

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)	<u>DOCKET NO. 07-035-94</u>
PacifiCorp, by and through its Rocky)	
Mountain Power Division, for Approval of a)	<u>COMMISSION'S SUGGESTED</u>
Solicitation Process for a Flexible Resource)	<u>MODIFICATIONS AND ORDER</u>
for the 2012-2017 Time Period, and for)	
Approval of a Significant Energy Resource)	
Decision)	

ISSUED: May 23, 2008

SHORT TITLE

PacifiCorp All Source RFP Suggested Modifications and Order

SYNOPSIS

The Commission suggests modifications to PacifiCorp's All Source Request for Proposals for Resources in the 2012 to 2016 time period. The Commission directs further work on the economic evaluation of bids and grants a waiver from rules requiring the specific blinding of bids.

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I. PROCEDURAL HISTORY

On December 21, 2007, pursuant to Utah Code Annotated §§54-17-101, et. seq., Energy Resource Procurement Act (“Act”), and Commission Rules R746-420 et. seq., PacifiCorp, by and through its Rocky Mountain Power division (“Company”), filed an application to the Public Service Commission of Utah (“Commission”) for purposes of opening a docket for the approval of a solicitation process for a flexible resource for the 2012 to 2017 time period (“2012-2017 RFP”), for appointment of Merrimack Energy as the independent evaluator (“IE”) for the solicitation process, and for approval of the acquisition of a significant energy resource. In this initial application, the Company also requested the Commission grant expedited review of the 2012-2017 RFP, and authorize the Company to begin working with the IE on the 2012-2017 RFP. After receiving comments by the Utah Division of Public Utilities (“Division”) and the Utah Committee of Consumer Services (“Committee”), the Commission issued an Order on January 28, 2008, granting only the portion of the Company’s request mandating that the IE, once one is obtained, immediately begin performing the duties and tasks required by statute and rules and as directed by the Commission.

On February 15, 2008, the Company filed a notice and application to the Commission for approval of the solicitation and solicitation process contained in the Company’s Draft 2008 All Source Request for Proposals (“All Source RFP”) to acquire or construct up to 2,000 megawatts of resources for calendar years 2012 to 2016. As this application was filed less than sixty days after the Company provided notice through its initial application on December 21, 2007, the Company requested the Commission waive the 60-day advance notice requirement in R746-420-1(3)(a) and accept the filing of the All Source RFP. Following a duly-noticed

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scheduling conference, the Commission issued a scheduling order on March 4, 2008, setting the schedule for this docket.

In accordance with the scheduling order, on March 21, 2008, comments on the All Source RFP were filed by the Division, the Committee, Western Resource Advocates (“WRA”), the Utah Association of Energy Users (“UAE”), and LS Power Associates, L.P. (“LS Power”). On March 28, 2008, the Company filed a revised version of the All Source RFP and also filed responsive comments to the opening comments filed by parties. On April 11, 2008, the IE filed the Report of the Independent Evaluator Regarding PacifiCorp’s All Source Request for Proposals. On April 25, 2008, reply comments were filed by the Company, the Committee, WRA, UAE and LS Power; the Company also filed another revised version of the All Source RFP. At the request of the Commission, the Division filed an issues matrix on April 30, 2008. The issues matrix provided a description of issues raised by parties and a summary of parties’ positions on the issues. On May 1, 2008, the Sierra Club and Utah Clean Energy filed comments. A hearing was conducted on May 1, 2008, to hear comments on the April 25, 2008, version of the All Source RFP. Prior to the hearing, on the morning of May 1, 2008, parties met to discuss the matrix and identify the issues that remained unresolved. As a result of this meeting, the parties developed a summary sheet of the status of each issue in the matrix and provided this to the Commission during the hearing. On May 6, 2008, LS Power filed supplemental information as requested by the Commission during the hearing.

