

Before the Public Service Commission of Utah

---

IN THE MATTER OF THE  
APPLICATION OF PACIFICORP FOR  
A CERTIFICATE OF CONVENIENCE  
AND NECESSITY AUTHORIZING  
CONSTRUCTION OF THE LAKE SIDE  
POWER PROJECT

Docket No. 04-035-30

DPU Exhibit 2.0

---

**Direct Testimony**

**Of**

**Wayne Oliver**

**On Behalf of**

**Division of Public Utilities**

September 27, 2004

## **Table of Contents**

Introduction .....	1
Scope of Testimony .....	2
Summary of Testimony .....	3
PacifiCorp’s 2003-A RFP .....	10
Bid Evaluation and Selection Process.....	15
Quantitative Evaluation and Final Selection .....	20
Conclusions and Recommendations .....	30

## List of Attachments

<b>Exhibit</b>	<b>Title</b>
DPU Exhibit 2.1	Resume of Wayne Oliver
DPU Exhibit 2.2	Economic Evaluation of Bids

1                   Certificate of Convenience and Necessity  
2                                 Lake Side Power Project  
3                                 Docket No. 04-035-30  
4

5 **Introduction**  
6

7 **Q: Please state your name, occupation and business address.**

8 A: My name is Wayne Oliver. I am Principal and Founder of Merrimack  
9 Energy Group, Inc. (Merrimack Energy), 727 Lafayette Road, Seabrook,  
10 New Hampshire 03079.

11 **Q: On whose behalf are you testifying?**

12 A: I am testifying on behalf of the Utah Division of Public Utilities.

13 **Q: Please summarize your educational and professional experience.**

14 A: I have over 25 years of experience in the energy field. During that time, I  
15 have held senior level positions as an economist and consultant with  
16 government agencies and private sector firms. I was formerly a Founder  
17 and Senior Officer of Reed Consulting Group, Inc. I also served for a  
18 short time as a Director with Navigant Consulting, Inc. after the  
19 acquisition of Reed Consulting Group by Metzler & Associates in 1997  
20 and the subsequent formation of Navigant to integrate a number of the  
21 consulting firms acquired by Metzler & Associates. I have also been an  
22 Assistant Professor in the Economics Department at Northeastern  
23 University and an Adjunct Professor in the Finance Department at Babson  
24 College, where I taught courses in Risk Management and Futures and  
25 Options. I have an MA in Economics and completed all course work  
26 toward a Ph.D in Economics. My resume is attached as DPU Exhibit 2.1.

1 **Q: Please describe your experience with competitive bidding programs**  
2 **and power procurement processes?**

3 A: I have served as project manager for over 20 competitive bidding  
4 assignments on behalf of electric utilities, other power buyers and public  
5 sector organizations representing a range of different technologies,  
6 project structures and bidder types. In that process I have reviewed and  
7 evaluated hundreds of power supply proposals in the US and Canada. I  
8 have assisted clients in the design and development of competitive  
9 bidding programs, the associated RFPs for both power supply and DSM  
10 options, and power contract negotiations. I have also served as  
11 Independent Evaluator or Observer on a number of RFP processes. In  
12 addition, I have provided technical assistance to utilities in evaluating  
13 bids in the areas of fuel supply, critical path assessment, credit and  
14 financial issues, and the commercial terms of power supply contracts. I  
15 have also worked with power generators in submitting power supply  
16 proposals, conducting market assessments and due diligence for power  
17 project acquisition.

18

## 19 **Scope of Testimony**

20

21 **Q: What is the purpose of your testimony in these proceedings?**

22 A: I have been asked by the Utah Department of Public Utilities to evaluate  
23 the application of PacifiCorp for a Certificate of Convenience and  
24 Necessity Authorizing Construction of the Lake Side Power Project,  
25 including the supporting testimony and documentation, to assess whether  
26 the RFP evaluation and selection process led to the selection of the best  
27 alternative under the competitive bidding process undertaken by  
28 PacifiCorp. My review and evaluation reflects the approaches undertaken

1 by other utilities in implementing competitive bidding processes and the  
2 consistency of the PacifiCorp process with regard to “industry standards”.  
3 I also provide a series of recommendations regarding potential revisions  
4 to the competitive bidding process for future solicitations.

5 The testimony filed by PacifiCorp’s witnesses in this case identify the  
6 factors that had the most important influence on the Company’s decision.  
7 These include: (1) the ability of the bidder to meet the June 2007 in-  
8 service date requirement, (2) the economics of the bids relative to the  
9 Next Best Alternative, and (3) the risk factors of most importance  
10 including CO2 liability and inferred debt. My testimony will address each  
11 of these factors.

12 The competitive bidding process utilized by PacifiCorp has two major  
13 phases: (1) solicitation of bids to meet the requirements outlined in the  
14 RFP and evaluation and selection of the bids received; and (2) contract  
15 negotiations with the preferred bidders. The two phases need to be  
16 coordinated and balanced since there is a possibility that the lower cost  
17 option(s) selected in Phase I may contain significant risk or shift undue  
18 risk to the utility and its customers during the negotiation phase of the  
19 process. My testimony will largely address the Phase I activities, focusing  
20 largely on the bid evaluation and selection process. Mr. Selgrade’s  
21 testimony will address the proposed contracts and the contract negotiation  
22 process, in particular, whether the contract structures and negotiation  
23 process resulted in arrangements that presented equivalent or different  
24 risks of project delay or failure to PacifiCorp.

## 25 **Summary of Testimony**

26

27 **Q: Please summarize the major conclusions of your testimony?**

1 A: Based on my investigation with regards to the competitive bidding and  
2 RFP process followed by PacifiCorp, the evaluation of the bids received  
3 under the 2003-A RFP for baseload resources, the application of the risk  
4 factors in bid evaluation, and assessment of the contract negotiation  
5 process followed by PacifiCorp, I conclude that the selection of the  
6 preferred resource was a reasonable decision given the parameters of the  
7 process. While the selection of the preferred resource is a reasonable  
8 outcome given the competitive bidding process undertaken by PacifiCorp,  
9 I believe there are a number of aspects of the process that can be  
10 improved for future solicitations to ensure the potential benefits from  
11 competitive bidding can be fully realized.

12

13 **Q: How is your testimony organized?**

14 A: My testimony is presented in five sections. The first section describes  
15 recent industry standards regarding the use of competitive bidding  
16 processes for soliciting and selecting power supply options and the  
17 characteristics of successful competitive bidding programs. The second  
18 section summarizes the competitive bidding process undertaken by  
19 PacifiCorp, including the important parameters of the process outlined in  
20 the 2003-A RFP. The parameters of the RFP are important because they  
21 guide the bidder in its proposal development. The third section addresses  
22 the bid evaluation and selection process undertaken by PacifiCorp,  
23 including the methodology used and basis for selecting the short-listed  
24 bidders and the final evaluation, selection, and negotiation process with  
25 the preferred bidder. The fourth section discusses the quantitative basis  
26 and justification of the selection of the preferred bid. The fifth section  
27 presents my conclusions and recommendations associated with the  
28 assessment of the PacifiCorp 2003-A RFP process for power supply  
29 resources.

