

ORDER NO. **18 178**

ENTERED **MAY 23 2018**

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1845

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2017R Request for Proposals.

ORDER

DISPOSITION: SHORTLIST NOT ACKNOWLEDGED

**I. SUMMARY**

This order memorializes our decision, made and effective at our May 22, 2018 Regular Public Meeting, to not acknowledge PacifiCorp's, dba Pacific Power's 2017R Request for Proposals (RFP) shortlist. Chair Hardie writes a separate dissenting opinion. PacifiCorp remains in the same position it was following our earlier acknowledgment of its integrated resource plan (IRP), and may move forward with procurement from the RFP shortlist or through an alternative renewable resource procurement strategy. This order also memorializes our decision to deny a motion filed by Caithness to modify the 2017R RFP eligibility criteria.

**II. BACKGROUND**

In April 2017, PacifiCorp filed its 2017 IRP that, among other things, proposed an action item to procure up to 1,100 megawatts (MW) of wind resources interconnecting to its Wyoming transmission system, coupled with a new, 140 mile, 500 kV transmission line between the Aeolus substation and the Jim Bridger power plant in Wyoming (D.2 Segment of PacifiCorp's Energy Gateway project). PacifiCorp explained that the D.2 Segment is necessary to relieve existing congestion and allow interconnection of the proposed wind resources into its transmission system.

During our review of its 2017 IRP, PacifiCorp initiated proceedings seeking our approval of its 2017R RFP. The RFP was initially a solicitation process for up to approximately 1,270 MW of new wind resources capable of interconnecting to, and/or delivering energy

*OPU cross 3*

and capacity across, PacifiCorp's transmission system in Wyoming.<sup>1</sup> The timing of PacifiCorp's request was unusual. Driven by expiring production tax credit (PTC) deadlines, the company stated that it would be issuing the RFP prior to our decision whether to acknowledge the resources it would solicit.

In August 2017, we conditionally approved PacifiCorp's final draft 2017R RFP. Given the unique timing of the request, we explicitly conditioned our approval on the subsequent acknowledgement of PacifiCorp's 2017 IRP, and subject to several modifications to RFP terms requested by the independent evaluator (IE) and participants to this proceeding.<sup>2</sup> In September 2017, we imposed additional conditions to reflect the decision by the Utah Public Service Commission to expand the RFP to allow bids from outside Wyoming.<sup>3</sup>

In December 2017, we ultimately acknowledged, with conditions and limitations, PacifiCorp's 2017 IRP.<sup>4</sup> Our conditioned acknowledgement was intended to protect customers by holding PacifiCorp to the benefits forecast in its IRP projections. We stated that PacifiCorp's recovery may be conditioned or limited to ensure project benefits are no less than the assumptions presented in the IRP, listing pre-commercial operational date (COD) risks such as construction cost overruns, delays that impact PTC value, and project costs, and post-COD risks such as project performance, tax changes, and resource value relative to market.<sup>5</sup>

### III. RFP SHORTLIST

PacifiCorp has now completed its 2017R RFP solicitation process, and seeks our acknowledgement of its final shortlist of bidders as required by our Competitive Bidding Guidelines.<sup>6</sup> PacifiCorp seeks acknowledgment of the company's final shortlist of bidders, which is comprised of four projects:

---

<sup>1</sup> PacifiCorp's Corrected Request for Acknowledgement of Final Shortlist of Bidders in the 2017R RFP (PacifiCorp Request for Acknowledgement) at 5 (Feb 23, 2018).

<sup>2</sup> Order No. 17-345 (Sep 14, 2017) (approval conditioned on IRP acknowledgement that was still pending).

<sup>3</sup> Order No. 17-367 (Sep 27, 2017) (adding four modifications and requiring the IE to confirm that it could fairly score bids with different transmission requirements, *i.e.*, Wyoming wind and non-Wyoming wind).

<sup>4</sup> *In the Matter of PacifiCorp, 2017 Integrated Resource Plan*, Docket No. LC 67, Order No. 18-138 (Apr 27, 2018).

<sup>5</sup> Order No. 18-138 at 8.

<sup>6</sup> *See generally, In the Matter of an Investigation Regarding Competitive Bidding*, Docket No. UM 1182, Order Nos. 06-446 (Aug 8, 2006) (adopting new and revised guidelines); Order No. 11-340 (Sep 1, 2011) (modifying guideline to expand role of IE); Order No. 13-204 (Jun 10, 2013) (addressing potential risk items associated with utility owned resources) and Order No. 14-149 (Apr 30, 2014) (modifying guideline regarding IE and adding requirement that utilities seek acknowledgement of final shortlist).