II. DISCUSSION, FINDINGS AND CONCLUSIONS

A. INTRODUCTION AND BACKGROUND

On February 25, 2005, the Utah Legislature enacted the Energy Resource Procurement Act (“Act”), Utah Code Annotated §§54-17-101, et. seq. This Act requires any PacifiCorp significant energy resource (“SER”) acquisition of 100 megawatts (“MW”) or greater for 10 years duration or longer to be competitively bid unless a waiver is granted. In the absence of a waiver, the Act requires the Company to conduct a solicitation process that is approved by the Commission. The Act also requires PacifiCorp to obtain Commission approval of its SER decision prior to construction or entering into a binding agreement, unless a waiver is granted.

In ruling on the request for approval of a solicitation process, the Act requires the Commission to determine whether the solicitation process is in the public interest taking into consideration: 1) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to Utah retail customers; 2) long-term and short-term impacts; 3) risk; 4) reliability; 5) financial impacts on the affected electrical utility; and, 6) other factors determined by the Commission to be relevant. The Act requires the Commission to appoint an IE to actively monitor the solicitation process for fairness and render an opinion as to whether the solicitation process is fair and in compliance with the Act, and whether any modeling used by the affected electrical utility to evaluate bids is sufficient.

On May 31, 2007, the Company completed and filed its 2007 Integrated Resource Plan (“IRP”) which provides the Company’s least cost portfolio of resources to meet future expected demand for electricity, given the Company’s assumptions regarding future loads, resource costs, risks and uncertainties. In its 2007 IRP, the Company identifies the need to

procure up to 1,700 megawatts of base load resource on the east side of its system for the term 2012 through 2014. In Docket No. 05-035-47, we approved the Company's request to solicit bids for up to 1,700 megawatts of base load resource and to use coal-based benchmarks as options to bids. This solicitation process is referred to as the 2012 RFP and is still underway.

On February 15, 2008, the Company filed a request for approval of the All Source RFP to solicit up to 2,000 megawatts of capacity and energy resource for calendar years 2012 to 2016 delivered to the Company's network transmission system in both its east and west control areas. The Company states the All Source RFP is a direct outgrowth of the 2012 RFP. During the evaluation stage of the 2012 RFP, the Company filed a request to amend the 2012 RFP to permit the inclusion of new Company benchmark resources to replace its coal-based benchmark options, arguing rapidly changing industry conditions had undermined the continuing viability of the 2012 RFP's benchmark options. The Company represents that most potential bidders and interested parties opposed the Company's proposed amendment based upon fairness and process concerns. In response, the Company states it agreed to withdraw its request for amendment, continue the 2012 RFP without amendment, and issue a new system-wide all-source incremental request for proposals for resources.

The All Source RFP is the Company's new system-wide all source RFP, soliciting up to 2,000 megawatts of capacity and energy for greater than ten years duration, thus invoking the requirements of the Act. All energy and capacity resources must provide unit contingent or firm resource capacity and associated energy incremental to the Company's existing capacity and energy resources and be available for dispatch or scheduling by June 1, 2012; June 1, 2013; June 1, 2014; June 1, 2015; and/or June 1, 2016. The Company proposes

that bids from new or existing coal resources will only be considered if such proposals are consistent with multi-state legal and regulatory requirements regarding new and existing coal resources. Bidders may propose any of seven different resource alternative structures and three exceptions in three separate bid categories of resource requirements. The bid categories are separated into base load, intermediate load, and summer peak resources. Each bid category will be screened to determine the initial shortlist and the top bids will then be evaluated using the Company's IRP models to determine a final shortlist.

The Company represents that the All Source RFP solicits bids to fulfill a portion of the capacity and energy resource needs identified in the Company's 2007 IRP. The Company cites a resource deficit ranging from 2,446 megawatts in 2012 to 3,171 megawatts in 2016, assuming a 12 percent planning margin. The Company's planned renewable targets, conservation and demand side management set forth in the 2007 IRP are not included in the Company's calculation of resource need but will be included as inputs in the models used to evaluate bids and benchmarks based on IRP forecasted prices. The Company states it may opt to contract for more or less power depending upon, among other things, bids received in the 2012 RFP, purchases, quality of bids received in the All Source RFP, updates to the Company's forecasts, regional transmission availability and timing, procurement of shorter term resources or intermittent resources and changes in the wholesale energy market conditions. In the event any resource is selected from the 2012 RFP, the total resource need will be adjusted at such point in time.

