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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of PacifiCorp’s Proposed	:	Docket No. 02-035-T11
Schedule No. 38 – Qualifying Facility	:	
Procedures	:	PACIFICORP’S REPLY
	:	COMMENTS
	:	

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In accordance with the Commission’s November 12, 2002 Order in this matter, PacifiCorp (or the “Company”) submits the following Reply Comments. These Reply Comments take into account the comments filed by the Division of Public Utilities (“Division”), the Committee of Consumer Services (“Committee”), Renewable Energy Systems, North America, Inc. (“RES”) and US Magnesium LLC (“US Magnesium”), as well as a discussion with the parties on December 12, 2002.

**1. Shortening of Timeline.**

Several of the parties recommended that the procedural timeline for negotiation of a Power Purchase Agreement (“PPA”) could be shortened by the Company posting its generic PPA for QFs on its website or providing the PPA to the developer immediately upon request. Specifically, the Committee recommends that the generic PPA be available

on the Company's website or available upon written request within a week.<sup>1</sup> In accordance with that recommendation, the Company proposes to replace the first sentence of paragraph B.1 of proposed Schedule 38 with the following: "The Company's proposed generic power purchase agreement may be obtained from the Company's website at [www.pacificorp.com](http://www.pacificorp.com), or if the owner is unable to obtain it from the website, the Company will send a copy within seven days of a written request." The Company will post the proposed generic PPA on its website within ten days of an order approving Schedule 38.

## **2. Information Requirements.**

RES and US Magnesium commented on the requirement in paragraph B.4 of proposed Schedule 38 that the owner must provide the Company with project information that the Company determines necessary for preparation of a draft Power Purchase Agreement, including evidence regarding the ability to finance and purchase equipment. In light of those comments, and consistent with its intent, the Company recommends that paragraph B.4 be revised to reflect a reasonableness standard for the information which the Company requires. Accordingly, the second sentence of paragraph B.4 would read: "In connection with such request, the owner must provide the Company with any additional project information that the Company reasonably determines to be necessary for the preparation of a draft power purchase agreement, which may include, but shall not

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<sup>1</sup> RES recommends that the generic PPA be available on the Company's OASIS website. The Company's OASIS is for the Company's transmission function, and would not be the appropriate location for a Power Purchase Agreement.

be limited to:...”<sup>2</sup> Further, in response to parties’ comments, the Company proposes the deletion of items (c), (d) and (i) of paragraph B.4.

Similarly, comments were made during discussions regarding the information requirements in section B.2. In response, the Company proposes to revise the introductory sentence of section B.2 to read, “. . . the owner must provide in writing to the Company, general project information reasonably required for the development of indicative pricing, including, but not limited to:”. Further, section B.2(f) should be revised to read “demonstration of ability to obtain QF status” and section B. 2(k) should be deleted.

**3. Avoided Cost Methodology and Proposed Generic PPA for QF Projects Larger Than One Megawatt.**

Each of the parties commented on the absence of a provision in the proposed schedule stating the methodology that would be used for establishing avoided costs for QF projects larger than one megawatt. Establishing an avoided cost methodology for the larger QF projects is not part of the Company’s proposed Schedule 38, and should be dealt with outside the context of the Commission’s approval of Schedule 38. Schedule 38 is intended only to lay out the procedural steps that a developer and the Company are to take in negotiating a Power Purchase Agreement. The Company believes that the Commission can and should proceed with a determination of whether to approve Schedule 38 without having to delay that determination pending a resolution of the question of the appropriate methodology for setting avoided cost rates for larger QF

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<sup>2</sup> Contrary to the suggestion of US Magnesium, it is entirely appropriate and necessary for the Company to require project-specific information prior to developing indicative prices. Otherwise, the Company would be unable to take into consideration the factors listed in 18 C.F.R. § 292.304(e) which are to be taken into account when determining avoided costs.

projects. The Company has already initiated discussions with interested parties on this issue, and is committed to pursue resolution of this issue. As noted by the Division, the methodological statement regarding avoided cost could be a separate document, not included in Schedule 38.<sup>3</sup> Similarly, the form of the generic PPA need not be resolved prior to the Commission's issuing an order regarding Schedule 38. The Company has distributed a proposed generic PPA and initiated discussions on that proposal.

In accordance with a suggestion made during discussions with parties, the Company proposes to include the following statement in section B.3: "The Company will provide with the indicative prices a description of the methodology used to develop the prices."

US Magnesium, assuming that the Company's IRP will be the basis for determining avoided costs for large QF projects, appears to suggest that the Company should make its IRP model available to potential QF developers. PacifiCorp's IRP model contains proprietary and confidential information, the disclosure of which could reasonably be expected to have an adverse impact on PacifiCorp's competitive position in the wholesale market. Accordingly, although the Company does not believe this docket is the appropriate case to resolve the issue of the proper methodology for determining avoided costs for larger QFs, PacifiCorp opposes the suggestion that its IRP model be provided to potential QF developers.

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<sup>3</sup> As noted by the Committee and the Division, the avoided cost pricing for the larger QFs will appropriately take into account whether the QF does or does not provide ancillary services. In addition, factors listed in 18 C.F.R. § 292.304(e) would be appropriately taken into account.

#### **4. Timeframe for Concluding Negotiations.**

RES and the Committee provide comments to the effect that without a time limitation for the negotiation of the final PPA, negotiations could be protracted or delayed without closure. However, because Schedule 38 would apply to a wide variety of QFs, with different technologies, different sizes, and different complexities, it is inappropriate to establish some certain time limitation within which negotiations must be completed. Nevertheless, to respond to parties' concern on this issue, PacifiCorp would propose to revise paragraph B.6(a) to provide that in connection with negotiations, the Company "will not unreasonably delay negotiations and will respond in good faith to any additions, deletions or modifications to the draft power purchase agreement that are proposed by the owner."<sup>4</sup>

#### **CONCLUSION**

The revisions proposed above by PacifiCorp to Schedule 38 adequately respond to parties' concerns with the QF contracting procedure which PacifiCorp proposes be set forth in Schedule 38. PacifiCorp respectfully requests that the Commission approve Schedule 38 with the modifications proposed herein, and leave for resolution outside of this docket the issues regarding a generic PPA and a methodology for establishing avoided cost prices for QFs larger than one megawatt. A copy of Schedule 38, with proposed modifications highlighted, is attached hereto.

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<sup>4</sup> The Company takes exception to US Magnesium's characterization of the Company "discouraging and frustrating cogeneration and small power development in Utah" and believes that its requests for information regarding proposed QF projects are appropriate.

DATED this 13<sup>th</sup> day of December, 2002.

STOEL RIVES LLP

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## CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of December, 2002, I caused to be served, via U. S. mail, postage prepaid, a true and correct copy of the foregoing PacifiCorp's Reply

Comments to the following:

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