

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of )  
PacifiCorp, by and through its Rocky ) DOCKET NO. 07-035-94  
Mountain Power Division for Approval of a )  
Solicitation Process for a Flexible Resource )  
for the 2012-2017 Time Period, and for ) REPORT AND ORDER  
Approval of a Significant Energy Resource )  
Decision )  
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ISSUED January 28, 2008

By The Commission:

In an Application filed December 21, 2007, PacifiCorp requested the Commission to open a docket in anticipation of PacifiCorp following Utah Code 54-17-101 et seq., the Energy Resource Procurement Act (hereafter the Act) to obtain what PacifiCorp characterizes as “a flexible resource for the 2012-2017 time period.” The Act contemplates that PacifiCorp will: 1. Prepare and submit, for Commission approval, a proposed solicitation process to obtain and evaluate proposals to obtain the 2012-2017 flexible resource (hereafter the RFP Solicitation); 2. Solicit and evaluate proposals, given in response to the approved RFP Solicitation, in order to select a proposal and obtain an energy resource contemplated by the selected proposal (hereafter the Significant Energy Resource Decision); and 3. Obtain Commission approval of the Significant Energy Resource Decision. For ease of discussion, we will call this entire process, from preparation of the RFP Solicitation to approval of the Significant Energy Resource Decision for the 2012-2017 flexible resource the “2017 All Source RFP.”

Through the Application, PacifiCorp requests the Commission to: 1. Appoint

Merrimack Energy as the Independent Evaluator for the 2017 All Source RFP; 2. Approve Pacificorp's RFP

Solicitation ; and 3. Appoint the Independent Evaluator and conduct the Commission's 2017 All Source RFP activities contemplated and required by the Act in an expedited manner. On this later point, Pacificorp's Application provides a table containing proposed times at which various acts or milestones would occur under what Pacificorp views as an expedited process.

On January 22 and 23, 2007, respectively, the Committee of Consumer Services (hereafter CCS) and the Division of Public Utilities (hereafter DPU) submitted responses to the Application. Both the CCS and the DPU support appointment of Merrimack Energy as the Independent Evaluator for the 2017 All Source RFP. They as well agree that future resource needs lend support to expediting the 2017 All Source RFP. The DPU notes potential constraints imposed by the work load attendant from other pending dockets and the CCS notes any expediting should not impair compliance with the Act. The CCS also raises a concern about preemptory limitation of issues or disputes that could be raised during the various phases of the 2017 All Source RFP, which limitation the CCS views is implied in the Application's portrayal of how Pacificorp would develop the RFP Solicitation and how the Commission would proceed in this docket.

Based on our review and consideration of the Application and the responses filed, we enter this order. Although there is unanimous support to appoint Merrimack Energy as the Independent Evaluator for the 2017 All Source RFP, we are unable to do so through this order. Obtaining the services of an independent evaluator must comply with the State of Utah's procurement code, Utah Code 63-56-101 et seq., and the State's procurement process; an order

of the Commission may not bypass the procurement requirements. The Commission is expeditiously pursuing efforts to comply with those procurement requirements to retain the services of a qualified independent evaluator. Once we have met those requirements and contracted for services, we anticipate the Independent Evaluator will immediately prepare to perform the duties and tasks contemplated by the Act for the 2017 All Source RFP.

With regard to one aspect of the Application and the work of the Independent Evaluator, we feel compelled to make one observation. We view the work of the Independent Evaluator to assist the Commission, and indirectly other parties to the docket, through the Independent Evaluator objectively reviewing and opining on the utility's actions undertaken in the 2017 All Source RFP. We believe that objectivity would be compromised if the Independent Evaluator participated in drawing up Pacificorp's RFP Solicitation. He would effectively be critiquing his own work. We may have taken an overly broad interpretation of the Application's wording "upon appointment of an independent evaluator, the Company will begin working with the independent evaluator to develop a proposed solicitation for the All Source RFP, which the Company will then file with the Commission for approval" (Application, page 5). Any potential misunderstanding there may be on what the Independent Evaluator duties are and his participation in "develop[ing] a proposed solicitation" can be resolved once an independent evaluator is under contract and the Commission directs his work to be performed relative to the 2017 All Source RFP.

The Commission will conduct its proceedings relating to the 2017 All Source RFP as expeditiously as possible, but must also insure that participants' due process interests are

recognized and the Act's (and regulatory) ultimate goal is obtained: the selection and acquisition of a significant energy resource which is in the public interest. We are as desirous of a speedy resolution of the 2017 All Source RFP as are PacifiCorp and the other interested parties. We cannot, however, conclude at this time that the times or timelines contained in the Application should govern the 2017 All Source RFP. We may use them as hoped-for targets, but we are unable to use them as a definitive schedule for all that must be done and concluded relative to the 2017 All Source RFP.

Based upon the forgoing, we enter this ORDER, wherein we:

1. Deny, at this time, PacifiCorp's request to appoint Merrimack Energy as the Independent Evaluator for the 2017 All Source RFP.

2. Deny PacifiCorp's request for expedited review to the extent of explicitly following the time lines contained in the Application. We will proceed expeditiously as discussed in this Order.

3. Grant the portion of PacifiCorp's request that the Independent Evaluator, once one is obtained, immediately begin performing the duties and tasks contemplated by the Act for the 2017 All Source RFP and as directed by the Commission.

DATED at Salt Lake City, Utah, this 28<sup>th</sup> day of January, 2008.

/s/ Ted Boyer, Chairman

DOCKET NO. 07-035-94

-5-

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

G#56056