The Company proposes the following self-build benchmark resource options for the All Source RFP: 1) Currant Creek Block 2, a natural gas-fired combined cycle combustion

turbine (“CCCT”) having a nominal net rating, including duct firing capacity, of 535 megawatts to 700 megawatts; 2) Lake Side Block 2, also a natural gas-fired CCCT and having a nominal net rating, including duct firing capacity, of 550 megawatts to 580 megawatts; 3) three to seven advanced natural gas-fired, simple cycle combustion turbines at one or more locations ranging from 250 to 290 megawatts per location. The Company additionally proposes use of applicable east/west markets for benchmark comparison of bids for the summer peak bid category.

At hearing, outstanding issues were raised for Commission consideration and determination as to whether the Commission should approve, suggest modifications to, or reject, the April 25, 2008 version of the All Source RFP, as required by Utah Code §54-17-201(2)(f). Of the issues identified in the issues matrix, the parties represented that a number of the issues had been resolved by agreement or adoption by the Company. We address the remaining unresolved issues as follows: 1) credit; 2) indexing; 3) resource eligibility; 4) proposal options; 5) price and non-price evaluation metrics; 6) risk of potential CO₂ costs; 7) economic evaluation models and methodologies; 8) comparability; 9) blinding of bids. We address each issue in turn. With respect to the Committee’s comments regarding IE reporting requirements, we decline to address these issues in this Order but will do so pursuant to statute and the applicable IE contract.

B. CREDIT

The Company proposes each bidder be required to demonstrate its ability to post credit assurances in the amounts outlined in the credit matrix in Appendix B of the All Source RFP or as otherwise adjusted based on the bid category proposed. A bidder must be able to demonstrate its ability to post any necessary credit assurances in the form of a guaranty

commitment letter from either a proposed guarantor and/or in the form of a letter of credit commitment from the issuing financial institution. This commitment letter must be posted 20 days after the bidder is selected for the final shortlist. The amount of credit assurances required is based upon the following: the credit rating of the bidder and any entities providing credit assurances on behalf of the bidder; the size of the project; the online date of the project; the type of bid and bid category; and the term of the underlying contract. With regard to the timing for posting security, the Company proposes the bidder post 10 percent of the required security at the time of contract execution. The amount of security required to be posted increases over time up to the earlier of two years after the effective date of the contract or upon project development financing. The Company will hold a credit workshop for bidders to address any credit issues and the calculation of credit requirements.

LS Power argues the amount of credit the Company proposes should be three to five times lower and the required date for posting of credit is too early in the process. LS Power argues the unreasonably high amounts of security place an undue burden on bidders and give the Company's self-build options a significant advantage. LS Power provides a review of 14 power purchase agreements it has executed and financed within the last 15 years, six of which occurred in the last two years, with much lower credit requirements. LS Power proposes bidders should be allowed to propose different credit terms. Specifically, LS Power recommends posting 10 percent prior to financial closing with the remaining 90 percent to be posted upon closing of project financing. The requirement to post security prior to financial closing should be milestone-based so security is only needed in the event a milestone is not reached by a certain

pre-determined deadline. UAE supports LS Power's position allowing bidders to propose alternatives.