1

## 2 **Characteristics of Competitive Bidding Programs**

3

4 **Q: In your experience, what are the characteristics of an effective**  
5 **competitive bidding program?**

6 A: Based on my experience with competitive bidding processes and  
7 observations regarding the success factors associated with such processes,  
8 an effective competitive bidding process should be designed to achieve  
9 the following objectives:

- 10 1. The solicitation process should be fair and equitable, consistent,  
11 comprehensive and unbiased to all bidders
- 12 2. The solicitation process should ensure that competitive benefits  
13 for utility customers result from the process
- 14 3. The solicitation process should be designed to encourage broad  
15 participation from potential bidders
- 16 4. The Request for Proposal documents (i.e. RFP, Response  
17 Package or Bid Form, and Model Power Contract) should  
18 describe the bidding guidelines, the bidding requirements to  
19 guide bidders in preparing and submitting their proposals, the  
20 bid evaluation and selection criteria, and the risk factors  
21 important to the utility issuing the RFP. The RFP documents  
22 should effectively inform the bidder how they can compete in the  
23 process.
- 24 5. The solicitation process should include thorough, consistent, and  
25 accurate information on which to evaluate bids, a consistent and



1 equitable evaluation process, documentation of decisions, and  
2 guidelines for undertaking the solicitation process.

3 6. The solicitation process should ensure that the power contracts  
4 are designed to provide a reasonable balance between the  
5 objectives of the counter-parties, seeking to minimize risk to  
6 utility customers and shareholders while ensuring that projects  
7 can reasonably be financed.

8 7. The solicitation process should incorporate the unique aspects of  
9 the utility system and the preferences and requirements of the  
10 utility and its customers.

11 **Q: Please describe some of the recent issues or trends associated with**  
12 **competitive bidding programs?**

13 A: Over the past few years the competitive bidding programs instituted by  
14 utilities have evolved with changes in the power market. Certainly, the  
15 most significant change over the past few years is the emphasis on credit  
16 assurance and credit quality of the counter-party. Credit quality of the  
17 counter-party is now one of the most important evaluation criteria used by  
18 utilities to evaluate and select bids and has important ramifications for  
19 contract structure and contract negotiations. For example, the level of  
20 collateral or security required of a bidder has generally been increasing  
21 and terms are more stringent. These issues are particularly important in  
22 cases where a utility requires firm physical power and has limited access  
23 to other power markets. Utilities and other power purchasers are  
24 concerned about counter-party default and are requiring more restrictive  
25 contract covenants to protect the customers and shareholders in case of  
26 counter-party default or bankruptcy. The recent spate of credit  
27 downgrades for a number of power generators and the bankruptcy filings  
28 of a few companies have heightened the concern of the power buyer.  
29 Since many of these power generators are involved in merchant power

1 markets with uncertain revenue streams and associated uncertain financial  
2 prospects, many power purchasers in the industry are focused on assessing  
3 counter-party financial risk.

4 Another recent trend is that price-related criteria have become the  
5 predominant final selection criteria since the independent power  
6 generation industry is reasonably mature and the success factors for  
7 project development are well known. Also, integrated system analysis is  
8 more the norm for assessing and evaluating the final portfolio of bids.  
9 This allows the utility to attempt to optimize its portfolio based on the  
10 established evaluation criteria and to hedge its risk through an array of  
11 different contract structures and options. Utilities are still seeking  
12 flexibility in the power procurement process and in making resource  
13 commitments. This includes requesting and encouraging bids for short and  
14 long-term resource options and a variety of project/contract types and bid  
15 sizes. Also, flexibility involves contract provisions designed to more  
16 closely match supply with requirements. Over the past few years, utility  
17 self-build options have become more competitive due to the change in the  
18 capital structure of independent power generators (i.e. more equity in  
19 projects is generally required by financial institutions) relative to the  
20 utility, the higher cost of borrowing for independents with lower credit  
21 ratings, cost and access to transmission for independent generators, and  
22 an increase in tolling arrangements in which the utility assumes fuel risk.  
23 Finally, accounting rules and financial rating agencies are focusing more  
24 attention on the implication of treating fixed purchased power obligations  
25 as debt. The attendant implications of recent FASB Accounting initiatives  
26 and the consensus of the United States Emerging Issues Task Force  
27 (EITF) on EIFT issue 01-8 “Determining Whether an Arrangement  
28 Contains a Lease” are beginning to get more attention in the resource  
29 selection process.

1 **Q: Please describe any other factors that have guided your assessment of**  
2 **PacifiCorp's selection of the preferred bid?**

3 A: As noted, in its RFP document and the testimony of its witnesses,  
4 PacifiCorp states a need for baseload power supply by June 2007. In the  
5 Currant Creek case, that significant requirement for new power supplies  
6 by PacifiCorp was affirmed, with concern of a capacity deficiency in the  
7 summer of 2005 cited by both the Company and Committee witnesses. The  
8 Public Service Commission recognized the considerable need for power in  
9 Utah in the Currant Creek Decision (In the Matter of the Application of  
10 PacifiCorp for a Certificate of Convenience and Necessity Authorizing  
11 Construction of the Currant Creek Power Project, Docket NO. 03-035-29,  
12 Report and Order):

13           Although neither the Division nor the Committee relies upon  
14 or refutes this analysis of resource need, it too shows  
15 capacity deficiency. This deficiency is expected to be 1,049  
16 megawatts in summer 2005 and increases to over 1,900  
17 megawatts in 2009....

18           We find the magnitude of deficiency considerable, and as the  
19 Division testifies, we realize this is not new. The Company's  
20 reliance on the wholesale market for meeting this need since  
21 the time it filed its IRP "RAMPP-5" in 1997, has placed the  
22 Company and its customers at considerable risk of the high  
23 cost of purchases or reduced reliability. (Page 12)

24           The date on which a proposed project needs to be commercially available  
25 to provide power is very important in competitive bidding programs,  
26 affecting the schedule for undertaking the bid evaluation process as well  
27 as the contract negotiation process. A firm date for power requirements is  
28 particularly important if the utility requires firm physical power and does  
29 not possess the ability to replace the power through short-term market

1 purchases. Based on the Decision in the Currant Creek case and the  
2 estimated requirements for new power resources in Utah, I have assumed  
3 in my assessment that the selected bid needs to be commercially available  
4 by June 2007, and the activities and decisions undertaken by PacifiCorp  
5 are based on this constraint.