Project (Bidder)	Description
TB Flats I & II (PacifiCorp)	500 MW wind project to be developed under engineer, procure, and construction (EPC) agreement with Invenergy.
Cedar Springs (NextEra Energy Acquisitions)	400 MW wind project. Half of the project will be sold to PacifiCorp under a Build-Transfer Agreement (BTA) while the other half will sell power to PacifiCorp under a Power Purchase Agreement (PPA).
Ekola Flats (PacifiCorp)	250 MW wind project to be developed under EPC agreement with Invenergy.
Uinta (Invenergy)	161 MW wind project to be sold to PacifiCorp under a BTA.

The first three projects, accounting for 1,150 MW of the total 1,311 MW of capacity represented on the shortlist (TB Flats I & II, Cedar Springs, and Ekola Flats) are located in eastern Wyoming and require the completion of the D.2 Segment in order to be deliverable to PacifiCorp's system by the end of 2020. The remaining 161 MW of capacity is the Uinta project located in western Wyoming that faces no transmission constraints.

PacifiCorp refers to these new wind resources and the D.2 Segment as Energy Vision 2020. PacifiCorp recently filed an update on its pending applications for approval of Energy Vision 2020 in Wyoming, Idaho, and Utah.<sup>7</sup> PacifiCorp's update explains that it is no longer seeking approval of the Uinta project in those states.

#### IV. IE REPORT

Bates White, LLC, served as the IE of PacifiCorp's 2017R RFP and recommends that we acknowledge the shortlist as presented. The IE further recommends, however, that we place significant conditions on our acknowledgment to protect ratepayers from undue risk. The IE also expresses concerns about how the misalignment of transmission planning and IRP planning seriously constrained the number of actual viable bidders in this RFP process that could connect to the D.2 Segment and meet the narrow objective that PacifiCorp had defined in its IRP.

<sup>7</sup> PacifiCorp's Update on Pending Applications for Approval of Energy Vision 2020 (May 16, 2018).

In support of acknowledgment, the IE reports that the RFP aligns with PacifiCorp's acknowledged 2017 IRP and that the shortlist was developed using assumptions and models from the IRP. The IE also makes the following findings:

- The four bids represent the best viable options from a competitive process that included bids from 13 suppliers offering a total of 18 projects and 59 bid options (only three of which were ultimately viable inside the transmission constraint).
- The selected bids provide the greatest benefit to ratepayers as determined by PacifiCorp's System Optimizer (SO) and Planning and Risk (PaR) models under current transmission planning assumptions.
- The IE's independent analysis confirmed that the selected bids were reasonably priced and, while not the lowest-cost offers, were the lowest-cost offers that were viable under current transmission planning assumptions.

The IE's recommendation, however, includes additional measures to protect ratepayers and ensure they receive the benefits promised by the IRP. To provide ratepayers a risk profile more closely aligned with a PPA, where the developers assume risks of cost overruns, the IE recommends that (1) all selected resources that will be owned by PacifiCorp, either as a benchmark resource or through a BTA, be held to their cost projections as provided with the bid; and (2) PacifiCorp should provide an unconditional guarantee that ratepayers will receive the full projected value of the PTCs, so that ratepayers are not harmed if either PacifiCorp or the project developers fail to acquire the full value of the PTCs. The IE also recommends that PacifiCorp be held to the cost projections for the D.2 Segment because the shortlist includes three projects that rely on the construction of the D.2 Segment for economic viability. The IE explains that the cost projections for the D.2 Segment are a major driver of selection in this RFP and if actual costs are higher it may turn out that a better solution would have been to select more supply from outside the constrained area in Wyoming.<sup>8</sup>

Finally, the IE offers several key observations about the impact that PacifiCorp's transmission planning had on the competitiveness of this RFP. The IE states that the initial system impact studies provided to bidders did not include the company's plans to accelerate

---

<sup>8</sup> The Independent Evaluator's Final Report on PacifiCorp's 2017R Request for Proposals (IE Final Report) at 38. See PacifiCorp's Re-designation of Protected Information in the IE's Final Report on PacifiCorp's 2017R Request for Proposals (Apr 18, 2018) (This copy contains the most publicly available information of the IE's Final Report).

the completion of the D.2 Segment, instead stating that D.2 and Gateway South would be completed in 2024. The restudies, conducted after the RFP was closed to bids, found that queue position 713 triggers the need for the Gateway South transmission line, meaning that any bid within the constrained area in Wyoming with a higher queue number than 712 would require extensive new transmission investment to be deliverable, and therefore would not likely be deliverable by the end of 2020.

The IE explains that the “net result of these adjustments calls for consideration of the overall context of this RFP,” as the effect of this change meant that the RFP “really boiled down to two viable benchmarks and two-third party offers, meaning a lot of the analysis presented here was of questionable value.”<sup>9</sup> The IE concludes:

To be clear, the remaining viable offers were competitive offers, but were not the best the market could provide based on cost or risk, but for the transmission constraint issue. We understand and appreciate PacifiCorp’s position and do not disagree with their transmission department’s findings \* \* \*. To go forward with projects that cannot meet the proposed online date without major accelerated transmission investment would not seem to be the wisest course of action.