It is the position of the IE that the Company has made several improvements to the credit sections of the All Source RFP, in comparison to the 2012 RFP, including requiring a commitment letter after selection of the final shortlist and establishing credit requirements for the different resource categories. Based on its experience in other competitive bidding processes, the IE concludes the amount of security proposed in the All Source RFP is within the zone of reasonableness for investor-owned utilities. The IE notes the level of security proposed in the All Source RFP for entities with credit ratings at BBB- and below would be approximately \$136 per kilowatt ("kW") for base load resources in 2012. The IE provides a review of the credit requirements of 14 RFPs showing a range of \$100 per kW to \$200 per kW with outliers on either end. The IE also supports the Company's proposed timing for posting security because it offers flexibility to the bidder since the majority of the security required can be linked to the date of project financing. However, the IE recommends one additional change to the Company's proposed credit requirements. Guarantors have indicated the need to know the terms of the financial contract before being comfortable with issuing the commitment letter and therefore the IE recommends that the credit commitment letters provide credit support providers the right to review the final terms of the winning bid, the final contract terms, before being bound. The Division and UAE support the IE's recommended change.

We are persuaded by the IE's comments and experience that the credit requirements are improved over the 2012 RFP and are within a zone of reasonableness and the timing of posting security is reasonably flexible. We agree with the IE, for the reasons noted,

the Company should state that it will permit the guarantor to have the right to review the final contract terms before becoming bound.

C. INDEXING

Three issues are raised with respect to the indexing of costs in a bid or benchmark: the percent of the capital cost allowed to be indexed; the timing when an indexed price must be locked-in; and whether alternative indices may be used. The Company proposes to maintain the same percentages for indexing as contained in the 2012 RFP which allowed for up to 40 percent of the capital or capacity cost to be indexed to two indices, the Consumer Price Index and Producer Price Index for Metals and Metal Products. This, the Company maintains, will minimize the price shift to customers, but at the same time provide some flexibility to bidders. The Company also proposes to maintain the time required for fixing an indexed price to the requirements of the 2012 RFP. This requires bidders to fix any indexed price at the time when bidders execute the engineering, procurement and construction contract or receive financing, but no later than two years after the execution of the contract. At hearing, the Company stated it agreed to consider requests for alternate indices as long as the proposed indices are transparent and easily measurable; therefore, the Company states this issue is no longer in dispute.

WRA supports limited indexing, but argues there should be an evaluation penalty associated with indexing because of the added risk to customers.

In the context of addressing concerns raised by LS Power regarding comparability between bids and utility self-build options, the IE recommends more flexible indexing in the All Source RFP than was allowed in the 2012 RFP. The IE recommends the RFP permit indexing,

using the allowable indices, up to 100 percent of the capital or capacity cost of a bid or benchmark. The IE also recommends greater flexibility for bidders regarding when the index would terminate and the price would be locked-in. The IE recommends the bidder identify this time frame, up to the date of commercial operation. The IE agrees with WRA that indexing increases the risk to customers and therefore recommends the bid evaluation process account for the amount, type and duration of indexing and that this be considered in the non-price evaluation.

UAE and LS Power support the IE's recommendations on increasing the percentage of indexing allowed. UAE and LS Power agree the risk of an indexing proposal should be considered in the analysis of bids.

We were persuaded in Docket No. 05-035-47 an indexing option of up to 50 percent of the capital or capacity cost of a bid for up to two years after contract execution, could improve the number of bids and therefore the options for low cost supply to customers. Then, as now, the issue of increased customer risk due to the use of indexed costs was raised. We are not persuaded by arguments or comments in this case to expand this risk by allowing up to 100 percent of the capital cost to be indexed and then to address this increased risk by providing a penalty for indexing in the bid evaluation process. We conclude the Company's proposal to include the option for bidders to index up to 40 percent of capital cost, with flexibility regarding alternate indices to be used, provides a reasonable balance between bidder flexibility and customer risk.

D. RESOURCE ELIGIBILITY

The All Source RFP states bids from new or existing coal resources will only be considered by the Company if such proposals are consistent with multi-state legal and regulatory requirements regarding new and existing coal resources.

