RFP on October 2, 2008.

¹⁴ See Order No. 08-548 (Docket UE 200).

¹⁵ See Order Nos. 08-476 and 09-017 (Docket UM 1368).

¹⁶ See Guideline 7 in Order No. 06-446 (at 9).

margin, short-term market purchases and renewable resources.¹⁷ The Commission expressly declined to acknowledge the need for two large thermal resources on the east side of PacifiCorp's system by 2011.

In its subsequent order denying PacifiCorp's request for 2012 RFP approval, the Commission similarly stated, "PacifiCorp has failed to demonstrate the need for two large thermal resources on the east side of the system by 2013. Due to errors and omissions in its forecasted load and resource balance, the company has significantly overestimated its resource needs." The Commission found staff's analysis to be "... a much more reliable indicator of the company's resource need." Using a 12 percent planning margin and including acknowledged levels of short-term market purchases and renewable resources, staff's analysis showed the company's need to be 157 MW in 2012 and 335 MW in 2013.¹⁸

PacifiCorp's resource need as modeled in the 2012 RFP relied on its March 2007 load forecast used for the Company's 2007 IRP.¹⁹ The Company subsequently updated its load forecast in October 2007 for its 2007 IRP Update.²⁰ The Company again updated its load forecast in November 2008. The Company is using this forecast for its current 2008 all-source RFP as well as its 2008 IRP, which it expects to file March 31, 2009. As the Independent Evaluator points out in its January 21, 2009, comments (at 6), there is little difference between the October 2007 and November 2008 forecasts.

The Company's load-resource balance in the 2007 IRP Update forecasted a 2,398 MW capacity deficit in 2012, based on a 12 percent planning reserve margin, down slightly from 2,446 MW in the 2007 IRP. The Company's business plan presented in the update included 2,165 MW of capacity additions in 2012 toward meeting that need, including 1,096 MW of combined-cycle power plants and 915 MW of short-term market purchases in that year.²¹

Regarding short-term market purchases, the Commission acknowledged PacifiCorp's 2004 IRP assumption of 1,200 MW of such purchases on a rolling annual basis, including 700 MW on the east side of the system. In its acknowledgment order on PacifiCorp's 2007 IRP, the Commission noted staff's concerns that planned short-term market purchases even at their peak in 2013 were only about half the amount included

¹⁷ See Order No. 06-029 at 50.

¹⁸ See Order No. 07-018 at 5.

¹⁹ In order to lock down assumptions for the 2012 RFP prior to receipt of bids in June 2007.

²⁰ Not formally reviewed by the Commission.

²¹ Including 115 MW of short-term purchases on the east side. The levels of planned short-term purchases varied significantly by year.

in the prior plan. The Commission stated its intent to further review the issue in decisions related to resource acquisitions and the Company's next IRP.

The Independent Evaluator states in its January 21, 2009, comments (at 6) that, using a 12 percent planning margin and PacifiCorp's most recent (March 2008) forecast of its load and resource balance, after accounting for the Chehalis generating plant and the proposed Lake Side 2 project that is the subject of the current request, the remaining capacity need in 2012 matches the level of capacity the Company planned to come from short-term market purchases.

Other criteria for RFP approval - Staff believes a reexamination of the Commission's other two criteria for RFP approval are equally important to consider in determining whether the utility's selection of its final short-list of bids is reasonable.

The Commission's second criterion for RFP approval is whether it satisfies the competitive bidding guidelines in Order No. 06-446. Previously, the Commission concluded that the key problem in this regard was PacifiCorp's failure to consider resource strategies other than base load plants.^{22,23} Boston Pacific Company's Closing Report and January 21, 2009, comments state that the RFP as implemented otherwise met the competitive bidding guidelines, including using assumptions and modeling consistent with PacifiCorp's 2007 IRP as acknowledged by the Commission.

Because the Commission was denying RFP approval, it declined to make any findings in its prior 2012 RFP order on the third criteria, overall fairness of the utility's proposed bidding process. The Independent Evaluator's Closing Reports and supplemental comments conclude that PacifiCorp conducted the bidding process fairly and within the standards set out in the RFP.

Remedying identified RFP deficiencies - The Commission set forth an additional criterion for final short-list acknowledgment in the case of an RFP for which it denied approval. In that instance, the utility must demonstrate it has overcome the deficiencies identified by the Commission in the draft 2012 RFP. The Commission clearly stated its expectations to remedy deficiencies in the RFP: "Before acquiring new thermal base load resources, we expect the company to fully explore conservation, demand response resources, renewable resources, distributed resources, and short-term purchases at levels incremental to the amounts in the acknowledged 2004 IRP Action Plan."²⁴

²² See Order No. 07-018 at 7-9.

²³ The Company's current 2008 all-source RFP makes strides in this regard, requesting bids for base load, intermediate load and peaking resources.

²⁴ See Order No. 07-018 at 6.

