

Gary A. Dodge, #0897
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, UT 84101
Telephone: 801-363-6363
Facsimile: 801-363-6666
Attorneys for UAE

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of PacifiCorp, by and through its Rocky Mountain Power Division, for Approval of a Solicitation Process for a Flexible Resource for the 2012-2017 Time Period, and for Approval of a Significant Energy Resource Decision

DOCKET NO. 07-035-94

**REPLY COMMENTS OF THE UTAH
ASSOCIATION OF ENERGY USERS ON
PACIFICORP'S REVISED DRAFT 2008 RFP**

The Utah Association of Energy Users (“UAE”) submits these reply comments regarding PacifiCorp’s March 28, 2008, revised draft RFP (“RFP”). UAE has reviewed the revised draft RFP submitted by PacifiCorp, PacifiCorp’s comments and the comments of the IE, the Division, the Committee, and others. While RMP made reasonable efforts to revise the RFP in light of comments received, further changes are needed.

UAE supports the comments and recommendations made by the IE for further changes and improvements to the RFP process. UAE specifically commends the IE for creative suggestions on dealing with some of the more difficult issues, including comparability of benchmarks and bids, indexing of bids, credit/security requirements, transmission, and pro forma contract changes. If the IE’s comments are accepted and the appropriate changes are made, UAE

believes the RFP should have a reasonable chance of accomplishing its intended purposes.

UAE submits the following additional comments on specific RFP issues:

1. ***Coal Resources.*** In the initial draft RFP, PacifiCorp was candid as to its intention to exclude any coal-based resources from consideration. In response to objections voiced by the Division, UAE and others, PacifiCorp removed this candid language and replaced it with confusing and misleading statements to the effect that coal resources might be considered if they are “consistent with multi-state legal and regulatory requirements regarding new and existing coal resources” (e.g., RFP at 7). This confusing and ambiguous doublespeak should be stricken from the RFP. It is simply a hidden way of restating that coal resources will not be considered.

UAE’s primary objection to PacifiCorp’s proposal is in its blatant attempt to shift to Utah ratepayers the risks and costs that PacifiCorp faces because of conflicting state resource policies, requirements and expectations, and the resulting potential for inconsistent cost allocation procedures. This is a risk that PacifiCorp agreed to bear, and has in repeated Commission Orders over the years been required to bear, from the time that PacifiCorp acquired Utah Power & Light Company. For the benefit of its Utah ratepayers, PacifiCorp 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 PacifiCorp by other states. Moreover, this approach is required even if the policies of other states might impose additional costs on PacifiCorp (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. The risk of such conflicting policies and requirements must be borne by PacifiCorp, not by its Utah ratepayers.

UAE also objects to PacifiCorp's new proposed language because it 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 resources will and will not be evaluated and considered.

UAE recognizes the very real risks faced by coal resources and the difficulty of quantifying those risks precisely. It also recognizes that similar risks are faced with natural gas and other resource options. All such risks can reasonably be evaluated by the Commission, assuming the RFP elicits the kinds and breadth of bids and information necessary for such an evaluation. UAE thus submits that PacifiCorp 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.

2. **Blinding.** UAE agrees with the IE (IE Report at 59) that the Commission's Rules require that bids be blinded when a utility benchmark is used. (E.g., Utah Admin. Code §§ R746-420-3(10)(a), (g), (i)).

3. **Access to Models.** The IE's comments indicate that the IE has not in the past been given access to the evaluation models themselves. (IE Report at 19). The Rules clearly require that the IE be given complete access to all models. For example, Utah Admin. Code § R746-

420-3(10)(h) requires PacifiCorp to “provide the Independent Evaluator with complete and open access to all documents, information, data and models utilized by the Soliciting Utility in its analyses.” Similarly, Utah Admin. Code § R746-420-6(2)(d) requires that the IE must “[a]nalyze, *operate* and validate all important models, modeling techniques, assumptions and inputs utilized by the Soliciting Utility” (emphasis added). PacifiCorp must be directed to provide the IE with full and complete access to all models used in its RFP process, sufficient to permit the IE to “analyze, operate and validate” all important models.

4. **CO2.** UAE supports the IE’s suggestion that the RFP could use alternative proposals to evaluate the extent to which bidders can reasonably be expected and permitted to bear a portion of the CO2 risk. (IE Report at 63). UAE recommends that such an approach be used.

Respectfully submitted this 25th day of April, 2008.

Hatch, James & Dodge

/s/ _____
Gary A. Dodge,
Attorneys for the UAE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 25th day of April, 2008, to the following:

Mark C. Moench
Daniel Solander
Rocky Mountain Power
201 South Main Street, Suite 2300
Salt Lake City, Utah 84111
Telephone No. (801) 220-4014
Facsimile No. (801) 220-3299
mark.moench@pacificorp.com
daniel.solander@pacificorp.com
Attorneys for Rocky Mountain Power

Michael Ginsberg
Patricia Schmid
ASSISTANT ATTORNEY GENERAL
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov
pschmid@utah.gov
Attorneys for Division of Public Utilities

Paul Proctor
ASSISTANT ATTORNEY GENERAL
160 East 300 South, 5th Floor
Salt Lake City, UT 84111
pproctor@utah.gov
Attorneys for Committee of Consumer
Services

Steven S. Michel
Western Resource Advocates
2025 Senda de Andres
Santa Fe, NM 87501
smichel@westernresources.org

William Evans
Parsons Behle & Latimer
201 S. Main Street, Suite 1800
Salt Lake City, UT 84111
bevans@parsonsbehle.com

/s/ _____