6 I am also guided by the conclusions reached by Navigant Consulting as  
7 the Outside Evaluator. As the Outside Evaluator, Navigant was involved  
8 in the entire process and issued several reports on various aspects of the  
9 process. The objectivity and credibility of any outside or independent  
10 evaluator is at stake in these processes and as a result their opinions and  
11 conclusions are important considerations. My objective was not to  
12 replicate Navigant's assessment but to determine if the Company's  
13 selection was a reasonable decision given the information available to it  
14 at the time it made its decisions.

15 **Q: What conclusions did Navigant reach with regard to the bidding**  
16 **process?**

17 A: Navigant's conclusions are included in the Public Version of Navigant  
18 Consulting's Final Report on PacifiCorp's RFP 2003-A dated September  
19 8, 2004. Navigant concludes:

20 PacifiCorp executed a fair and consistent process throughout  
21 the RFP to identify the most cost effective resources for  
22 meeting its projected supply needs.

23 From an operational and design perspective, the RFP process  
24 developed and implemented by PacifiCorp functions as  
25 expected. It resulted in over 100 offers from the market a few  
26 of which were economically competitive with the Company's  
27 own internal benchmark options. It satisfied the primary  
28 criteria NCI looked for in the process: equal opportunity,

1                    analytical objectivity, reasonableness and consistency.  
2                    Having met these, NCI unequivocally supports the RFP  
3                    process as having been managed in an effective manner with  
4                    results that are fully supportable. (page 48)

## 5   **PacifiCorp's 2003-A RFP**

6

7   **Q:   Please summarize the key parameters of the 2003-A RFP considered in**  
8   **your assessment of the RFP process?**

9   A:   The 2003-A RFP contained information to guide bidders in the submission  
10   of their proposals and outlined the requirements of the purchaser. The  
11   directions/requirements contained in the RFP document are important  
12   because they identify the information bidders can assess in deciding  
13   whether and how to submit a proposal. The following requirements are  
14   among the most important factors in PacifiCorp's competitive bidding  
15   process as described in the RFP:

- 16            1. PacifiCorp solicited bids for "up to" the following amounts of  
17            power: (1) 570 MW of baseload power; (2) 200 MW of peaking  
18            power; and (3) 225 MW of superpeak power for delivery into the  
19            East control area.
- 20            2. A schedule outlining the steps of the process and the timing for  
21            each step in terms of dates for bid submission, announcement of the  
22            short-list and completion of definitive agreements was included.
- 23            3. Adequate credit assurances may be required from a respondent.
- 24            4. Bidder/product eligibility options were identified. In general, bids  
25            were welcomed for a variety of pricing options and project  
26            structures including physical tolling agreements, call options, put

- 1 options, virtual tolling arrangements, sales of an existing asset, and  
2 construction and lease or sale of an asset.
- 3 5. Bidders were directed to incorporate costs associated with meeting  
4 future air quality requirements in their bids. Bidders were informed  
5 that cost assumptions consistent with the IRP base case assumptions  
6 would be incorporated.
- 7 6. Bid terms for baseload and peaking resources would be for up to 20  
8 years.
- 9 7. The bid evaluation and selection process was outlined, including the  
10 short-list and negotiation process, with bidders informed that  
11 PacifiCorp intended to pursue definitive agreements with entities  
12 that provide PacifiCorp with the best cost/risk balance, including  
13 resource characteristics, evaluated resource cost, and credit risk  
14 factors.
- 15 8. The price and non-price criteria to be used in the evaluation process  
16 were identified along with the established weights for each criteria.  
17 For both the environmental factors and the dispatch criteria tables  
18 were provided identifying how the points would be awarded.
- 19 9. For the price evaluation, the total evaluated cost of the proposal  
20 would be compared to PacifiCorp's Next Best Alternative (NBA)  
21 for a resource with similar characteristics. The methodology to  
22 award points for the price component was also identified in the  
23 RFP.
- 24 10. The post-bid negotiation process was also described. PacifiCorp  
25 indicated that it intended to negotiate both price and non-price  
26 factors during post-bid negotiations. In this section of the RFP,

1 PacifiCorp also identified several conditions that guided its  
2 negotiation process:

- 3 a. Any factor that impacted the total cost of a resource would be  
4 included in the economic and risk evaluation.
- 5 b. The economic evaluation would be updated until such time as  
6 both parties execute a definitive agreement
- 7 c. The Company reserves the right to negotiate only with those  
8 entities who propose transactions that PacifiCorp believes in  
9 its sole discretion to have a reasonable likelihood of being  
10 executed

11 11.PacifiCorp retained the services of an Outside Evaluator (Navigant  
12 Consulting) to ensure that the evaluation process is undertaken in a  
13 fair and unbiased manner.

14 **Q: Did the RFP document meet the criteria you identified for an effective**  
15 **competitive bidding process?**

16 A: In general, the RFP document was consistent with the requirements for an  
17 effective RFP. The RFP identified the evaluation and selection process,  
18 the evaluation criteria, and the requirements of PacifiCorp and the bidder.  
19 The RFP also contained Appendix A, which listed the information  
20 required of bidders. In addition, PacifiCorp identified issues of  
21 importance and the rights it reserved during the negotiation process.

22 The decision to retain an Outside Evaluator should also ensure the process  
23 was undertaken in a fair and unbiased manner.

24 Also, as illustrated in the testimony of both Mr. Tallman and Mr. Furman,  
25 the response of bidders to the RFP was significant, indicating broad

1 participation from bidders and the opportunity to achieve competitive  
2 benefits for the customers.

3 There were two issues however, that could have led to more complete  
4 bids or different product structures. First, PacifiCorp requested bids for  
5 no more than 20 years. However, due to the nature of the Next Best  
6 Alternative, bids were initially compared against a 35-year resource.  
7 Bidders were not made aware of such a comparison at the time they  
8 submitted their bids and could only speculate given the knowledge they  
9 would be compared to the NBA. PacifiCorp did allow bidders to offer  
10 comparable term options during the negotiation phase, after selection of  
11 the short-list.

12 Second, the inclusion of a model power purchase agreement or Tolling  
13 agreement could have provided valuable information to bidders regarding  
14 the risk sharing provisions of importance to PacifiCorp. Knowledge of  
15 such a risk profile could have led bidders to propose a different structure  
16 or decide whether and how to bid and could have served to facilitate  
17 negotiations.

