

ITEM NO. 1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 16, 2009

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: June 11, 2009

TO: Public Utility Commission

FROM: Maury Galbraith

THROUGH: Lee Sparling and Ed Busch

SUBJECT: PACIFICORP: (Docket No. UM 1368) Requests Acknowledgment of Revised Final Shortlist of Bidders in 2008R-1 Request for Proposals.

STAFF RECOMMENDATION:

Staff recommends the Commission acknowledge the revised final shortlist of bidders in PacifiCorp's 2008R-1 request for proposals for renewable resources.

DISCUSSION:

Pursuant to Guideline 13 in Order No. 06-446, PacifiCorp requests that the Commission acknowledge the revised final shortlist of bidders in its 2008R-1 request for proposals (2008R-1 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 1368. 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 1368 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] [REDACTED] for the final shortlist. Attachment A is a confidential table that shows the ranking of bids for the final shortlist.

Procedural History

On March 4, 2008, PacifiCorp filed an application requesting approval of a solicitation process for new renewable resources (2008R-1 RFP). The targeted acquisition quantity was for up to 500 megawatts (MW) of capacity on-line prior to December 31, 2011.

On May 12, 2008, the Commission selected Boston Pacific Company (Boston Pacific) to serve as the Oregon Independent Evaluator (Oregon IE) for the 2008R-1 RFP.¹

On September 23, 2008, the Commission approved PacifiCorp's application for the 2008R-1 RFP with conditions.²

On January 21, 2009, the Commission approved PacifiCorp's application to amend the 2008R-1 RFP to allow for new market bids and refreshment of previous bids in order to comply with Utah's renewable portfolio standard.³

PacifiCorp filed its request for acknowledgment of the 2008R-1 RFP final shortlist on April 27, 2009. Then on May 18, 2009, PacifiCorp filed an amended acknowledgment request to reflect removal of a single bid from the final shortlist.

Also on May 18, 2009, Staff filed the Oregon Independent Evaluator's Final Closing Report on PacifiCorp's 2008R-1 Renewables RFP (Final Closing Report) with the Commission. PacifiCorp filed reply comments on the Final Closing Report on June 5, 2009.

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 bids 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. 08-248.

² See Order No. 08-476.

³ See Order No. 09-017.

The first question addresses the procedural fairness of the RFP. Guideline 10(c) 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.

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 The acknowledgment standard goes beyond both the RFP fairness standard and the bid evaluation standard in at least one important respect – it accounts for the passage of time. Changes can occur between the time the utility selects the final RFP shortlist and the time the Commission considers shortlist acknowledgment. If the changes are dramatic, then it may not be in the customer's best interest to continue as planned.⁶

Analysis and Recommendation

Staff's analysis of PacifiCorp's request for Commission acknowledgment of its revised final shortlist begins with Boston Pacific's Final Closing Report on PacifiCorp's 2008R-1 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 2008R-1 RFP, Boston Pacific participated in the entire RFP process from design of the RFP through receipt of the bids, bid evaluation, and final shortlist selection. Based on its participation in the RFP process, Boston Pacific

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.

⁶ See Order No. 06-446 at 2.

concluded that PacifiCorp's 2008R-1 RFP was a fair and transparent process. Staff agrees with the Oregon IE that PacifiCorp conducted the 2008R-1 RFP fairly and properly.

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.

[REDACTED] PacifiCorp selected [REDACTED] for the west-side wind shortlist. [REDACTED] Finally, PacifiCorp [REDACTED] of the non-wind bids 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 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 2007 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, proposed adjustments to account for the 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. The importance of consistent resource evaluation is easily understood in the context of an all-source RFP. If wind resources were included in a utility's IRP Action Plan for risk mitigation reasons, then they should not be judged solely on cost considerations in an all-source RFP. Staff is not convinced that PacifiCorp's ACC methodology would be appropriate for selecting a final shortlist in an all-source RFP. The ACC methodology does not seem well suited to addressing the appropriate mix of new resources in terms of overall system cost and risk.

In the context of a targeted-source RFP, like PacifiCorp's 2008R-1 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 renewables 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 2008R-1 RFP was consistent with this renewable resource acquisition schedule. 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.