The real issue here is that PacifiCorp’s procurement (in the form of this RFP) got out ahead of its resource and transmission planning. If PacifiCorp had identified this plan earlier, then all aspects of this work (IRP, transmission planning and resource acquisition) could have worked together in a more coherent fashion.<sup>10</sup>

## V. COMMENTS

Staff, AWEC, and Avangrid Renewables recommend we not acknowledge PacifiCorp’s final shortlist. Staff and AWEC criticize the timing and competitive impact of several key decisions made by PacifiCorp during the RFP process. Staff, AWEC, and Avangrid assert that the transmission constraint resulted in an unfair RFP, that the modeling of PTC benefits biased the modeling towards the benchmark bids, and that including end effects for benchmark bids but not for PPA bids with a purchase option further biased the scoring in favor of benchmark bids. As summarized by AWEC, even if PacifiCorp did not plan the ultimate outcome, it “prepared and issued an RFP to the market without analyzing and understanding issues that would be dispositive to bid evaluation.”<sup>11</sup>

---

<sup>9</sup> *Id.* at 34.

<sup>10</sup> *Id.* at 35.

<sup>11</sup> Comments of the Alliance of Western Energy Consumers on the April 19, 2018 Staff Report at 7 (Apr 18, 2018).

PacifiCorp requests that we acknowledge the final shortlist. PacifiCorp states that the wind projects are cornerstones of the company's Energy Vision 2020, will increase system reliability and flexibility, and provide financial benefits to customers by taking advantage of expiring PTCs. PacifiCorp notes that the RFP process was conducted under the oversight of two independent evaluators, one in Oregon and one in Utah, and that both agree that this RFP process was fair, open, and transparent.

We group and summarize the participants' comments under four headings: (1) Cumulative Nature of IRP and RFP Acknowledgement; (2) Impact of D.2 Constraints; (3) Impact of Expedited Analysis; and (4) Specific Scoring Issues.

#### **A. Cumulative Nature of IRP and RFP Acknowledgement**

There are two overarching views to this RFP shortlist. Staff and other participants are concerned that the results are too narrow, with largely benchmark, utility-owned resources connecting to PacifiCorp's D.2 Segment, when PPA bids should have been able to compete and solar resources should have been considered. PacifiCorp believes that the shortlist appropriately lines up with the resources described in its IRP action item.

Specifically, Staff, AWEC, and Avangrid express concern about the lack of diversity offered by the shortlist, given that PacifiCorp is poised to own 85 percent of the projects included on the shortlist. Staff acknowledges the IE's recommended measures to limit the risk this poses to ratepayers, but explains that the IE's recommendations affect future ratemaking decisions that cannot be included in an RFP acknowledgement. Staff would prefer a final shortlist with a balanced amount of PPA projects that would more effectively mitigate the risks to ratepayers presented with utility-owned resources.

In addition, Staff contends that the final shortlist is not aligned with PacifiCorp's 2017 IRP. Staff objects to the inclusion of the Uinta wind project, which is located outside the area being connected to the new transmission line. Staff asserts the project provides marginal benefits and its inclusion on the shortlist exceeds the company's initial RFP request "for up to 1,270 MW."

Staff and AWEC also question the RFP's scope for wind, stating that better economic opportunities now exist in the market. Staff contends that during the course of the RFP PacifiCorp has learned that solar energy projects "could both enhance the economic benefits of the shortlist portfolio and in at least one scenario have superior economic benefits to the shortlist itself."<sup>12</sup>

---

<sup>12</sup> Staff Report for April 30, 2018 Special Public Meeting at 9 (Apr 9, 2018).

PacifiCorp dismisses these concerns. With regard to Staff's concerns about the Uinta project, the company states that the 2017 IRP action plan identified a minimum—not maximum—amount of wind projects, and it did not preclude the consideration of other resources like Uinta that were not connected to the D.2 Segment and provided benefits to customers. PacifiCorp also counters Staff's and AWEC's assumptions that solar resources might present a better economic opportunity. PacifiCorp contends that its analysis shows that the solar resources are best considered as incremental opportunities, and not as alternatives to the 2017R RFP.

PacifiCorp concludes that its 2017R RFP provides customers access to new wind resources that have been identified as part of the least-cost, least-risk planning portfolio acknowledged by the Commission. By taking advantage of time-limited PTCs, PacifiCorp estimates these projects will produce present-value net benefits of approximately \$167 million when derived from annual revenue requirement results.<sup>13</sup>

#### **B. Impact of D.2 Constraints**

Staff criticizes PacifiCorp's handling of the interconnection system impact studies that effectively eliminated any wind projects that would not be owned wholly or in part by the company. Staff maintains that PacifiCorp's use of a different approach to the interconnection queue issue could have produced a much different shortlist of Wyoming wind projects.