18 **Q: Do you believe failure to include the model contract or the**  
19 **requirement that bidders submit proposals based on a different term**  
20 **than the NBA could have biased the results of the bid evaluation and**  
21 **selection process?**

22 A: It is not possible to determine definitively if these issues biased the final  
23 evaluation of bids and one can only speculate how bidders may have  
24 responded. However, I would not expect that the structure of the RFP  
25 unduly biased the results of the evaluation and selection process,  
26 especially since final short-listed bidders did have the opportunity to  
27 revise their bid term and were aware of the risk sharing requirements of  
28 PacifiCorp through the negotiation process. However, if bidders were  
29 aware they would be compared against a 35-year resource they may have



1 offered creative options such as an option for PacifiCorp to buy the plant  
2 after the 20-year contract term or could have structured their pricing  
3 differently. The issue of the comparison of bids with different terms is a  
4 common issue in many RFP processes, since utilities are generally  
5 encouraging a range of resource/contract options and bidders are offering  
6 a variety of product terms and structures.

7 **Q: Are the non-price criteria included in PacifiCorp's RFP consistent**  
8 **with the non-price criteria used in other utility processes?**

9 A: PacifiCorp includes only two non-price criteria in the screening phase of  
10 its evaluation process: dispatchability and environmental attributes. Most  
11 utility RFP processes generally contain a much broader number and array  
12 of non-price criteria, particularly for the procurement of long-term  
13 resources from new units. Non-price factors have been used to distinguish  
14 proposals on the basis of the development feasibility of the project (i.e.  
15 site control, environmental permitting status, financial capability of the  
16 sponsor, bidder experience, critical path schedule, etc.); operational  
17 viability (i.e. O&M plan, debt service coverage, acceptance of contract  
18 terms, fuel contract provisions, etc.); reliability of the proposal (financial  
19 support, contract security, credit assurance, etc.), flexibility offered (i.e.  
20 delay option, expansion option, bid size, etc.); operational quality (i.e.  
21 dispatchability, scheduling flexibility, ramp rates, black start capability,  
22 etc.); and environmental impact. The use of broader non-price criteria can  
23 often lead the purchaser to more clearly distinguish between bidders and  
24 can sometimes identify risks with the bid prior to contract negotiations.  
25 PacifiCorp's selection of the non-price criteria reflects the criteria of  
26 most importance to PacifiCorp for screening purposes. Some of the other  
27 criteria I listed are utilized by PacifiCorp in the final evaluation and  
28 negotiations process. This application should still allow PacifiCorp to  
29 distinguish effectively between bids.

1

2 **Q: PacifiCorp's RFP identifies the importance of credit assurances in**  
3 **evaluating and selecting the counter-party from the bidding process.**  
4 **Is this typical of RFPs in the industry today?**

5 A: Credit assurance is now one of the most important criteria in evaluating  
6 the bids submitted and in selecting the preferred options. Utilities have  
7 been conducting thorough credit assessments of bidders as part of their  
8 non-price evaluation and contract negotiations due to the lower credit  
9 quality of many independent power generators. Also, utilities are  
10 generally requiring higher levels of security and collateral from bidders  
11 due to the concern over possible bidder default or bankruptcy. Likewise,  
12 contract provisions reflect such risk. Utilities that need physically firm  
13 power within a certain timeframe or have a system with limited outside  
14 access are requiring greater credit assurance from counter-parties.

15

## 16 **Bid Evaluation and Selection Process**

17

18 **Q: Please describe the bid evaluation and selection process undertaken by**  
19 **PacifiCorp for the baseload RFP?**

20 A: PacifiCorp followed a multi-step process in the bid evaluation and  
21 selection process. Once the bids were received, PacifiCorp conducted an  
22 initial price and non-price assessment of all the bids. Mr. Tallman refers  
23 to this step as the screening process (page 6 of his direct testimony). Bids  
24 were then ranked according to their total scores for price and non-price  
25 criteria. Both Mr. Furman and Mr. Tallman indicate in their testimony that  
26 twenty of the offers were short-listed for initial consideration. These  
27 offers were provided from nine individual counterparties, thus illustrating  
28 the presence of a competitive process.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

All the bids selected for the preliminary short-list “beat” (provided net benefits) the initial Next Best Alternative (NBA) used for the price screen. PacifiCorp (through Navigant Consulting) then initiated the validation process by contacting short-listed bidders to clarify their proposals and further understand the details of the bids. The terms and conditions offered by bidders were clarified and the economics were revised based on the clarifications provided by the bidders. One of the key issues at this stage of the process was whether bidders had included carbon dioxide (CO<sub>2</sub>) liability costs in their bid prices. For those bids that did not include this liability, PacifiCorp imputed the cost based on the assumption developed in its Integrated Resource Plan.

During the bid evaluation process, PacifiCorp revised the NBA to represent an expansion of Currant Creek once this project was selected in the peaker phase of the evaluation. Based on the revised NBA, only three bids (with multiple offers) beat the NBA. These bids were number 213, 493, and 922.

During the preliminary negotiation stage, one bid (922) was eliminated. PacifiCorp then began negotiations with one of the two remaining bids initially and subsequently with both bids.

**Q: How would you characterize PacifiCorp’s competitive bidding or RFP process?**

A: PacifiCorp’s competitive bidding or RFP process can be characterized as a “competitive negotiations” process. Under this approach, the utility uses an RFP to solicit bids and evaluates the bids based on the pre-established criteria. The evaluation process results in the selection of a short-list of bids. Once the short-list is identified, the utility negotiates with short-listed bidders to effectively “weed out” the bids and select the preferred

1 bid(s) from those that offer the highest value. This process is generally an  
2 iterative process, whereby the utility ensures a competitive process is  
3 maintained until final contract execution.

4 **Q: Is the competitive negotiation process an effective approach for**  
5 **resource selection and contracting?**

6 A: While this approach can result in significant value-added benefits to the  
7 utility through the negotiation process, it is generally a time consuming  
8 process that requires constant evaluation and revisions to price, contract  
9 provisions and commercial conditions. It is no surprise that negotiations  
10 have exceeded the schedule outlined in PacifiCorp's RFP (i.e.  
11 approximately 6 weeks for negotiations allotted after selection of the  
12 short-list).

13 **Q: Are there other approaches used in the power industry for evaluating**  
14 **and selecting proposals from among those received?**

15 A: There have been a number of methodologies used by utilities to evaluate  
16 and select bids. Some of the more common include:

17 1. Price-Driven approach whereby a price-screen is used for  
18 a first cut screen or analysis. Non-price evaluation is  
19 undertaken for the remaining bids. Price and non-price  
20 scores are combined and bids are ranked for the purposes  
21 of selecting a short-list. The final contract awards or  
22 negotiations are based on the overall price evaluation  
23 based on the bid(s) that has the lowest system cost.

24 2. Combination price and non-price approach whereby bids  
25 are evaluated based on a price and non-price analysis for  
26 each bid. The price and non-price scores are combined and

1 the bid(s) with the highest score is selected for contract  
2 negotiations first.

3 3. Portfolio evaluation whereby a price screen and non-price  
4 analysis is undertaken on all bids. Bids are ranked on the  
5 basis of total points and a short-list is selected. The short-  
6 listed bidders are then included in portfolios and evaluated  
7 to determine the preferred portfolio of resources based on  
8 the lowest system cost. Contracts are then negotiated with  
9 the preferred bidders.