UAE recommends this confusing and ambiguous language be stricken from the RFP. UAE's objections are two-fold. First, the language shifts to Utah ratepayers the risks and costs the Company faces due to conflicting state resource policies, requirements or expectations, and the resulting potential for inconsistent cost allocation procedures; a risk the Company agreed to bear. It is UAE's view that, for the benefit of its Utah ratepayer, the Company is required to pursue lowest-cost, risk-adjusted, system-wide planning and resource acquisition policies, regardless of any conflicting resource policies or requirements imposed on the Company by other states. Moreover, UAE argues, this approach is required even if the policies of other states might impose additional costs on the Company or other states. Utah ratepayers can only be assured of lowest-cost, risk-adjusted resource planning and acquisition as required by Utah law if and to the extent that all resources eligible to provide service to Utah ratepayers are fairly, reasonably and properly solicited, evaluated and selected through a meaningful RFP process, notwithstanding conflicting policies or requirements that other states may impose. Second, the Company's language places on the bidders an unreasonable obligation to ferret out these confusing and ambiguous "multi-state and regulatory requirements." The RFP should be clear as to which resource will and will not be evaluated and considered. Finally, UAE submits that the Company should be required, as a condition to any possible resource pre-approval in this docket, to invite and evaluate all baseload resource categories and bids, regardless of fuel source.

Western Resource Advocates, Utah Clean Energy and the Sierra Club support the Company's language limiting coal resources to such bids that comply with the legal and regulatory requirements in all of the states in which the Company serves retail customers. WRA argues coal resources present development and environmental risks that are too great and are too difficult to evaluate and therefore, it would be smarter to have them precluded from bidding in the first place.

The IE and Division are concerned the Company's language effectively excludes coal. They claim if coal is excluded, then least-cost, least risk can not be demonstrated.

We concur with UAE that the language in the RFP qualifying coal resource bids is ambiguous, places an unreasonable burden on bidders and should be stricken. We are not persuaded by the Company that coal resources, or any resource, should be excluded from bidding in this RFP if such bids can comply with the terms and conditions and the need identified in the solicitation. We concur with UAE, the Division and the IE, the RFP must subject any coal bids to the full evaluation process in order to determine optimal least cost and least risk resources. Any state regulatory considerations should be addressed after the full analysis of cost, risk and uncertainty. The Company always bears the burden of demonstrating its resource decisions are prudent in either a resource decision approval or general rate case proceeding.

E. PROPOSAL OPTIONS

The All Source RFP allows bidders to provide one base bid plus two alternative bids for a \$10,000 fee, plus the option of submitting three additional alternative bids for \$1,000 per bid. The IE and Division support the Company's proposal. LS Power and UAE recommend

bidders be allowed to submit additional alternative bids, beyond the six bids in the Company's proposal, for \$1,000 each.

We wish to encourage the number of options available for evaluation and therefore suggest the Company allow additional alternative bids as follows: For \$10,000, a bidder may submit one base bid and two alternative bids; the fourth through sixth alternative bids would cost \$1,000 each; the seventh alternative bid would cost \$2,000, the eighth alternative bid would cost \$3,000, and so on.

F. PRICE AND NON-PRICE EVALUATION

Three issues are raised with respect to the price evaluation component of the RFP: the Step 1 price comparison metric; the weighting of the non-price, environmental factor; and the inclusion of benchmarks in this part of the evaluation process.

In comparison to the 2012 RFP, the Company increased the price range for the Step 1 price comparison metric in order to address the potential for this part of the evaluation process to be primarily based on non-price factors. Bids less than or equal to 60 percent of the adjusted price projections receive the full 70 percent weight and bids equal to or greater than 140 percent of the adjusted price projections receive 0 percent. Adjusted prices between the ranges will be linearly interpolated. To the extent all of the proposals are above 120 percent of the adjusted price curves, proposals will be ranked by percentage.

The IE is concerned that the pre-specified price ranges could still lead to non-price weights having the primary impact on short-list selection depending on the actual range of prices of bids received. Therefore, the IE recommends the Company reserve the right to revise

the ranges after the bids are received to ensure the weights are maintained as intended. The Division and UAE support the IE's recommendations.

WRA recommends the environmental factor be increased so that non-price factors are weighted 40 percent and the price factor be decreased to 60 percent. LS Power recommends the benchmark resources go through all steps of the evaluation process, including the price evaluation stage.