AWEC shares the concern of the IE and Staff that the dispositive factor in the final shortlist selection—the ability of bids to meet the interconnection criteria—was not revealed until after the process had occurred. Consequently, AWEC contends that this RFP process did not meet a primary goal underlying the competitive bidding process, citing our earlier reasoning that “if bidding is to be successful, it is necessary that potential non-utility developers know the rules of participation, understand the ranking and selection process, and consider the probability of success and monetary rewards sufficient to justify the costs of participation.”<sup>14</sup> AWEC concludes that either PacifiCorp knew at the outset that interconnection constraints would invalidate most bids and did not disclose this information, or that the company issued an RFP without understanding issues that would be dispositive to bid evaluation. AWEC states that we should not sanction either of these alternatives.

---

<sup>13</sup> PacifiCorp Request for Acknowledgement at 21-24 (“Under the central price-policy scenario, when applying medium natural gas, medium CO2 price-policy assumptions, the PVRR(d) net benefits of the final-shortlist resources and transmission project are \$167 million (up from \$137 million).”).

<sup>14</sup> Comments of the Alliance of Western Energy Consumers on the April 19, 2018 Staff Report at 4 (Apr 18, 2018) (citing Order No. 91-1383 at 3).

Avangrid Renewables criticizes PacifiCorp's exclusion of bidders based on their position in the interconnection queue. Avangrid contends that additional projects should be considered reasonably able to build and interconnect by the end of 2020.

PacifiCorp contends its transmission planning process was appropriate and consistent with the company's requirements imposed by the Federal Energy Regulatory Commission (FERC). PacifiCorp explains that it first evaluated the bids based on economics and independent of any interconnection requests or studies. PacifiCorp adds that its transmission arm separately conducted interconnection re-studies given the limited interconnection capability that was known at the beginning of the RFP process. PacifiCorp dismisses Staff's suggestion that it could have used an alternative approach to the interconnection queue issue, explaining that the suggestion does not accurately reflect PacifiCorp's FERC requirements and, even if adopted, would not have changed the final shortlist.

### **C. Impact of Expedited Analysis**

Staff and AWEC emphasize the impact the expedited timelines had on analysis and review. They explain that the IE had unusually short review times at both the beginning (design phase) and at the end (selection of the final shortlist).

PacifiCorp acknowledges the RFP was conducted in an expedited manner, but maintains the RFP was conducted fairly. PacifiCorp states that it appropriately accounted for the financial risks of the benchmark bids, and that the IE and other consultants rigorously examined the capacity factors and capital and operating costs of shortlisted bids. PacifiCorp concludes that its selection of the benchmark projects simply reflect the fact that those projects provide the best benefits and least risk for consumers when viewed in light of the RFP selection criteria.

### **D. Specific Scoring Issues**

Staff, AWEC, and Avangrid criticize the company's decision to not levelize the PTC benefits. They state that treating capital costs on a levelized basis while treating PTC benefits on a nominal basis has the effect of biasing the financial modeling towards a preference for company-owned (whether utility-built or BTA assets), for which there are large upfront capital additions and a direct pass through of PTCs, over PPAs.

AWEC and Avangrid also claim PacifiCorp failed to compare resources equally by assigning a terminal value for company-owned resources but not PPA bids.

PacifiCorp dismisses concerns about the levelizing of PTCs. The company explains that, because PTC benefits generated from a benchmark or BTA bid will flow through to customers the first decade of their operating life, there is a sound policy basis for valuing the

benefits of PTCs consistently with the timing of those benefits to reflect reality and to be consistent with least-cost, least-risk planning.

## VI. DISCUSSION

### A. Overview

We decline to acknowledge PacifiCorp's 2017R RFP shortlist in light of numerous uncertainties that characterized this RFP process and are explained below. Our decision, however, does not diminish our earlier acknowledgment of PacifiCorp's proposal to acquire renewable resources. Resource decisions ultimately rest with the company, and PacifiCorp is free to move forward with procurement from the RFP shortlist or through an alternative renewable resource procurement strategy.

Acknowledgment of the RFP shortlist gives the company and other stakeholders an advance indication that the Commission is satisfied, at this point in time, with the company's analysis of which market opportunities met the IRP's objectives as least-cost and least-risk to customers. Under Oregon's regulatory construct, a rate case is the ultimate forum for the Commission to determine whether a resource procurement was prudent, such that its costs may be included in customer rates. Our decision not to acknowledge the RFP shortlist simply reflects that we are not prepared to narrow the focus of a future rate case analysis in light of concerns detailed in our discussion here.

### B. RFP Shortlist Acknowledgment

PacifiCorp seeks acknowledgment of its shortlist under Guideline 13, which provides:

**RFP Acknowledgement:** Except upon a showing of good cause, the utility must request that the Commission acknowledge the utility's selection of the final shortlist of RFP resources. The IE will participate in the RFP acknowledgment proceeding. Acknowledgment has the same meaning as assigned to that term in Commission Order No. 89-507. RFP acknowledgment will have the same legal force and effect as IRP acknowledgment in any future cost recovery proceeding. The utility's request should discuss the consistency of the final shortlist with the company's acknowledged IRP Action Plan. The Commission will consider the request to acknowledge at a public meeting within 60 days of receiving the utility's application.<sup>15</sup>

---

<sup>15</sup> Order No. 14-149 at Appendix A (Guideline 13).

