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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION
OF ROCKY MOUNTAIN POWER FOR
APPROVAL OF SOLICITATION PROCESS
OF WIND RESOURCES

Docket No. 17-035-23

**REPLY COMMENTS OF THE UTAH ASSOCIATION OF ENERGY USERS ON
ROCKY MOUNTAIN POWER'S PROPOSED SOLICITATION PROCESS**

The Utah Association of Energy Users (“**UAE**”) hereby files these comments on the Solicitation Process proposed by PacifiCorp in this docket in reply to comments filed by the Division of Public Utilities (“**DPU**”), the Interwest Energy Alliance (“**Interwest**”) and the Independent Evaluator (“**IE**”) in this docket. UAE appreciates the initial comments of the DPU, Interwest and the IE, and submits that they confirm and validate most of the concerns expressed in UAE’s initial comments, among others.

While UAE supports the attempts of the DPU, Interwest and the IE to fix the RFP without jeopardizing the proposed schedule, UAE remains firmly convinced that time constraints created by PacifiCorp’s own choices and actions should not be permitted to result in a flawed

RFP and resource approval process that cannot assure ratepayers that the lowest cost resources can and will be identified.

The economic benefits projected by RMP are simply insufficient to justify a rushed process, particularly given modest projected benefits and significant ratepayer risks inherent in RMP's proposals. The first and most important order of business is to ensure that the procurement process will be done openly, fairly and comprehensively. If such a process produces results that warrant acquisition of new resources, they can be pursued. If not, they will not be. Ratepayers are far better off missing out on relatively modest projected benefits of new resources as opposed to rushing to a faulty or incomplete judgment that will not ensure lowest-cost resources.

UAE agrees with most of the suggestions of the IE, the DPU and Interwest, and strongly encourages the Commission to implement them. However, those suggestions are insufficient to ensure a fair procurement process. In addition to adopting of the express suggestions of the IE and other parties, at least the following additional changes are necessary before the RFP and the proposed solicitation process can properly be found to be in the public interest and in compliance with Utah laws:

- 1. The RFP Must Solicit Bids from all Resource Types, Owners and Locations, and Must Consider Alternative Transmission Projects.**

The DPU and IE support opening the RFP to wind projects other than new projects and projects that can deliver to the proposed new transmission segments. These suggestions represent a decent start, but they are far from sufficient. The RFP must also be opened up to other resource types. No determination that the procurement process will most likely lead to identification of the lowest-cost resources is possible if the RFP remains closed to competitive

resources of different types or in different locations. Moreover, given that PacifiCorp acknowledges that its proposed new wind resources are not cost effective without its proposed new transmission segments, and vice versa, a fair competitive bid process is impossible unless other transmission upgrades are considered. The procurement process will be fundamentally unfair to Utah residents and ratepayers unless low-cost, world-class Utah solar resources are allowed to compete on a fair and equitable basis, along with other possible resources.

2. PPA Contract Terms Should be Allowed to Extend through 2050.

RMP's application in Docket 17-035-40 includes economic analyses extending through 2050. The IE acknowledges the difficulty in fairly comparing 20-year PPAs with self-build options, and recommends giving bidders an option to bid for longer terms or offer utility-optional extensions. UAE submits that, to permit fair comparisons, bidders should be allowed to offer any desired term of 20 or more years, including terms or options that extend through 2050.

3. The RFP Must Ensure Evaluation of Bids and Benchmarks on a Fair and Comparable Basis.

UAE appreciates the IE's extensive evaluation of the unfairness of proposed terms for benchmark and bid contracts. It is imperative that all of the unfair terms identified by the IE and UAE be resolved before the RFP is issued. It is a statutory requirement—and critical to PacifiCorp ratepayers—that benchmarks and bids be treated and evaluated on a fair and comparable basis. That cannot be done without changes. UAE supports the IE's suggestion that bidders be informed of a right to propose changes to the draft contracts. First, however, PacifiCorp should be required to revise its draft contracts in response to the suggestions of the IE and UAE, and to eliminate, to the greatest extent possible, all unfair terms. In addition, bidders

should be permitted to offer different prices (with no additional fees) for different levels of assumed contractual liabilities and risks.