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 2008R-1 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.

PacifiCorp has repeatedly indicated a desire to continuously test the market for renewables resources. In its original application for the 2008R-1 RFP, the company stated:

PacifiCorp is proposing a form of RFP process that would enable the Company to call for new bidders or updated bids on an as need basis to provide needed flexibility in the procurement process due to timing concerns, uncertainty with the status of the production tax credit, the status of the then-current wind turbine supply market, and the quality and quantity of bids received.⁷

On April 28, 2009, PacifiCorp filed a request to initiate a 2009 renewable RFP (2009R RFP) that would temporarily overlap with the 2008R-1 RFP. PacifiCorp wants to compare the bids received in the 2008R-1 RFP process to those submitted in the new 2009R RFP. The company's proposed strategy is intended to provide flexibility in the procurement process and allow selection of the least-cost renewable resources. According to the company:

The 2009R RFP would aid in that objective by allowing the Company to be proactive in a competitive procurement environment and gain potential renewable generation and construction cost advantages stemming from the current economic climate.⁸

PacifiCorp's desire to continuously test the market seems to be grounded in the uncertainty of the marketplace, rather than on actual knowledge of better deals being available. Whereas actual knowledge of better deals might shed doubt on the reasonableness of continued negotiations with shortlist bidders, uncertainty (or lack of complete knowledge) does not necessarily make it unreasonable to continue negotiations with shortlist bidders. As indicated earlier in the report, Commission acknowledgment of an RFP shortlist is grounded on the reasonableness of the utility's continued negotiation with shortlist bidders.

In its 2008R-1 RFP, PacifiCorp evaluated [REDACTED]. Initial bids were received on December 16, 2008. New and revised bids were accepted on February 27, 2009. Finally, PacifiCorp requested best and final offers from its final shortlist bidders on April 24, 2009. Staff agrees with the Oregon IE's assessment that the revised final shortlist of bidders consists of the best options from a very competitive process. Staff would add that these are recent bids that are indicative of current market

⁷ See PacifiCorp's Application for Approval of a 2008R-1 Solicitation Process for New Renewable Resources (filed March 4, 2008 in Docket No. UM 1368) at 2.

⁸ See PacifiCorp's Application for Approval of a 2009R Solicitation Process for New Renewable Resources (filed April 28, 2009 in Docket No. UM 1429) at 5.

conditions. 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 2008R-1 RFP fairly and properly;
2. PacifiCorp selected the best bids for the revised final shortlist consistent with the cost-risk decision criteria used to develop the renewable resource schedule acknowledged in the 2007 IRP; and
3. PacifiCorp's revised final shortlist represents the best options from a very competitive procurement process and is indicative of the current market for renewable resources.

Based on these conclusions, Staff recommends that the Commission acknowledge the revised final shortlist of bidders in PacifiCorp's 2008R-1 RFP.

Staff also provides an alternative recommendation for Commission consideration. If the Commission is reluctant to acknowledge the revised final shortlist in the 2008R-1 RFP due to uncertainty regarding the current market for renewable resources and PacifiCorp's request to test the market with an overlapping RFP that could include a self-build option, then Staff recommends delaying action on shortlist acknowledgment until PacifiCorp provides clearer evidence of its intentions to aggressively pursue shortlisted bids. If the request for approval of overlapping RFP process is denied, then PacifiCorp could quickly file a revised request for acknowledgement. If the request for overlapping RFP processes is approved, PacifiCorp could file a revised request for acknowledgement after it has solidified its negotiation plan.

PROPOSED COMMISSION MOTION:

The revised final shortlist of bidders in PacifiCorp's 2008R-1 request for proposals is acknowledged.

Attachment A
Ranking of Bids for Final Shortlist

Bidder Name	Project Name	Project Type	Net Capacity (MW)	Start Date	Term	ACC Value (\$/MWh)	Terminal Value (\$/MWh)	Incremental Capacity Credit (\$/MWh)	ACC after Adjustment (\$/MWh)	BP Cost Model Rank
[Redacted Content]										