Typically, IRP acknowledgement is the foundation for subsequent RFP approval.<sup>16</sup> The IRP process begins with examining a utility's resource need, and then evaluating potential actions to meet that need in a least-cost and least-risk manner.<sup>17</sup> Through its IRP and proposed action items, a utility must manage risk and uncertainty, balance the interests of present and future customers, and allow for course corrections as industry evolution comes into greater focus.<sup>18</sup>

The ultimate goal of the RFP process is the same as the IRP process—to minimize long-term costs and risks. The RFP process focuses on how the utility executes the procurement process, and serves as “means to promote and improve the resource actions identified in the utility's IRP Action Plan.”<sup>19</sup> As stated when we first adopted our competitive bidding guidelines:

Changes occur from the time an Action Plan is acknowledged to when an RFP is released. The changes may be simple, due merely to the passage of time, or dramatic, such as the Western power crisis in 2000. While a utility's Action Plan establishes a roadmap, *it is not in the customer's best interest for any utility to march lockstep without any deviation from the plan.* We have found that flexibility is important in meeting the goals set out above.<sup>20</sup>

### C. Conclusion

We simply cannot conclude at this time that the narrow shortlist from PacifiCorp's RFP—a packaged bundle of mostly company-owned Wyoming wind resources connected to a single transmission line—clearly represents the renewable resource portfolio offering the best combination of cost and risk for PacifiCorp customers.

At PacifiCorp's request, we did not follow our traditional IRP-RFP process in this proceeding, and instead approved a narrowly targeted RFP well before we concluded IRP review in order to accommodate a fast-moving process driven by PTC deadlines. Our expedited review of a complex proposal with an out-of-order process meant that we did not fully align the anticipated outcome of the IRP process with the RFP. As a result, we are left

---

<sup>16</sup> Order No. 14-149 at Appendix A (Guideline 7, review of a draft RFP should focus on: (1) the alignment of the utility's RFP with its acknowledged IRP; (2) whether the RFP satisfies the Commission's competitive bidding guidelines; and (3) the overall fairness of the utility's proposed bidding process.”).

<sup>17</sup> *In the Matter of Portland General Elec. Co., 2016 Integrated Resource Plan*, Docket No. LC 66, Order No. 17-386 at 14 (Oct 9, 2017).

<sup>18</sup> *Id.* at 2, 15 (We consider how a utility's projected benefits are balanced with short-term impacts and long-term risks in terms of the size, timing and technology of the proposed acquisition against the projected benefits.).

<sup>19</sup> Order No. 06-446 at 2.

<sup>20</sup> *Id.* (emphasis added.)

with a mismatch between our expectation of what resources could meet the need identified in PacifiCorp's IRP, and the Energy Vision 2020 resources that emerged as the only viable resources to be selected for the RFP final shortlist.

We expected the RFP process to be a real world test of the preferred portfolio, testing IRP proxy resources against other market opportunities for replacing front-office transactions (FOTs) with low-cost, low-risk renewable energy resources in a highly competitive RFP that offered diverse cost, benefit and risk tradeoffs. We recognize that PacifiCorp's preferred portfolio identified a specific set of projects as the least-cost, least-risk resources, and that the identification of specific resources in an IRP is not uncommon. We understood, however, that the new wind modeled in the IRP to be *proxy* Wyoming wind, not a literal presentation of the benchmark resources that are now the majority of the final shortlist.

Had we followed our traditional process of first thoroughly vetting the IRP and then designing and issuing the RFP, allowing changing circumstances to inform us along the way, we may have better understood Energy Vision 2020 and realized how such a specific proposal would translate in the RFP context.<sup>21</sup> We could then have better addressed the need for flexibility in the procurement process, so that solar resources whose costs were declining more rapidly than the IRP projected could be more thoroughly considered as those market prices dropped.<sup>22</sup> We also could have better addressed the extent to which diversity in the commercial structures offered in the shortlist could have served to mitigate the customer risks that we addressed through the limitations and conditions in our IRP acknowledgment order and that the IE highlighted in his RFP report.<sup>23</sup>

Through this expedited process we also lost the opportunity for potential foresight into the extreme constraints on opportunities to interconnect to the D.2 Segment. We share the frustration of the IE and the participants that the bid selection process ended up being limited to selection of only those projects with favorable queue positions, which includes projects for which PacifiCorp had acquired the development rights as benchmark projects. Prior to issuance of the RFP PacifiCorp set expectations for a diverse and competitive process, describing the many developers that were participating in bidder workshops and the thousands of megawatts of Wyoming wind resources seeking interconnection service.<sup>24</sup>

---

<sup>21</sup> IE Final Report at 39 (Earlier consideration of PTC deadlines could have spurred debate about the proposal and possibly achieved earlier IRP approval as well as earlier revision of transmission planning in system impact studies.).