We concur with the IE that the Company should be permitted to change the Step 1 pre-specified price ranges after the bids are received in the event the pre-specified price ranges no longer maintain the weights as intended. Further, we accept the Company's proposal to maintain the weight given to environmental factors in the Step 1 analysis. Environmental factors are more thoroughly addressed in the remaining steps of evaluation. We concur with LS Power that the benchmarks should be included in the price evaluation step in order to have a consistent comparison of bids and benchmarks throughout the process.

G. CO2 RISK ALLOCATION

In both the evaluation of bids and benchmarks, the potential costs to address possible CO2 regulation are assumed to pass through to the Company and its ratepayers. In Step 4 of the evaluation of bids and benchmarks, the Company proposes it may consider creative means, proposed by bidders, to absorb and securitize any CO2 risk consistent with multi-state legal and regulatory requirements.

UAE recommends alternative proposals should be solicited from bidders who are willing to assume part of the CO2 risk. The IE recommends that if a bidder wishes to bear all or

a portion of the CO₂ risk, it should do so through an alternative proposal, while bidding its base proposal assuming such costs are passed through to customers.

UAE and the Division agree with the IE's proposal. WRA opposes bidders taking the risk for potential CO₂ cost because it is unknown today what form regulatory action may take and therefore this risk is too uncertain.

We concur with the IE's approach. If a bidder wishes to offer a bid in which it proposes to assume all or some portion of the cost associated with potential future regulation of CO₂ emissions, it may do so in an alternative bid.

H. ECONOMIC EVALUATION MODELS AND METHODOLOGIES

The Company proposes to use the same models and methods it used in the 2012 RFP. The Company states in the RFP that the evaluation process "is consistent with that used in the Company's IRP process and applicable laws and orders, and is expected to provide sufficient analytical basis from which to make resource choices. The evaluation will identify the resources most commonly included in the highest performing portfolios as the RFP "winners" that will then advance to contract negotiations. Portfolio performance is measured as the expected present value of revenue requirements ("PVRR"), adjusted for risk, and accounting for statutory public interest factors. The key stochastic performance measure used to assess each resource set will be the risk-adjusted PVRR which is calculated as the mean PVRR plus the expected value (EV) of the 95th percentile PVRR, where $EV = P(PVRR)_{95} \times 5\%$."

The IE is concerned that the comparison of different portfolios, and therefore identification of the highest performing portfolios, is difficult because each portfolio has, for example, a different number of megawatts. This results in an apples to oranges comparison of

alternative portfolios. The IE suggests the Company, Division and IE meet on the modeling aspects of the process to see if there is a way of designing a mechanism that would allow portfolios to be put on more of an equal footing. At hearing, the Company concurred with this suggestion, and the Committee and WRA expressed interest in participating in such meetings to address modeling and evaluation methods.

Because the final shortlist is drawn directly from the top performing portfolios, ensuring proper identification of these portfolios is necessary. Therefore, we concur with the IE and direct the Company, IE and interested parties to undertake this work.

We direct the Company, IE, and parties participating in this effort to also review the method the Company uses to select the resources in the highest performing portfolios that it will include in the final shortlist. Since the metrics for determining top performing portfolios are solely based on the performance of a group of resources in a portfolio rather than the performance of an individual resource within the portfolio, we question the reasonableness of the Company's proposal for selection of final shortlist resources. If all resources in the top performing portfolios were to advance to the final shortlist, then there would be no issue. However, the Company states it selects for the final shortlist "resources most commonly included in the highest performing portfolios." We do not at this time understand how frequency of occurrence of an individual resource relates to the performance characteristics of an entire portfolio and therefore can be singled out as a least cost, risk-adjusted, resource. Therefore, we direct this workgroup to review, and make recommendations regarding, the Company's criteria for selecting the resources from the highest performing portfolios that will advance to the final shortlist. We direct the Company, prior to bid evaluation, to report to the Commission on these

two issues, i.e., a method(s) for comparison of alternative portfolios and criteria for the selection of resources in top performing portfolios for inclusion in the final shortlist.

