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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power 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 ROCKY MOUNTAIN POWER

Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or “the Company”), hereby submits these reply comments..

Concurrent with the filing of these reply comments, Rocky Mountain Power has submitted a revised, final draft All Source Request for Proposal (RFP). The final draft RFP incorporates changes based on data requests and from the Division of Public Utilities and other Utah parties and Oregon Staff and on the RFP assessments submitted by the Utah Independent Evaluator (Merrimack Energy, Inc.) and the Oregon Independent Evaluators (Accion Group and Boston Pacific Company, Inc.) (IEs) April 11, 2008. The Company has filed both clean and redlined versions of the main RFP document and the Appendices, Attachments and Forms. The Company has also filed redlined versions of Attachments 3 (PPA) and 5 (TSA) which are only provided in redline given the minor changes included to accommodate revisions to the credit sections (*see* definitions of “Credit Support”, Sections

7.1 and 10.8). The following comments outline the revisions The Company has made in the final draft RFP and address the comments in areas where changes have not been proposed at this time.

Revisions to the Final Draft RFP (4-25-08 Version)

1. *Heat Rates:* The Company has clarified that Base Load Category proposals with heat rates below 9,600 may be submitted and that Intermediate Category proposals with heat rates above 11,500 may be submitted. *See Redlined RFP pages 7 and 10.*
2. *Definition of Intermittent Generation:* The Company has included a definition of intermittent generation. *See Redlined RFP page 7.*
3. *Addition of Purchases:* In response to OPUC Staff Data Request 23, The Company has added language that in the event purchases are made outside of the RFP in response to, for example, the Company's Request for Waiver of Solicitation Process and For Approval of Significant Energy Resource Decision in Docket No. 08-035-35, the total resource need solicited under the RFP will be adjusted. *See Redlined RFP page 9.*
4. *Deletion of References to Washington RFP Rules:* The Company has deleted all references to the Washington procurement rules because the RFP will be withdrawn from consideration before the Washington Utilities & Transportation Commission in light of staff's interpretation of WAC 480-107. *See Redlined RFP pages 9 and 59.*
5. *Clarification of Maximum Term for PPAs and TSAs not Backed by Assets:* The Company has provided a definition of "Maximum Term" for purposes of PPAs and TSAs (including QFs and Geothermal or Biomass exceptions) not backed by assets to clarify that it will accept proposals for greater than one year, but less than five years. *See Redlined RFP pages 11 and 14.*

6. *Fuel Type Assumed:* The Company deleted language in the RFP that provided that if a fuel type is not supplied for PPAs, the Company will assume the fuel source is gas. Instead, Bidders will be required to identify the fuel source. *See Redlined RFP page 14.*

7. *Bid Fees for Alternate Indices:* The Company added language in the RFP in the section on bid fees to include alternative indexing options as being eligible for the same bid fee. *See Redlined RFP page 23.* Although the recommendations were to include multiple options under one bid fee, the company already allows for one base proposal and two alternatives for the same bid fee. To the extent the same bid fee accounts for multiple bids the company is concerned that the quality of bids will decrease. Therefore, the Company has not proposed additional allowances under the same bid fees to ensure the quality of proposals are meaningful.

8. *Indexing Options:* The IEs proposed to increase the indexing to 100% or recommended using other indices such as the yield on US Treasury bills, indices from the Bureau of Labor Statistics or the Handy Whitman Index of Public Utility Construction Costs. The Company does not believe that just replacing the indices allowed will necessarily address bidders' concerns because the Company is not in a position to know which indices will work, if any. As a result, the Company has proposed to keep the same indices; however, the language provides that if the Bidder proposes an alternate index than what is provided in the RFP the proposed Index must be transparent and easily measurable (i.e. "publicly available"). The Company and the Bidder with input from the IEs will need to ensure that there is no disagreement as to how costs will be measured if a bid is successful using such alternate index. *See Redlined RFP pages 42.*

9. *Benchmark Proposals:* The Company modified the due date for benchmark proposals to provide that the Benchmark Team will submit their proposals two weeks prior to

market bid responses. This will allow the IEs time to validate the Benchmark Resource proposals and the Evaluation Team will complete the initial evaluation as required under the Oregon Guidelines. *See* Redlined RFP pages 25 and 29.

10. *Credit Sections*: The IEs proposed substantial revisions to the credit language contained in the RFP and Appendix B. The Company has modified this language to address the IEs' concerns. For Appendix B, additional Credit Matrices have not been provided; however in the Credit Matrix notes, language was added showing percentages of matrix amounts required for Intermediate and Summer Peaking Bid Categories. *See* Redlined RFP pages 30-32, and Appendix B. *See also* changes to Attachments 3 and 5 (*See* "Credit Support" definition and Sections 7.1 and 10.8).

11. *Amount of Megawatts from Proposals Considered on Shortlists and Use of Term Sheets*: The current RFP did not contain any reference to the size of megawatts eligible for the initial shortlist or final shortlist and how that will be determined. The IE proposes to add the following language: Recommend that (a) the initial shortlist be comprised of resources that, in total, add up to no more than two times the maximum acquisition from the RFP (4,000 MW) and (b) the quantity of bids selected to the final shortlist be no more than 1.5 times the maximum acquisition from the RFP (3,000 MW). *See* Redlined RFP pages 48-49. The Company has also clarified the term sheet process that will be used to validate assumptions with Bidders during the evaluation phase. *See* Redlined RFP page 48.