10 The third approach is the most common in the industry today as utilities  
11 have attempted to select a portfolio of resource options to meet  
12 requirements and pursue contract negotiations with the selected options  
13 first, with back-up projects identified if contract negotiations fail or the  
14 bidder elects to terminate its project.

15 **Q: Is it common practice that a low cost resource (selected in the first**  
16 **phase of the process) may not be the project that is awarded a**  
17 **contract at the end of the process or may fail to reach commercial**  
18 **operation even after a contract is awarded?**

19 **A:** While cost minimization is generally an objective of the utility in  
20 undertaking a competitive bidding program, there are a number of  
21 instances in which the low cost bid(s) may not ultimately be the resource  
22 that completes a contract with the utility or goes into service. Projects  
23 may fail or change their status for a number of reasons. In the current  
24 environment where access to credit is such an important factor, a bidder  
25 may not know the terms and conditions of debt until the contracts  
26 underlying the transaction are subject to detailed due diligence by the  
27 lender. As a result, the bid evaluation and selection process needs to be  
28 fully integrated with the negotiation process. In many cases, utilities

1 either maintain a back-up list of bids or negotiate with multiple bidders to  
2 hedge the risk of project failure.

3 For example, there have been cases in competitive bidding programs  
4 where the utility selects the lowest cost option but during the negotiation  
5 process the bidder decides to terminate negotiations either because the  
6 market has changed against the bidder or the bidder and its financial  
7 advisors realize the bid price was too low and the project cannot meet its  
8 financial covenants. Also, in recent RFPs bidders may seek to negotiate  
9 more favorable terms due to the more stringent credit requirements  
10 imposed by utilities. In many cases, a utility will decide to terminate the  
11 contract negotiations if it appears that the parties cannot resolve  
12 differences. In some cases, bidders may seek to extend the contract  
13 negotiation process as long as possible to gain leverage if the utility  
14 needs resources in the near term for reliability purposes. Finally, it is  
15 possible that a bid may be the lowest cost individually but may not fit into  
16 a portfolio of other resources economically. Thus, the counter-party for a  
17 power contract may not actually be the lowest cost individual bid.

18 **Q: Please describe how the initial short-listed bids were selected by**  
19 **PacifiCorp?**

20 A: PacifiCorp combined the price and non-price scores for each bid and  
21 ranked the bids based on the scores. It is my understanding that many of  
22 the bids had the same or similar non-price scores since most offers were  
23 for gas-fired combined cycle projects. Thus, the level of dispatchability  
24 (based on technology) and environmental impacts (based on fuel type)  
25 were the same or similar for many proposals. As a result, price became  
26 the distinguishing characteristic even during the screening phase, which is  
27 not consistent with PacifiCorp's original scoring and evaluation process.

1 **Q: Please describe the modeling methodology used by PacifiCorp in**  
2 **undertaking the pricing analysis during the screening phase of the**  
3 **evaluation.**

4 A: PacifiCorp developed a detailed spreadsheet model with the capability of  
5 conducting analysis of a number of bid options consistent with the types  
6 of products/alternatives solicited in the RFP, including power purchase  
7 agreements, turnkey arrangements, call and put options, etc.  
8 Conceptually, the model compares the bid pricing components of a  
9 specific bid with the potential revenues the project could achieve if it sold  
10 the power into the market at projected market prices on a monthly basis.  
11 In effect, the net present value of the revenue stream over the project term  
12 is compared to the net present value of the cost streams over the same  
13 term. The base model includes the cost proposed by the bidders including  
14 capacity costs, fixed O&M, variable O&M, fuel costs, and adds  
15 transmission costs, if applicable. The calculated difference between costs  
16 and revenues is then divided by the real levelized contract capacity to  
17 estimate a Present Value Revenue Requirements (PVRR)/MW-month for  
18 each bid.

19 In the initial screening phase of the evaluation, it is my understanding  
20 that the economics of each bid were compared to PacifiCorp's forward  
21 curve.

22 **Q: Is this modeling methodology consistent with industry standards?**

23 A: The modeling methodology is consistent with other models used in the  
24 industry for conducting price-screening analysis of bids. Since the power  
25 market has become more liquid, the value of power to the utility can be  
26 estimated by the Company's projection of market price at various delivery  
27 points. Models that calculate the value of a bid based on the difference  
28 between the cost and revenue streams of the bid are becoming more  
29 common in the industry for price screening purposes. However,

1 PacifiCorp has used the model for both price screening and final bid  
2 selection. While such a model is consistent and reasonable for comparing  
3 the pricing of like-proposals (baseload options with similar  
4 characteristics), they are not effective for developing a resource portfolio  
5 from the bids received.

6

7 **Q: What other approaches are used by utilities for price screening**  
8 **purposes?**

9 A: A common methodology used by utilities for price screening purposes is a  
10 real levelized cost analysis that evaluates the cost components of the bid  
11 based on the estimated dispatch of the unit. The real levelized cost is that  
12 cost (in \$/Mwh), which if escalated by inflation, results in the same net  
13 present value as the proposed cost stream for the project. As with the  
14 methodology used by PacifiCorp, this methodology is effective for  
15 screening bids only and is most effective for screening similar types of  
16 bids (i.e. combined cycles vs combined cycles).

## 17 **QUANTITATIVE EVALUATION and FINAL SELECTION**

18 **Q: You indicated previously that PacifiCorp eventually reduced the**  
19 **number of bidders it negotiated with to two bidders. How did**  
20 **PacifiCorp reduce the number of bidders for negotiations down to**  
21 **two?**

22 A: It is my understanding that PacifiCorp sought clarification from bidders  
23 whose proposals were included on the initial short-list. PacifiCorp  
24 conducted additional analysis to reflect the changing value of each bid  
25 through the evaluation and selection process. This included adding a CO2  
26 liability value to any bid which PacifiCorp learned did not include such a



1 cost in its bid price. After this process and based on revisions to the NBA,  
2 three bids remained.

3 Bidder 922 was subsequently eliminated from negotiations. While this  
4 bidder had the lowest cost during the screening phase, during clarification  
5 and negotiations, PacifiCorp determined that the bid did not include CO2  
6 liability costs. In addition, PacifiCorp commissioned a study by an  
7 independent engineering firm, Black & Veatch, to assess whether the  
8 project could be constructed on time to meet a June 2007 in-service date.  
9 The study identified significant risks associated with completion of the  
10 project. The combination of these two factors along with concerns over  
11 the credit assurances by the bidder led PacifiCorp to pursue negotiations  
12 with the other two remaining bidders. In this case, PacifiCorp supported  
13 and documented its decision to eliminate this bid from further  
14 negotiations even though it was originally ranked highly in the screening  
15 phase due to the undue risk associated with project completion.

