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**Memorandum**

To: Public Service Commission

From: Division of Public Utilities  
Constance White, Director  
Artie Powell, Manager, Energy Section  
Ron Slusher, Technical Consultant  
Andrea Coon, Technical Consultant

Subject: In the Matter of the Application of PacifiCorp for Approval of a 2009 Request for Proposals for Flexible Resource; Docket No. 05-035-47

Date: August 16, 2006

Background

On June 27, 2005, PacifiCorp (Company) filed an application to issue a Request for Proposals (RFP) in order to procure a resource need for summer 2009. After several months of meetings and the issuance of a draft RFP, the Company moved to suspend the schedule on October 19, 2005. This motion was granted by the Commission on October 21, 2005. After PacifiCorp reviewed its Integrated Resource Plan (IRP) Update in October and November, it determined that there was no longer a resource need in 2009. Instead, the resource need was for summer 2012. The current RFP filing replaces that originally filed under this docket and requests resources to serve load in the summer of 2012. The Commission has issued several scheduling orders in this docket since



November of 2005. The most recent order requires comments from stakeholders on the draft RFP by August 16, 2006. The following are the Division of Public Utilities' (DPU) initial comments on the draft RFP as filed by the Company on July 11, 2006.

### Analysis

There are several areas of concern to the Division in the draft filing. To date, we have identified four general issues that we will address in these comments: inferred or imputed debt used in the screening process, credit requirements, the appearance of preference for gas resources in the bid materials, and the inclusion of a sub-critical coal plant as a benchmark option. The Division is also looking to the comments of the Independent Evaluator (IE) to bring to light possible issues out of the vast filing that contains the RFP and related documents.

### **Debt Inference or Imputation**

In the section describing the initial evaluation to determine a short list (RFP Draft Section 5), PacifiCorp describes a process that will take into account price and non-price factors. While the Division does not necessarily take issue with such a screening or with the use of price and non-price factors, we are concerned about what appears to be the Company's use of imputed or inferred debt as one of the price factors. While the Division is sensitive to the Company's belief that it does have debt related costs that are attributable to

imputed or other types of debt due to Purchased Power Agreements (PPAs),<sup>1</sup> the Utah Commission has heard this issue under Docket No. 03-035-14 and declared that it was unconvinced.<sup>2</sup> Instead, it was “persuaded by UAE’s evidence of 88 factors considered by rating agencies in the determination of a utility’s credit rating...”<sup>3</sup> Given that the Company has yet to present additional evidence on this topic to the Commission, the Division believes that it was the Commission’s intention to exclude this item from consideration in PPAs, not necessarily only PPAs for Qualifying Facilities. In addition, the Division has recently learned that the Public Utility Commission of Oregon has ordered that for any RFPs released by PacifiCorp, debt imputation should not be used as a mechanism to determine an initial short list.<sup>4</sup> The Oregon Commission further ordered that upon request, the Company would need to obtain an opinion from a ratings agency to substantiate its claims in the later evaluation rounds.<sup>5</sup> The Division believes that the position taken by the Oregon Commission is reasonable and that debt imputation should not be used in the first round of evaluations. The Division also believes that it is reasonable to require PacifiCorp to obtain an opinion from a ratings agency in the final rounds as evidence of the appropriateness of using debt imputation in the evaluation process.

## **Credit Requirements**

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<sup>1</sup> Direct Testimony of Artie Powell; Docket No. 03-035-14, pages 10-16. See also Division Memorandum in Docket No. 05-035-47 dated August 23, 2005

<sup>2</sup> Report and Order in Docket No. 03-035-14 dated October 31, 2005 at pages 25-28

<sup>3</sup> Ibid, at page 28

<sup>4</sup> Order No. 06-446, entered August 10, 2006 in Docket No. UM 1182, at pages 11-12

<sup>5</sup> Ibid, at pages 11-12

The manner in which PacifiCorp will determine the required credit assurances for a project is also of concern to the Division. It is of concern to the Division that the matrix was not included in the draft RFP document and has not had the scrutiny from potential bidders and other parties that the Division feels should have a voice in this process. Although the Division recently received the matrix that will be used, there has been insufficient time to examine the matrix prior to the filing deadline for these comments. We are also not aware of the matrix being generally filed for the use of all interested parties. In addition, the methodology that was used to produce the matrix has not been explained in any formal, public meeting. The methodology as discussed with the IE and the Division in a recent meeting raises large concerns as to the methodological reasonableness. Therefore, the Division will reserve judgment as to the appropriateness of this matrix and its associated methodologies until we can obtain and analyze more information.

### **Apparent Preference for Gas Resources**

The Division is concerned that the RFP as currently written seems to lean toward bidders proposing a gas-fired resource. We believe that this may, in part, be due to the fact that the original RFP filing in 2005 was meant to procure a gas-fired plant. Still, the Division believes that it is important to signal to bidders through RFP language and informational requirements that coal-fired or other fuel source resources are not only accepted in this RFP, but also encouraged in order to get the best possible range of resource options available on the market. The Division has pointed out several of the

areas in which this preference appears to the Company in a recent meeting. These areas included the Tolling Service Agreement and the various Appendices in the RFP, which request information about gas supply rather than fuel supply. This problem seems to be one that could be readily solved by either adding generic language for fuel sources other than gas to the existing documents or by adding new documents for those choosing to bid in coal or other fuel source alternatives. The Division hopes that PacifiCorp will take the necessary steps to correct the language within the RFP that could lead to misperceptions among bidders as to the type of resource that would be acceptable in this bid and instead utilize language that encourages developers of other resource types to enter the process.

### **IPP3**

The Division has some concerns over the use of IPP3 as a benchmark in this RFP. As we discussed in our comments in Docket No. 05-2035-01, it appears that steps have been skipped by PacifiCorp in selecting this resource. It still has not been fully vetted in a full IRP process. There has also been a lack of discussion regarding how the Company would propose dealing with the risks, environmental and other, associated with this plant. The Division believes that this discussion is necessary to provide comfort in the Company's decision to include the facility as a benchmark. The Division also understands that the Company has already invested funds in this plant. The Division continues to await information from the Company regarding why it chose to invest money in a facility before it has been vetted through this or any other public process. We

also feel that the Company should provide information regarding how these dollars will be accounted for in the evaluation process.

### Recommendation

The Division makes the following recommendations for this draft RFP:

1. Debt inference or imputation should be used only after an initial short list is selected and only if the Company can produce substantive proof from a rating agency as to the general need for such a calculation.
2. The Company should provide a written explanation as to the methodology used to derive the values in the credit matrix. Further, the Company should provide the matrix to other stakeholders as soon as possible so as to allow sufficient time for review and comment prior to the issuance of the final RFP.
3. The Company should alter language within the RFP to be more universally applicable so as not to discourage those who would bid a resource other than gas-fired.
4. The Company should provide a reasonable explanation as to the nature of its current involvement with the IPP3 facility. This should include any dollars spent to date on the project and how those dollars will be accounted for in the evaluation process. It should also include an explanation of how the risks associated with the plant will be evaluated.

cc: Wayne Oliver, Merrimack Energy  
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