



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: The Public Service Commission of Utah

From: The Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst
Bela Vastag, Utility Analyst

Copies To: PacifiCorp
Jeffrey Larsen, Vice President, Regulation
Dave Taylor, Manager, Regulatory Affairs

The Division of Public Utilities
Chris Parker, Director

Date: December 7, 2011

Subject: Office of Consumer Services Reply Comments. Docket No. 11-035-73,
Application of Rocky Mountain Power for Approval of a Solicitation Process

Background

On October 5, 2011 Rocky Mountain Power (Company) filed an application with the Public Service Commission (Commission) requesting approval of a solicitation process to acquire an all-source resource for 2016 (2016 RFP). On November 18, 2011 the Office of Consumer Services (Office), the Division of Public Utilities (Division) and Utah Association of Energy Users (UAE) provided initial comments regarding the Company's filing. The "Report of the Independent Evaluator Regarding PacifiCorp's Draft All Source RFP 2016 Resource" was filed on November 28, 2011. The Office offers the following reply comments and recommendations in regard to five issues addressed in the Independent Evaluator's (IE) Report.

Issues

The Office's reply comments will focus on the following five issues addressed in the IE's Report: 1) No Benchmark; 2) Fixed Post-2016 Resources; 3) Indexing; 4) Due Diligence Process; and 5) Transmission Workshop.

1. No Benchmark. The IE's Report states his concern that there may be limited competition, with only one or two Engineering, Procurement, and Construction (EPC) proposals being submitted through the RFP. While a robust solicitation process with detailed EPC options at a Company site could provide a reasonable alternative to a

Company benchmark limited bid offers may not provide adequate assurance of acquiring the most cost effective resource.

As stated in our original comments in this docket the Office typically prefers that the Company include a benchmark resource as part of the solicitation process. When there is no benchmark to establish the “cost to beat”, it is even more critical that an appropriate evaluation process be utilized as described below.

2. Fixed Post-2016 Resources (Evaluation Process). In the evaluation process PacifiCorp proposes to fix resources for all portfolios beyond the 2016 resource need date.¹ The IE asserts that PacifiCorp has not provided adequate justification to propose a fixed resource plan for this RFP and recommends that the Company provide an assessment and analysis of the pros and cons of conducting the evaluation process under the assumption of fixed versus floating resource additions.

In our original comments the Office’s expressed concern that using the Company’s preferred portfolio from its 2011 IRP will result in a biased analysis. Additionally, the evaluation methodology proposed by the Company could potentially create further bias. Comments from other parties on this Draft RFP also contain the general theme of concern with the evaluation process. The Office suggests that the Commission should require the Company to address the IE’s and other parties’ concerns in regard to the proposed evaluation process.

3. Indexing. In this RFP the Company has removed the option for bidders to index a portion of the capital cost or capacity price as well as the indexing option for fixed and variable O&M costs. The IE asserts that there is no justification provided for eliminating the option for indexing of fixed and variable O&M costs. The IE believes that the elimination of indexing for O&M costs creates significant risk for certain categories of bidders. He recommends that PacifiCorp be required to reinstate indexing for capital/capacity related costs as well as fixed and variable O&M costs. However, he emphasizes reinstating indexing for O&M costs under any circumstance.

The Office supports allowing indexing for fixed and variable O&M costs. If, as the IE suggests, not allowing indexing may reduce the number of bidders it may produce a negative effect on the outcome of the RFP, particularly where there is no benchmark to gauge results against.

4. Due Diligence Process. In the Final Report for the 2008 RFP the IE raised several concerns with regards to the due diligence process for acquisition of an existing generation resource. Although an Attachment to the 2016 All Source RFP identifies due diligence issues, the IE suggests that PacifiCorp brief the IE on a more regular basis on the due diligence process and provide analysis of due diligence issues as they are completed. The Company should not wait until the IE requests copies of due diligence memorandum.

The Office supports the IE’s recommendation that the Company provide the IE regular briefings on the due diligence process and analysis of due diligence issues as they are

¹ In its Order in the Lake Side proceeding (Docket No. 10-035-126) the Commission stated that allowing future resources to float has “merit”.

completed. We further recommend that the Commission require the IE and the Division to report to the Commission on issues of concern immediately. When issues of significance arise a technical conference, briefing or some other means should be used to inform other parties who might be disadvantaged by not receiving adequate notice of problems. The Office asserts that the Commission should emphasize the need for parties who have more direct and immediate access to information, such as the IE and the Division, to bring concerns forward early to minimize or avoid issues such as those associated with the 2008 RFP.

5. Transmission Workshop. Some of the most important and complex issues in this RFP relate to transmission cost impacts, transmission access and transmission interconnection. The Company has made revisions in the 2016 RFP to delivery points and the timing of new transmission construction. As a result, the IE "strongly encourages" PacifiCorp to hold a Transmission Workshop for Bidders for the 2016 All Source RFP.

The Office agrees that PacifiCorp should offer a Transmission Workshop for Bidders.

Recommendations

The Office recommends that the Commission:

- 1) Carefully assess the comments that have been made regarding the proposed evaluation process for this RFP and ask the company to address the commenters' concerns;
- 2) Require the Company to reinstate the option for indexing of O&M costs;
- 3) Require the Company to provide the IE regular briefings on the due diligence process and analysis and require the IE and Division to report to the Commission immediately on issues of concern; and
- 4) Require the Company to hold a Transmission Workshop for Bidders.