16

17 **Q: Besides the direct costs proposed by bidders and the projected**  
18 **revenues from the output of the project, were any other risk factors**  
19 **considered in the price evaluation of the final two bidders?**

20 **A:** At this stage, one of the bids remaining was for a turnkey project and the  
21 other was for a tolling services agreement. Both bids offered 35 year  
22 terms and were evaluated over this term. As Mr. Tallman testified (page  
23 14), the Company applied a cost associated with the direct debt due to the  
24 impact of the tolling services agreement for bid 213 on the Company's  
25 capital structure. Mr. Tallman also describes the methodology used by the  
26 Company to estimate the cost and classifies the methodology as being  
27 conservative. Effectively, this methodology imputes cost to bid 213 based  
28 on the classification of the bid as a capital lease arrangement. Bid 493 is  
29 not subject to such a "cost" since the project is a turnkey arrangement,

1 which will be owned and operated by PacifiCorp after construction.  
2 PacifiCorp's methodology is an attempt to put the bids on a level playing  
3 field by recognizing the impacts of the capital lease in its analysis.

4 **Q: How was this adjustment applied in the economic evaluation of bid**  
5 **213?**

6 A: Bid 213 is for a long-term tolling service arrangement in which  
7 PacifiCorp is obligated to make long-term fixed cost payments to the  
8 project for the option to convert fuel to electricity. PacifiCorp was  
9 informally advised by its external auditors that the proper accounting  
10 treatment for the Bid 213 tolling agreement was to recognize the net  
11 present value of the minimum fixed payments under the agreement (net of  
12 executory costs such as taxes, insurance and the like) as "direct debt"  
13 which would be placed on their balance sheet for book purposes.  
14 Similarly, rating agencies treat long-term fixed obligations, such as  
15 purchased power arrangements, capital and operating leases, and other  
16 fixed contracts as "inferred debt" in assessing the utility's capital  
17 structure (i.e. debt/equity ratio) and financial ratios for establishing the  
18 credit ratings for the utility. To address this issue, PacifiCorp developed a  
19 methodology to calculate the cost of rebalancing its capital structure to  
20 account for the inclusion of this "direct or inferred debt".

21 **Q: Is it common practice for utilities to include this direct or inferred**  
22 **debt ("debt equivalence") into the cost of evaluating resource options?**

23 A: While this is certainly an emerging issue in the utility business due to  
24 new FASB accounting initiatives and the consensus reached by the  
25 Emerging Issues Task Force associated with the accounting treatment of  
26 leases, I am not aware of any public utility commission that has approved  
27 a methodology for calculating debt equivalence measures in evaluating  
28 power supply proposals. However, several states have recently addressed  
29 suggestions by utilities to include a debt equivalence adjustment in the

1 bid evaluation process and I would expect there will be more attention  
2 paid to this issue in future regulatory proceedings.

3  
4 For example, in a draft of its 2003 RFP, Portland General Electric stated  
5 it would add the costs associated with the fixed obligation for purchased  
6 power into its bid price analysis as debt equivalents. However, the Oregon  
7 Public Utility Commission ruled in UM 1080, Order NO. 03-387:

8 The leverage adjustment described on page 22 of the RFP will  
9 not take place. Instead, a leverage adjustment will be  
10 considered during the post-bid process. (page 2).

11 While the Commission did not approve the use of a debt equivalence or  
12 leverage adjustment during the bid evaluation stage, the Commission  
13 recognized that some consideration for use of such an adjustment may be  
14 warranted.

15 Likewise, the California Public Utilities Commission addressed the debt  
16 equivalence issue in a recent Interim Opinion (Decision 04-01-050), in  
17 Order Instituting Rulemaking to Establish Policies and Cost Recovery  
18 Mechanisms for Generation Procurement and Renewable Resource  
19 Development, January 22, 2004:

20 Preliminarily, we note that AB57 (as per Public Utilities  
21 Code Section 454.5(a)(b)(1)) requires “an assessment of the  
22 price risk associated with the electrical corporation’s  
23 portfolio, including any utility-retained generation, existing  
24 power purchase and exchange contracts, and proposed  
25 contracts or purchases.” Thus, we take the emerging issue of  
26 debt equivalency, and its potential impact on the utilities’  
27 financial viability to serve its customers, quite seriously.

1 We also note that the debt equivalency issue has gained  
2 prominence recently, and we wish to examine its impact on  
3 utilities carefully. It appears that the three rating agencies  
4 have varying methodologies for assessing debt equivalency  
5 and there is some subjectivity in this process which is not  
6 transparent, adding to the difficulty of this assessment by the  
7 Commission. In addition, we note that debt equivalency is  
8 only one of the many factors affecting a utility's credit rating  
9 and therefore its cost of borrowing.

10 Nonetheless, SCE's concern with this issue is warranted, and  
11 we intend to examine it carefully. However, this proceeding  
12 is primarily concerned with setting overall policy for  
13 resource procurement, and not addressing capital costs for  
14 utility investments owing to debt-equity ratios or credit  
15 ratings. The more appropriate venue for handling the  
16 potential costs associated with additional debt equivalency  
17 attributed to a utility for its PPAs is in each utility's cost of  
18 capital proceeding. (See D.92-11-049 and D.93-12-022).  
19 Therefore, the utilities should present detailed evidence about  
20 the treatment of debt equivalency by the rating agencies in  
21 their upcoming cost of capital filings. The Commission will  
22 consider these issues therein and develop a more robust  
23 evidentiary record on this subject before reaching a  
24 conclusion based on each utility's unique financial situation.

25 In a September 2, 1999 Order (Order Denying Florida Power & Light  
26 Company's Petition For Approval of Standard Offer Contract and  
27 Granting Request For Variance; Docket NO. 990249-EG; Order NO. PSC-  
28 99-1713-TRF-EG), the Florida Public Service Commission addressed  
29 Florida Power & Light's equity adjustment proposal as follows:

1 We find it appropriate to include an equity adjustment when  
2 determining FPL's proposed standard offer contract  
3 payments. However, FPL should recalculate the capacity  
4 payments to reflect an equity adjustment based on a 10% risk  
5 factor. (page 7)

6 The discussion of the perceived need for utilities to increase  
7 the level of equity in the capital structure to offset the  
8 adjustment made to the financial ratios by rating agencies and  
9 how this affects the overall cost of capital has not been  
10 specifically addressed. We note, however, that there are  
11 persuasive arguments on both sides of the issue of who  
12 should be responsible for the incremental cost of additional  
13 equity to compensate for these contracts. Given the terms of  
14 the recently approved Stipulation and Settlement (Stipulation)  
15 involving FPL, we believe FPL's current cost of capital  
16 includes recognition of this cost. (page 9)

17

18 **Q: Is the debt equivalence issue new in the industry?**

19 A: No. The debt equivalence issue was addressed by several utilities and  
20 utility commissions in the 1990's. I am also aware that the Energy Policy  
21 Act of 1992 (Section 712) contained a requirement for state commissions  
22 to consider the effects of long-term wholesale power purchases on the  
23 financial structure of the electric utilities. The Department of Energy  
24 published a report on this issue in June 1994 entitled "Financial Impacts  
25 of Non-Utility Power Purchases on Investor-Owned Electric Utilities".  
26 However, I am not aware of widespread application in states in which the  
27 utility imputed a debt equivalence adjustment in the evaluation of electric  
28 supply resource options.