<sup>22</sup> *Id.* at 36 (describing solar sensitivity); PacifiCorp Request for Acknowledgement at 28-30 (describing solar sensitivity).

<sup>23</sup> *Id.* at 32 (explaining that the PPA sensitivity produced more benefits than PacifiCorp's selection, before the interconnection constraint was realized).

<sup>24</sup> *See, e.g.*, PacifiCorp Reply Comments at 12 (Aug 23, 2017) ("Since announcing its plans to pursue acquisition of new Wyoming wind resources, many different project developers have participated in bidder workshops and several of these developers have communicated their intent to participate in the 2017R RFP. Further, there are thousands of megawatts of Wyoming wind resource capacity seeking interconnection service

Ultimately the overall competitiveness of the RFP process, and the significance of the RFP analysis, was limited by the interconnection constraint, leading the IE to conclude the RFP was left “with two viable benchmarks and two-third party offers, meaning a lot of the analysis presented here was of questionable value.”<sup>25</sup>

Aside from the interconnection constraint, specific scoring issues reinforce our conclusion to not acknowledge the shortlist: the D.2 Segment costs, the nominal treatment of PTC benefits, and the use of a terminal value adder. First, we expected D.2 Segment costs to be added to the new resources it enables so that we could equally compare Energy Vision 2020 with other renewable resource opportunities, and we even conditioned RFP approval on confirmation that the scoring would allow this comparison. Instead, the RFP was ultimately designed so that the D.2 costs were considered PacifiCorp’s system costs, and a “deliverability aspect” of the Energy Vision 2020 portfolio.<sup>26</sup> PacifiCorp presented net benefits only for the portfolio of resources with the new transmission line, as if they were one 1,200 MW resource. We recognize that PacifiCorp’s treatment of the transmission costs may have been appropriate for the company’s IRP portfolio modeling, or consistent with the company’s approach to transmission or interconnection costs. Nonetheless, this methodology did not show us the direct cost comparison of non-Wyoming wind to Wyoming wind with the D.2 Segment that we expected to see, and did not fully test the IRP’s conclusion that the individual transmission-dependent benchmark resources were least-cost, least-risk relative to the non-Wyoming wind resources presented in the RFP.

Second, we share concerns raised by participants about PacifiCorp’s treatment of PTC benefits and use of a terminal value adder. We agree with Staff, AWEC, Avangrid and the IE that PacifiCorp’s nominal treatment of PTC benefits may have skewed the first version of the shortlist toward the benchmark bids. The IE focused on this issue by requiring a sensitivity that used leveled PTCs. Similarly, the IE found that the terminal value adder applied to company-owned resources added significant benefits to PacifiCorp’s portfolio but not to the PPA portfolio. Although interconnection constraints ultimately impacted the final shortlist, our concerns about PacifiCorp’s handling of PTC modeling and terminal value adders cumulatively contribute to our decision.

PacifiCorp believes that we must acknowledge the final shortlist because it appropriately reflects the “cornerstones” of Energy Vision 2020.<sup>27</sup> While we recognize the need for consistency between the IRP and the RFP processes, we conclude that declining to acknowledge the RFP shortlist is the best result given the overall context of this IRP and

---

from PacifiCorp’s transmission function, further substantiating that there is adequate wind development activity in Wyoming to support a robust RFP.”)

<sup>25</sup> IE Final Report at 34.

<sup>26</sup> PacifiCorp RFP Main Document at 23 (Sept 27, 2017).

<sup>27</sup> PacifiCorp Comments on Staff’s Report (Apr 19, 2018).

RFP, and to further the goal that the RFP process be used as a “means to promote and *improve* the resource actions identified in the utility’s IRP”.<sup>28</sup> We also believe our decision fulfills our responsibility to consider new circumstances when they become known, and our commitment to a full and fair examination of PacifiCorp’s resource procurement in a future rate case.

Our conclusion to not acknowledge the shortlist is supported by the IE’s review. Although the IE recommended that we acknowledge the shortlist, it did so only to the extent that we were willing and able to adopt the three significant conditions to protect ratepayers set forth above. Although these conditions and observations might be viewed as outside the traditional role of an IE’s review of an RFP shortlist, they highlighted the IE’s concerns that the RFP was insufficiently competitive, and the IE’s conclusion that a portfolio with a more balanced representation of commercial structures could have mitigated the precise risks to which the IE pointed. In short, we see the IE’s overall recommendation as supportive both of the limitations and conditions contained in our prior IRP acknowledgment and our decision here to not acknowledge the RFP shortlist.