4. The RFP Must Be Revised so as Not to Chill Bidding.

UAE also appreciates the IE's efforts to identify contractual terms that may discourage or chill bidding by others. PacifiCorp should be directed to revise the RFP in response to the comments of the IE and UAE on this topic. In addition to the items pointed out by the IE, the following issues, at a minimum, must be addressed so that unfair requirements can be eliminated:

a) **Litigation with PacifiCorp.** PacifiCorp should not be permitted to permanently preclude from its RFPs any company that has litigated or threatened to litigate against it. PacifiCorp is a large, litigious entity with a legal monopoly and an ability and willingness to force others to litigate to defend their rights. There is no justification whatsoever from a ratepayer or public interest point of view for this type of restriction and it must be eliminated.

b) **Sole Discretion.** All provisions that purport to give PacifiCorp sole discretion to disqualify bidders or make any other decisions (other than its ultimate decision whether to propose a resource for approval under the Act) should be stricken. In their place, references should be added to explain the role of the Commission and the IE.

c) **O&M Contract.** Bidders should not be required to propose an O&M contract for a plant they will not own.

5. PacifiCorp's Repowering Proposals Should be Bid into the RFP.

The projected benefits of wind repowering should be tested, not just by comparison of two PacifiCorp projections of two possible futures, but also by comparison to other resource

options. PacifiCorp should be directed to bid each proposed Repowering project into an expanded RFP to be evaluated along with other options on a fair and comparable basis.

6. Mitigation of Ratepayer Risks.

The IE's comments, like UAE's Initial Comments, identified several ratepayer risks associated with benchmark resources that must be addressed, both to ensure fair and comparable evaluation of all resources and to protect ratepayers. Additional steps are necessary to mitigate ratepayer risks, including assurances that ratepayers will receive the full projected PTC benefits, protections against delays in completion of PacifiCorp's proposed transmission segments, and protections against claims of discrimination or failure of PacifiCorp to comply with its OATT, including Attachment K and the Standards of Conduct.

It is also not clear whether other ratepayer risks have been adequately addressed. For example, required wind balancing charges for Variable Energy Resources ("VER") in the form of Regulation and Frequency Response ancillary services have fixed charges, currently \$10,120 per MW-year (See FERC Docket #ER17-219, March 2017). If PacifiCorp's merchant function were to acquire 1,270 of new wind, it would thus incur a fixed cost of \$12.9 million per year in transmission ancillary service charges associated with the new VER resources, regardless of how much energy is generated. It is not clear if the revenue requirement implications of providing these new ancillary services for the new resources have been properly considered. Similarly, it is not clear whether costs of flexible capacity to integrate the new wind in compliance with WECC and EIM reliability rules (or additional line losses) have been properly considered. Any such costs could easily overwhelm PacifiCorp's estimated benefits. The economics of the proposed new wind resources will be evaluated in Docket 17-035-40, but these concerns also have

implications here, because a fair comparison of benchmark resources and PPA bids is required. Under the proposed RFP, wind integration service must be purchased for the life of the PPA by bidders, and included in the PPA price, for resources delivered via third-party transmission lines, but bidders connecting directly to the PacifiCorp system (including benchmark resources) are instructed not to include wind integration costs in their bids. Additional steps must be taken to ensure full and fair cost comparability of benchmark and PPA bids.

Conclusion

UAE appreciates the efforts of the DPU, Interwest and the IE to identify changes necessary to improve PacifiCorp’s proposed solicitation process. Without the changes proposed by those parties, as well as changes proposed by UAE in its Initial Comments and these Reply Comments, the solicitation process and any resources selected through the solicitation process will not be consistent with the Act or in the public interest.

UAE respectfully asks the Commission to take the time necessary to ensure implementation of all changes to the solicitation and evaluation processes necessary to ensure results consistent with the public interest considerations of the Act.

DATED this 18th day of August 2017.

HATCH, JAMES & DODGE



/s/ _____
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Certificate of Service
Docket No. 17-035-23

I hereby certify that a true and correct copy of the foregoing Petition to Intervene was served by email this 4th day of August 2017 on the following:

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