1 **Q: Why is this issue gaining renewed attention at this time?**

2 A: While I am not an Accountant or a Credit Analyst, it is my understanding  
3 that the United States Emerging Issues Task Force (EITF) reached a  
4 consensus in 2003 on EITF Issue 01-8 whereby “arrangements or contracts  
5 that traditionally have not been viewed as leases may contain features  
6 which would require them to be accounted for as leases under Financial  
7 Accounting Standard 13, Accounting for Leases”. Examples of  
8 arrangements that may fall under these rules include power purchase  
9 arrangements.

10 **Q: How have you addressed the debt equivalency issue in your analysis of**  
11 **PacifiCorp’s bid evaluation and selection process?**

12 A: While the debt equivalency issue is certainly an emerging issue that can  
13 have an impact on a utility’s resource selection decisions, to the best of  
14 my knowledge there are currently no precedents in other jurisdictions for  
15 the appropriate methodology to apply in analyzing the impacts of this  
16 issue. PacifiCorp developed a methodology based on its interpretation of  
17 the appropriate way to measure such imputed costs, but PacifiCorp has not  
18 been able to demonstrate that this methodology has been accepted by the  
19 accountants or credit analysts. Even Navigant raise some concern about  
20 the methodology used by PacifiCorp in its Final Report – Addendum  
21 (Confidential), August 24,2004, and why it did not literally apply the  
22 guidance of its accountants to recognize all of the “direct debt”.

23 It is important to note that PacifiCorp made the judgment that  
24 issuing equity sufficient to offset the debt associated with the NPV  
25 of the capacity payments would be excessive. Instead, PacifiCorp  
26 assumed that an amount of equity would be issued to offset the total  
27 capital cost of the project net of the equity associated with the  
28 Summit Power purchase only. This subjective decision made by

1 PacifiCorp greatly benefited the economics of the Bidder 213  
2 proposal. (page 22)

3 In its recommendations, Navigant further recognized the “latitude” that  
4 utilities continue to have on the issue of “inferred debt”.

5 A section in future solicitations should be dedicated to addressing  
6 some of the less obvious costs associated with different types of  
7 proposals. Here, we are referring to the issue of debt and its impact  
8 on the Company’s balance sheet. This has become an increasingly  
9 common issue that has become part of competitive bidding  
10 processes, but it is not well understood by the majority of market  
11 participants. Furthermore, utilities have latitude in how they  
12 interpret the guidance that has been provided by Standard and Poors  
13 (“S&P”). If it is going to be a part of the economic valuation  
14 prepared by PacifiCorp, bidders should be made aware of how this  
15 calculation is made and what it means to the competitiveness of  
16 their offer. (page 30)

17

18 As a result, it is my view that the appropriate methodology for  
19 incorporating debt impacts in assessing resource options needs further  
20 consideration. While PacifiCorp has made a “best efforts” to incorporate  
21 a methodology consistent with the approach discussed by the credit rating  
22 agencies, there is a lack of precedent at the regulatory level regarding the  
23 appropriate methodology.

24 **Q: What is the implication on the economics of the two bids if the debt**  
25 **impacts are not included in the evaluation?**

26 A: DPU Exhibit 2.2 contains a summary of the economics of the cases  
27 presented in the testimony filed by PacifiCorp’s witnesses Furman (page

1 9-11) and Tallman (page 14-17) with the debt adjustment included as well  
2 as cases with the debt adjustment eliminated. Each bid is compared on a  
3 \$/Kw-month basis, which reflects the methodology used by PacifiCorp  
4 and described on pages 19-20 of my testimony. As illustrated, elimination  
5 of the debt adjustment results in an increase in the economic value of Bid  
6 213 by approximately \$.92/Kw-month. As this Exhibit illustrates, the  
7 economic value of Bid 213 varies significantly depending on the scenario  
8 evaluated and highlights the potential risks and variability of results  
9 associated with this project, as measured by the range of economic value  
10 based on the assumptions about CO2 liability cost, commercial operations  
11 delay and debt impact. As illustrated in DPU Exhibit 2.2, the economic  
12 value of this bid ranges from a low of \$.77/Kw-month if CO2 liability  
13 costs are added to the project cost and a high of \$3.99 if the bidder  
14 absorbs the CO2 costs for the first 20 years and no inferred debt  
15 adjustment is included. With such a wide range of outcomes and  
16 significant risk associated with each outcome, the economic value of this  
17 bid is less certain than bid 493.

18 In my view, the best-case scenario for Bid 213 is the four month delay  
19 Case, with inferred debt impacts eliminated. Based on my review of Mr.  
20 Selgrade's testimony, I have concluded that a likely outcome of  
21 negotiations for Bid 213 would result in at least a four-month delay in the  
22 in-service date of the project. Therefore, the economics of this scenario as  
23 presented by PacifiCorp, adjusted for elimination of the direct debt  
24 adjustment is, in my view, a best-case scenario.

25 While bid 213 would have favorable economics relative to bid 493 with  
26 the exclusion of the direct debt adjustment, given the risks associated  
27 with this project and the complexities of the contract negotiation process,  
28 the final decision rendered by PacifiCorp to negotiate a final contract with  
29 bid 493 is a reasonable solution.



1 **Q: Should the assumptions about the timing of CO2 liability (i.e. 2008) or**  
2 **the cost of CO2 liability (\$8/ton) end up being aggressive which of the**  
3 **remaining two proposals would benefit the most?**

4 A: In a case where the CO2 liability is imposed after 2008 and the actual cost  
5 is lower than the value estimated by PacifiCorp, bid 493 would benefit  
6 relative to bid 213. This is because PacifiCorp has imputed the full cost of  
7 CO2 liability throughout the 35-year term of the project to bid 493. On  
8 the other hand, bid 213 absorbed CO2 liability for the first 20 years of the  
9 contract and wanted to limit its exposure to the equity in the plant. Any  
10 delay in the implementation date or reduction in the cost below the \$8/ton  
11 assumption would therefore benefit bid 493 relative to 213. Since bid 213  
12 has agreed to absorb a portion of the CO2 cost in its bid price, and a  
13 reduction in the CO2 liability cost would benefit the bidder not  
14 PacifiCorp or its customers.