We emphasize that our decision does not rely on a conclusion that PacifiCorp acted inappropriately in conducting the RFP or in managing its transmission queue. The IE confirmed that the resources in the final RFP shortlist were accurately determined to be competitive offers, though, due to the transmission constraint, were “not the best the market could provide based on cost or risk \* \* \*.”<sup>29</sup> We believe that accommodating PacifiCorp’s request for an out-of-order RFP process, in which we were asked to approve PacifiCorp’s RFP well before we concluded our review of the IRP, combined with an expedited schedule, is the primary factor that resulted in a RFP design, process and, ultimately, shortlist that did not meet our expectations for a fair and competitive process.

In conclusion, we are persuaded by Staff and other participants that the narrow RFP, issued in advance of the completion of our IRP process, resulted in a shortlist too narrow to acknowledge. Our decision does not take away from our IRP acknowledgement. As noted above, the IRP acknowledgement included conditions to hem in the financial risk to ratepayers. PacifiCorp believes it is on-track to meet those conditions, with modeled project benefits increasing as the contracting process proceeds.<sup>30</sup> Although we do not acknowledge this shortlist, we believe PacifiCorp is in no different position than it was after its IRP acknowledgment. Resource investment decisions ultimately rest firmly with the company.

---

<sup>28</sup> Order No. 06-446 at 2 (*emphasis added*).

<sup>29</sup> IE Final Report at 35.

<sup>30</sup> PacifiCorp Request for Acknowledgement at 21-24 (net benefits of Energy Vision 2020 have increased by \$30 million).

We are committed to give fair regulatory treatment to resource decisions that PacifiCorp ultimately makes.<sup>31</sup>

## VII. CAITHNESS' MOTION

Finally, we address a motion filed by Caithness to modify the 2017R RFP's eligibility requirements to allow for consideration of combined wind/storage bids. Caithness submitted a bid that included wind generation with on-site battery storage options. PacifiCorp determined the Caithness' bid was non-conforming under the eligibility requirements in the RFP. Caithness requests that we modify the conditions of the 2017R RFP to state that inclusion of a storage component within a wind project proposal does not, on its own, disqualify the project from consideration under the RFP.

The IE agrees with PacifiCorp that only bids for new wind or repowered wind are conforming to the 2017R RFP. The IE explains that a wind-storage project would not match the plan from PacifiCorp's IRP and the terms of the RFP. The IE concluded that Caithness' offer prices were not competitive with other prices, and storage could be pursued in a separate procurement.

We deny Caithness' motion and will not modify the 2017R RFP eligibility criteria at this time. PacifiCorp provided advance notice of this outcome in its October 10, 2017 RFP questions and answers. The question posed was "[i]f a party wants to submit a non-conforming bid for a technology other than wind, by what date should that bid be submitted? 10/17 or 10/24?" PacifiCorp responded: "In accordance with the RFP, and with oversight from the Independent Evaluators, if a bid is deemed to be non-conforming the bid will be returned."<sup>32</sup> We rely heavily on the IE's oversight of interactions with individual bidders and treatment of specific bids, and accept the IE's conclusion that Caithness' bid was properly excluded as non-conforming.

---

<sup>31</sup> Order No. 17-386 at 3.

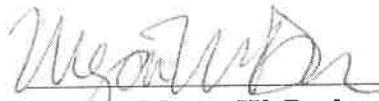
<sup>32</sup> PacifiCorp 2017R RFP Questions and Answers at 1 (Oct 10, 2017) [www.pacificorp.com/sup/rfps/2017-rfp.html](http://www.pacificorp.com/sup/rfps/2017-rfp.html).

**VIII. ORDER**

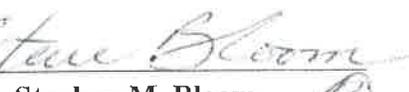
IT IS ORDERED that:

1. PacifiCorp's, dba Pacific Power, 2017R RFP final shortlist is not acknowledged; and
2. The motion filed by Caithness to modify the 2017R RFP criteria is denied.

Made, entered, and effective                     MAY 23 2018                    .

  
**Megan W. Decker**  
 Commissioner



  
**Stephen M. Bloom**  
 Commissioner

**Chair Hardie, dissenting:**

After reviewing the IE report and comments in this docket, and acknowledging my fellow Commissioners' differing point of view, I would vote to acknowledge PacifiCorp's current RFP shortlist with perhaps some minor modifications.

When approving an RFP, the Commission focuses on three issues: (1) The alignment of the utility's RFP with its acknowledged IRP; (2) whether the RFP satisfies the Commission's competitive bidding guidelines; and (3) the overall fairness of the utility's proposed bidding process.<sup>33</sup> In acknowledging a shortlist, the Commission must consider the consistency of the final short-list with the company's acknowledged IRP Action Plan.<sup>34</sup> Acknowledgement has the same legal force and effect as IRP acknowledgment in any future cost recovery proceeding.<sup>35</sup>

My review of PacifiCorp's final shortlist leads me to the following conclusions:

1. The RFP shortlist is aligned with the acknowledged IRP action item, except the inclusion of Uinta. I would not acknowledge Uinta. I would also support certain minor changes to the list, as noted below.