PacifiCorp's 2007 IRP addressed those deficiencies in part:

- Analysis of additional conservation, resulting in 300 average megawatts (MWa) of "base" conservation and 200 MWa or more of additional conservation in the Action Plan if risk-adjusted cost-effective initiatives can be identified²⁵
- 100 MW of additional direct load control beginning 2010
- Analysis of renewable resources beyond the 1,400 MW fixed in the 2004 IRP as "planned" resources, resulting in 2,000 MW of renewable resources in the preferred portfolio by 2013 – an acceleration of the Company's previous commitment²⁶
- Dispatchable standby generation and combined heat and power (CHP) facilities as resource options in modeling, resulting in 100 MW of CHP facilities in the Action Plan
- Analysis of short-term market purchases incremental to the amounts in the 2004 IRP Action Plan, but with the resulting amounts in the 2007 plan far less than in the prior plan²⁷

Staff found reasonable that the 2007 IRP Action Plan included acquisition of a thermal resource on the east side of PacifiCorp's system in 2012. In lieu of acknowledging both a 550 MW natural gas-fired plant (Action Item 7) and a 350 MW coal plant (Action Item 8) in the east by 2012, however, staff recommended procurement of flexible resources in the east by 2012 (excluding coal plants) with the size and type of resources – base load vs. peaking – refined after updating demand-side management (DSM) and renewable resource analyses, accounting for changes in resources and refining load forecasts. In its order on PacifiCorp's 2007 IRP, the Commission did not acknowledge any of the thermal resource action items in the Action Plan, including a 600 MW natural-gas fired plant on the west side of the Company's system in 2011 or 2012 (Action Item 11). However, the Commission stated it would have acknowledged these action items if modified in the manner suggested by staff.²⁸

PacifiCorp further addressed the deficiencies the Commission identified in the draft 2012 RFP through its portfolio modeling for bid evaluation. The Company used the updated renewable resource analysis, load forecasts and DSM assumptions from the 2007 IRP and allowed the model to select additional short-term market purchases.

²⁵ However, the Commission found PacifiCorp's conservation analysis insufficient. See Order No. 08-232 at 24-25. The Company's 2007 IRP Update included the results of its updated DSM analysis, which was not completed in time for the 2007 IRP, resulting in additional planned DSM resources.

²⁶ PacifiCorp's 2008 IRP makes further improvements by modeling renewable resources beyond wind.

²⁷ See discussion under Guideline 13, above.

²⁸ See Order No. 08-232 at 30-34.

Boston Pacific Company's Closing Report notes, "Renewable resources were fixed in the form of 1,600 MW of wind-driven additions.²⁹ Firm market purchases (also called Front Office Transactions) were allowed to compete with other resources up to levels indicated in the 2007 IRP."³⁰

Reasonableness - Staff believes that, in addition to the criteria evaluated above, any request for acknowledgment of a utility's proposed action should be screened for the meaning behind such a Commission finding. In the case of an RFP final short-list, acknowledgment simply means the Commission finds the utility's selection of resources, among bids and any utility benchmark resources, to be reasonable at the time, given the information presented to the Commission. That review should take into account current market conditions, such as bid prices in the marketplace. In its January 21, 2009, comments (at 5-6), the Independent Evaluator states that the installed cost of the Lake Side 2 project compares well with a sample of recently submitted bids in PacifiCorp's current 2008 all-source RFP.

Timing of Request

The timing of PacifiCorp's request for final short-list acknowledgment complicates review and may raise issues about the implications of any Commission decision to grant the request. The request comes one year after establishment of the final short-list. Staff appreciates PacifiCorp's interest in filing its request only when it was in a position to seriously move ahead with the resource, pending regulatory approval in Utah and acknowledgment in Oregon. However, conditions may change considerably over the course of a year — load forecast, resource position, resource costs, credit markets, and electricity and natural gas prices, to name a few.

In addition, the resource in question has moved beyond a top-ranked bid among others to the only resource being contemplated. Further, the bid is now a fully negotiated deal. If the Commission acknowledges the revised final short-list for the 2012 RFP, the Commission should carefully state what the ruling means. Specifically, acknowledgment simply means: 1) the final short-list is consistent with PacifiCorp's 2004 and 2007 IRPs as acknowledged by the Commission; 2) the RFP sufficiently adhered to the Commission's competitive bidding guidelines in the end; and 3) the Company conducted a fair bidding process.

²⁹ In addition to 400 MW of renewable resources included in the 2007 IRP as existing resources.

³⁰ Boston Pacific Company's Closing Report at 15.

Requested Date for Decision

In order to meet its summer 2012 on-line date for the Lake Side 2 project, under the Master Development, Engineering, Procurement, and Construction Agreement³¹ PacifiCorp must issue a Limited Notice to Proceed by March 2, 2009, including an initial financial commitment to the project.

In its request for acknowledgment, PacifiCorp asked for a Commission decision by February 13, 2009. The original schedule for this portion of the proceeding included an opportunity for a Commission decision at a public meeting on February 24, 2009. The Company agreed to modify the schedule with the understanding the Commission would strive to issue its decision shortly after February 20, 2009 — the date set for reply comments.³²

PROPOSED COMMISSION MOTION:

N/A

³¹ Executed on December 3, 2008.

³² The schedule for Utah pre-approval decision on this resource is set "... so that the Commission has the opportunity to issue a decision on the Verified Application by February 27, 2009, if possible." See Scheduling Order In the Matter of the Application of Rocky Mountain Power for Approval of Significant Energy Resource Decision Resulting from 2012 Request for Proposals, Docket No. 08-035-95, issued December 24, 2008.