

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 19, 2009**

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: May 13, 2009

TO: Public Utility Commission

FROM: Kelcey Brown

THROUGH: Lee Sparling, Ed Busch, and Maury Galbraith

SUBJECT: PACIFICORP: (Docket No. UM 1429) Requests an Open Docket, and Appointment of an Independent Evaluator, for a 2009 Request for Proposals for Supply-side Renewable Resources.

STAFF RECOMMENDATION:

Staff recommends the Commission select Boston Pacific Company (Boston Pacific) to serve as Oregon's Independent Evaluator (IE) for PacifiCorp's 2009 solicitation process for new renewable resources. Staff further recommends the Commission direct staff to review the final draft negotiated contract, prior to its execution by PacifiCorp and the selected IE, to ensure conformance with Order No. 06-446.

DISCUSSION:

On April 28, 2009, PacifiCorp filed an application requesting an open docket for approval of a solicitation process for new renewable resources. The purpose of the new solicitation process (called the 2009R RFP) is to attempt to acquire a portion of the supply-side renewable resources identified in PacifiCorp's 2007 Integrated Resource Plan. More specifically, the 2009R RFP seeks up to 500 megawatts of renewable resources, with no single resource exceeding 300 megawatts, capable of commercial operation between 2010 and 2012.

The application also requests expedited appointment of Boston Pacific as Oregon's IE for the 2009R RFP. Boston Pacific is currently serving as Oregon's IE in PacifiCorp's 2008 solicitation for new renewable resources (the 2008R-1 RFP is docketed as UM 1368). PacifiCorp states that the expedited appointment of Boston Pacific as Oregon's IE in the 2009R RFP would:

1. Permit parties to take advantage of the experience Boston Pacific gained as the IE in the 2008R-1 RFP;
2. Facilitate expedited review of the 2009R RFP by eliminating delays associated with conducting an IE solicitation process; and
3. Benefit customers by reducing the overall cost of the review of the 2009R RFP.

Staff Analysis

Guideline 5 of the Commission's competitive bidding order addresses the IE selection and contracting process:

"...Commission Staff, with input from the utility and interested, non-bidding parties, will recommend an IE to the Commission, which will then select or approve an IE for the RFP. The IE must be independent of the utility and likely, potential bidders, and also be experienced and competent to perform all IE functions identified in these Guidelines. The IE will contract with and be paid by the utility. The IE should confer with Commission staff as needed, on the IE's duties under these Guidelines. The utility may request recovery of its payments to the IE in customer rates." See Order No. 06-446 at 6.

In its discussion of the guideline, the Commission stated: "We believe the utility and non-bidders should participate in the process and provide input to Staff. Staff, however, should make a final recommendation to the Commission for approval, which could be accomplished at a public meeting." *Id* at 7.

In Order No. 08-248, the Commission adopted Staff's recommendation and selected Boston Pacific to be the Oregon IE in PacifiCorp's 2008R-1 RFP. Staff had ranked Boston Pacific as the best qualified bidder in a March 20, 2008 request for IE services.

On April 21, 2009, Staff sent an e-mail to the parties in Docket No. 1368 requesting feedback on the performance of Boston Pacific as the IE in PacifiCorp's 2008R-1 RFP. Staff received positive feedback from three traditional intervenors in utility RFP proceedings. Based on this feedback, Staff informed PacifiCorp of its initial preference to utilize Boston Pacific as the IE in the 2009R RFP.

Staff has identified two issues associated with PacifiCorp's 2009R RFP that uniquely qualify Boston Pacific to be the Oregon IE. The first issue is PacifiCorp's intent to run

the 2009R RFP in parallel with the 2008R-1 RFP. PacifiCorp states that the overlapping procurements, “would allow the Company to compare the costs from the 2008R-1 RFP with those submitted in the 2009R RFP to ensure that customers receive the least-cost resource.” See PacifiCorp Application at 4. The second issue is PacifiCorp’s intent to submit a benchmark resource in the 2009R RFP. PacifiCorp indicates that it originally intended to submit a benchmark bid in the 2008R-1 RFP, but later decided to not submit a benchmark bid. See PacifiCorp Application at 6.

As the Oregon IE in the in the 2008R-1 RFP, Boston Pacific has the historical perspective that is needed to provide an independent evaluation of whether the potential benefits of an overlapping procurement with a benchmark bid outweigh the potential risk that these proposals will drive away future bidders and diminish the competitive environment in Oregon. For this reason, Staff recommends that the Commission select Boston Pacific as the IE for PacifiCorp’s 2009R RFP. Staff believes these issues should be addressed by the IE and other parties in comments to the Commission when it considers approval of PacifiCorp’s final draft RFP.

PacifiCorp does not oppose the selection of Boston Pacific as the IE for the 2009R RFP. See PacifiCorp Application at 6. Staff recommends the Commission direct PacifiCorp to negotiate a contract with Boston Pacific Company that conforms with Order No. 06-446. The Commission should explicitly direct staff to review the final draft contract to ensure compliance with Order No. 06-446.

PROPOSED COMMISSION MOTION:

Boston Pacific Company be selected to serve as Oregon’s IE for PacifiCorp’s 2009 solicitation process for new renewable resources. Further, staff be directed to review the final draft negotiated contract, prior to its execution by PacifiCorp and the selected IE, to ensure conformance with Order No. 06-446.