The following comments from the IEs were not addressed by language in the revised RFP, but the Company offers the following reply comments and requests:

1. *Comparability and Creation of Unregulated Affiliate Company*: Boston Pacific provides extensive comments on the issue of comparability of the company's benchmark resources and market bids. Boston Pacific Assessment at pages 2-5, and 15-20.

While the Company acknowledges the issue of comparability exists, as Boston Pacific also notes, the Company is not likely to change its stance on the conditions for Benchmark Resource proposals. This is because the Company is currently subject to a ratemaking regime that does not easily allow for the types of ratemaking options proposed by Boston Pacific. Furthermore, Boston Pacific's proposal that the Company create an unregulated affiliate to bid into the RFP is problematic. Not only is it not practical to set up an affiliate company, staff and fund the affiliate company, and develop a benchmark proposal in less than 60 days - all without using utility resources - even if these practical considerations could be resolved, the Company is faced with several regulatory hurdles to adopting such a proposal. First, as part of the MidAmerican Energy Holdings Company transaction commitments, the Company agreed not to create a non-utility business subsidiary. *See* Commitment 11 in the Stipulation Adopted by the Commission on January 27, 2006 in Docket No. 05-035-04. The Company also agreed to several other affiliated interest transaction commitments. *See, e.g.,* Commitments 4-14. Second, in order to engage in an affiliate transaction for wholesale power, The Company would need to secure Federal Energy Regulatory Commission approval of the transaction and obtain approval of either cost-based or market-based rate pricing. Finally, transactions with an affiliate are subject to several state affiliated interest transfer pricing rules (not only in Utah, but in other of the Company's five states), as well as other reporting and auditing requirements. Most transfer pricing requirements impose a "lower of cost or market" pricing obligation on the purchase of goods or services from an affiliate to the utility, the Company. As a result, either compliance with additional regulatory requirements, and/or waiver of certain requirements would be required in order to facilitate this result. The additional practical and regulatory burdens imposed by the use of an affiliate

company in this context would be untenable and thus, this is not an option that the Company is interested in pursuing at this time.

2. *Transmission Costs and Credit Workshops:* The IEs expressed concern about further understanding the transmission costs and ensuring that Bidders understood how to calculate the credit requirements and to seek input from Bidders on alternative credit options. The Company will hold a workshop on transmission costs and the Company will also hold a Credit workshop to address any credit issues and the calculation of the credit requirements.

3. *Capital Costs:* The IEs expressed concern about clarifying the risk assessment on capital costs. The Company has referenced the ability of Bidders to index a portion of the capital costs, but does not believe further flexibility is warranted at this time. Similar to the IEs, the Company is also interested in receiving feedback from bidders on the indexing provisions.

4. *Outreach to Bidders:* The IEs recommended that due to the lack of Bidder participation in the RFP design and competitive bidding process, the Company should redouble its efforts to publicize and promote the RFP. *See Boston Pacific Assessment at page 7.* The Company believes it has made substantial efforts to advertise its RFP to bidders, including direct emailings, posting on the the Company and Merrimack Energy websites, holding pre-bid conferences in both Utah and Oregon, and coverage of the RFP processes in energy trade publications.

5. *Front Office Transactions (FOT):* The IEs recommended that the FOT should not be changed from the 2007 IRP unless bid results indicate that it would be appropriate to do so. *See Boston Pacific Assessment at pages 8-9.* The Company's intent is not to necessarily purchase and replace FOT; however, the Company will perform its analysis with and without FOT to determine if those bids provided in the RFP are cost effective.

6. *Calculation of Direct and Indirect Debt and SFAS 13 Treatment:* The Company will address these issues in Step 4 of the RFP.

7. *Bid Success Fees:* A proposal to provide for “success fees” rather than bid fees has been offered. *See* Accion Group Assessment at page 19. At this time, the Company has not adopted this recommendation in light of the uncertainty of bidder participation. Under this success fee proposal, the party(ies) that is successful in the RFP process will cover both of the IEs costs. The Company recognizes that this is a creative option; however, the Company does not want to put up barriers for bidders’ participation and is seeking to encourage as much participation as possible given the magnitude of the expected IE costs.

8. *Timing of Providing Guaranty Commitment Letter.* Merrimack, the Utah IE, proposes that the Bidder be required to provide their credit instrument guaranteeing credit support after the execution of the contract. The Company did not accept this change on timing because a bidder’s provision of a credit instrument after execution of the contract is too late in the process. It is essential that the Company obtain a binding commitment that a bidder will be able to perform financially prior to execution of a contract. The Company has proposed that the guaranty commitment letter be provided no later than 20 days after notice of selection to the final shortlist.

9. *Waiver Related to Blind Bids.* The Company requests a waiver by the Commission of those portions of its Administrative Rules (R746-420 - Requests for Approval of a Solicitation Process) that require that bidder's names be "blinded." (*See, e.g.,* §§ R746-420-3(4), (8) & (10) (d) & (g); R746-420-6(e)). In Rocky Mountain Power's last RFP, the IEs recommended that the blinding condition was unworkable and suggested that the Company eliminate this blinding requirement in the next RFP. It is also important to note that the Oregon statute and rules do not impose such a blinding requirement.

Conclusion

The Company understands the importance of developing a transparent and fair process consistent with the Commission's Guidelines and believes that the revised final draft RFP accomplishes these goals. The Company appreciates the IEs' assessment of the final draft RFP and looks forward to receiving the reply comments of the other parties.

DATED: April 25, 2008

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April, 2008, I caused to be delivered a true and correct copy of the foregoing Comments of PacifiCorp to the following service list in Docket No. 07-035-94:

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