I. COMPARABILITY

The Company argues the ultimate goal of the All Source RFP is to acquire a least-cost, least risk resource for its customers. The Company recognizes the two different business models, the regulated utility with cost-of-service benchmarks and enterprises that are market based, and submits the All Source RFP provides enough balance between the different models to level the playing field. The Company argues the RFP is fair and reasonable and consistent with current regulation. LS Power argues benchmark resources and third-party bids lack comparability because benchmark bids are not binding and pass risk to ratepayers in a way third-party bids cannot. LS Power supports the recommendations on comparability proposed by the IE.

The IE recommends addressing comparability through the bid evaluation process and by including more pricing flexibility options. The IE concludes the All Source RFP can address these issues by: permitting up to 100 percent indexing of capital costs; providing for recovery of change in law costs; allowing alternative bids to assume CO2 risk; treating imputed debt issues at the end of the evaluation process; requiring the same information from bidders and benchmarks and evaluating both bids and benchmarks in all steps of the evaluation process; requiring the IE to validate and audit benchmarks; requiring the IE to review benchmark details and to ensure these details are locked-down prior to receipt of bids; allowing the IE to request sensitivity analyses to determine the breakeven point at which a benchmark resource would no

longer compete with bids; allowing security costs to be excluded in an alternative bid; evaluating additional risks in the non-price factors; and encouraging creative pricing structures.

We concur with the IE that adequate measures can be employed in the All Source RFP to address comparability issues between bids and benchmarks. In addition to measures included in the 2012 RFP, we suggest the All Source RFP: add increased flexibility regarding indices that can be used; increase the number of alternative bids that can be submitted; allow bidders to provide alternative bids which exclude security costs; and, require bids and benchmarks to be evaluated in all steps of the evaluation process. We believe these additions provide a reasonable balance between bidder flexibility and customer risk.

J. BLINDING OF BIDS

The All Source RFP does not require the blinding of bids. Utah Administrative Rules require that the IE blind the names of bidders. The Company requests a waiver by the Commission of those portions of the Administrative Rules (R746-420 - Requests for Approval of a Solicitation Process) that require that bidders's names be "blinded." The IE and Division question the value of blinding bids. They argue that while the blinding of names of bidders was valuable during the question and answer period, the specific blinding of bids did not have commensurate value given the level of effort.

Based on the comments in this case, we grant a waiver of the requirements in R746-420-3 to specifically blind bids for the All Source RFP.

III. SUMMARY OF SUGGESTED MODIFICATIONS

Wherefore, pursuant to our discussion, findings and conclusions made herein, we suggest the Company modify the April 25, 2008, All Source RFP as follows:

1. The Company should state that it will permit the guarantor to have the right to review the final contract terms before becoming bound.
2. The language, as noted herein, restricting coal resource bids should be stricken.
3. Additional alternative bids should be permitted for a price that escalates by \$1,000 each additional bid, as discussed herein.
4. The pre-specified price ranges in the Step 1 analysis should be changed after the bids are received, if necessary and as noted herein.
5. Bids and benchmarks should be included in the price evaluation step.
6. Bidders should be allowed to submit an alternative bid in which the bidder proposes to absorb the cost associated with potential future regulation of CO2 emissions.

IV. ORDER

Wherefore, pursuant to our discussion, findings and conclusions made herein, we order:

1. The Company shall convene a workgroup to review and make recommendations regarding: 1) a mechanism for the comparison of alternative portfolios; and, 2) the criteria for selecting final shortlist resources from the highest performing portfolios, as discussed herein. The Company shall report to the Commission its conclusions with respect to these two issues prior to bid evaluation.

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2. The Company is granted a waiver for the All Source RFP from the requirements to specifically blind bids in Utah Administrative Rules 746-420-3.

DATED at Salt Lake City, Utah, this 23rd day of May, 2008.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#57581