15 **Q: Are there other risks associated with these options that PacifiCorp has**  
16 **not addressed in its evaluation process?**

17 A: In my view, the size of a project should be considered in the risk analysis  
18 process, and, in fact, some utilities include this criterion in their selection  
19 process. For example, Project 213 is an 817 MW combined cycle project  
20 while Project 493 is 534 MW. While project 213 may have economies of  
21 scale benefits associated with the larger size, the failure of such a project  
22 will have more significant risk and reliability implications on PacifiCorp.  
23 Many utilities are now incorporating size considerations, contract  
24 structure, and fuel price risk in their portfolio decisions.

25

## 26 **Conclusions and Recommendations**

27

1 **Q: What are your conclusions based on your assessment of PacifiCorp's**  
2 **competitive bidding process?**

3 A: Based on my assessment of PacifiCorp's evaluation and selection process  
4 for the bids received in response to the baseload component of its 2003-A  
5 RFP, it is my view that the selection of bid 493 was a reasonable choice  
6 given the parameters of the competitive bidding process. This is based  
7 largely on the risk associated with the completion of the project to meet  
8 the June 2007 required in-service date. The analysis showed that under a  
9 number of scenarios bid 213 was a lower cost option and PacifiCorp  
10 rightfully attempted to negotiate a contract with that bidder first. Upon  
11 recognizing that the probability of completing agreements with this bidder  
12 coupled with concerns that the bidder had the financial wherewithal to  
13 complete the project, the Company began negotiations with the next best  
14 bidder. This bidder was viewed to offer more certain and secure financial  
15 backing with little chance of project failure. Even though bid 213 was a  
16 lower cost option under several scenarios, the probably of project default  
17 was viewed to be fairly significant. The Company's decision to terminate  
18 negotiations and pursue negotiations and contract approval with the  
19 second bidder is reasonable and is consistent with sound utility practice.

20 Also, the competitive bidding process undertaken by PacifiCorp meets a  
21 number of the characteristics of an effective competitive bidding program  
22 as outlined beginning on page 5 of this testimony. Furthermore, Navigant  
23 Consulting, as the Outside Observer, has concluded that the process was  
24 fair and equitable. I have found no evidence to refute Navigant's  
25 conclusions.

26 Finally, there are a number of potential revisions to the competitive  
27 bidding process that could result in a more effective process for future  
28 solicitations.

29

1 **Q: Do you have any recommendations for improving the competitive**  
2 **bidding process for future solicitations**

3 A: There are a number of potential improvements that could be made to  
4 PacifiCorp's competitive bidding process and RFP to ensure the potential  
5 benefits from competitive bidding can be further realized in future  
6 solicitations. These include:

7 1. PacifiCorp should undertake a portfolio evaluation process  
8 in its next RFP, similar to the approach followed by a  
9 number of other utilities. Under this approach, the price  
10 screening and non-price assessment is used to determine a  
11 short list of bids and those bids are then combined into  
12 portfolios to assess the preferred combination of options.  
13 PacifiCorp can still use the basic approach it took in this  
14 RFP as a starting point but could conduct a more thorough  
15 analysis to select the portfolios. For example, in RFP  
16 2003-A, PacifiCorp identified three products it was  
17 soliciting bids for, and upon receipt of bids classified the  
18 bids by product. PacifiCorp then evaluated the bids within  
19 each category to select the preferred bid for that product.  
20 With a portfolio approach, PacifiCorp could classify the  
21 bids into categories, screen the bids and select a short-list  
22 from each category. From that point the bids would be  
23 combined into portfolios and run through production cost  
24 or a simulation model to evaluate the lowest cost  
25 portfolio. Debate over whether the Currant Creek project  
26 should have been compared to peaking units or baseload  
27 options would be eliminated. Furthermore, any revisions  
28 to the NBA, size variations, term, etc. would be moot.  
29 Under this approach, the lowest cost options for meeting  
30 load requirements within the risk parameters of the utility

1 can be directly determined. In PacifiCorp's case, the  
2 Company bases its resource requirements on its Integrated  
3 Resource Plan. In this case, the RFP could be closely  
4 integrated with that process.

5 2. Most utilities include a Model Power Contract (or multiple  
6 model contracts) in their RFP. This allows the bidders to  
7 assess the risk in the contract and reflect such risk in their  
8 bids. In my discussion of the characteristics of an  
9 effective competitive bidding process, the integration of  
10 the RFP, response package or information provided by  
11 bidders is an important characteristic. In addition to  
12 providing bidders the opportunity to reflect the contract  
13 risk in their bids, the utility can also assess the exceptions  
14 which the bidder takes to the contract and assess whether  
15 such exceptions will create difficulty in negotiating a final  
16 contract. If PacifiCorp intends to use a competitive  
17 negotiations process in future RFPs, including the contract  
18 in the RFP can facilitate negotiations.

19 3. PacifiCorp relied on only two non-price criteria that  
20 resulted in little opportunity to distinguish bids on the  
21 basis of any criteria other than price. The development of  
22 broader and more detailed non-price evaluation criteria  
23 and/or threshold criteria would not only provide the  
24 opportunity to more clearly distinguish the maturity and  
25 status of bids, but could also "raise flags" about any  
26 potential fatal flaws in the proposal. In addition, detailed  
27 non-price assessment can assist in defining the issues for  
28 contract negotiations. PacifiCorp requested information of  
29 bidders in Appendix A of the RFP that could be used for  
30 this assessment.

- 1                   4. PacifiCorp's RFP recognized the importance of credit  
2                    assurance and credit quality in the bid evaluation process.  
3                    However, the credit issue was addressed only at the  
4                    negotiation stage. There were no non-price or threshold  
5                    criteria dealing with credit. Other utilities are beginning  
6                    to include credit assurance as a primary non-price  
7                    criterion and are using their credit evaluation processes  
8                    and methodologies to assess the collateral requirements of  
9                    counter-parties. PacifiCorp should consider such a  
10                  criterion in future solicitations as a non-price factor to  
11                  evaluate bids received.
- 12                 5. If PacifiCorp continues to implement a competitive  
13                  negotiations process, the Company should allot more time  
14                  for negotiations within the RFP schedule.
- 15                 6. In this RFP, PacifiCorp limited bid terms to 20 years but  
16                  conducted a 35-year analysis. Also, PacifiCorp applied a  
17                  debt equivalence adjustment in the evaluation of the final  
18                  two bids. It is important in future RFPs that bidders are  
19                  made aware of any important factors that could determine  
20                  its bidding strategy and opportunity to compete. Failure to  
21                  identify such key factors influencing the evaluation of  
22                  proposals submitted could dissuade companies from  
23                  submitting a valid proposal.

24   **Q:    Does this conclude your direct testimony?**

25   **A:    Yes.**

26