<sup>33</sup> Order No. 06-446 at 9 ("We clarify that Commission approval [of an RFP] is simply a determination of the three criteria set out in the guideline."). PacifiCorp received approval of its RFP terms before it received acknowledgement of its IRP action item, but ultimately the two fell into alignment.

<sup>34</sup> Order No. 06-446 at 14-15 ("We \*\*\* direct the utility to explain whether its final short-list is consistent with the near-term resource acquisitions identified in its acknowledged IRP.").

<sup>35</sup> *Id.*

2. The IE report indicates that the competitive bidding guidelines were followed. The IE adds conditions to his report that I believe are outside the scope of the IE's role because they either duplicate the conditions the Commission has already imposed in its IRP acknowledgement or amount to a substitution of the IE's guidelines for the Commission's.
3. Because of transmission constraints, this IRP action item, by its nature, limited who could reasonably compete for the shortlist. Given those legitimate limitations, I think the RFP appropriately identified the least-cost projects that could actually get interconnected and deliver consistent with PacifiCorp's IRP action item.

It is not clear to me precisely why my fellow Commissioners take issue with the RFP shortlist, so I will briefly discuss the issues that arose during our public meeting discussion that seem to me to be most salient.

#### A. Consistency with an Acknowledged IRP Action Item

Some commenters discount the relevance of the one standard found in both our RFP and RFP-shortlist approval standards: consistency with an acknowledged IRP action item. For example, some parties point to the results of PacifiCorp's solar RFP to suggest that the IRP action item is no longer the least-cost, least-risk option for PacifiCorp to pursue, and that evidence of this fact is sufficient to justify a failure to acknowledge the RFP shortlist.<sup>36</sup> I disagree.

In adopting our current competitive bidding guidelines, we indicated that our review of an RFP begins with the utility's last acknowledged IRP "to ensure that our review of the RFP *is based on a fully vetted and acknowledged resource plan.*"<sup>37</sup> If a utility proposes an RFP that deviates from a previously acknowledged IRP action item, we certainly allow them to do so, but we have imposed meaningful conditions on any such deviations because they have not been reviewed, modeled, or vetted in the IRP process.<sup>38</sup> Unless the deviations are relatively

---

<sup>36</sup> We did not order PacifiCorp to undertake the solar RFP—another state requested it. Our RFP guidelines allow this type of accommodation to allow our utilities to operate in multiple jurisdictions. In allowing such RFP conformance, we do not thereby adopt the resource acquisition policies of other states.

<sup>37</sup> Order 07-018 at 3 (emphasis added). Stakeholders have expressed concern that the "rug was pulled out from under bidders" who could not get timely interconnection in Wyoming. In my view, we pull the rug out from under everyone if we spontaneously discard a standard that has historically supported the scope of an RFP.

<sup>38</sup> We have stated that a utility must substantiate any RFP deviations from an IRP action item by accounting for all material changes since IRP acknowledgement and by providing, at a minimum, updated load forecasts, revised assumptions, and recent resource additions, among other things. *Id.*

minor, we have come down hard on utilities for failure to follow this standard; it is not clear to me why we would discard the standard here.

In my view, the “IRP alignment” standard matters even more in this case than it usually does: the specific attributes of Energy Vision 2020 are what informed my view that there was sufficient public interest benefit in Energy Vision 2020 to justify a departure from our ordinary IRP standards to acknowledge them. A broad IRP action item frequently makes sense, but we acknowledged a narrow, specific IRP action item here, and, in my view, we did so for good reason. PacifiCorp’s action item involves the acquisition of a resource that may soon become more expensive (wind), and the extraordinarily rare opportunity to make a major transmission investment at a low cost to customers. For a myriad of reasons, some “unspecified amount of solar” does not fit this bill. We did not acknowledge a PacifiCorp plan to acquire an unspecified chunk of renewables at an unspecified time in the near future based on some “strike price,” nor would I have acknowledged such a plan. Stated differently, the idea that an RFP “strike price” for solar undermines the RFP in this case eviscerates my rationale for our IRP acknowledgement order.

In short, the results of the solar RFP do not inform the question I see before us here: whether PacifiCorp’s RFP solicitation for its acknowledged action items, made after extensive IRP analysis, was competitive and fair.<sup>39</sup> To the extent the solar RFP demonstrates that the current price of solar resources has dropped, that in my view simply informs PacifiCorp’s decision about whether to move forward with its Energy Vision 2020 acquisition or not, and constitutes one element of a future prudence determination. Acknowledgement has never meant ratemaking approval, either in the IRP or the RFP context.

## **B. IE Conditions**

An IE is an expert in bid scoring and utility contracting terms; the IE is not an expert in utility ratemaking. We have competitive bidding guidelines, established through a thorough and adversarial process, and we ask an IE to review an RFP in accordance with those guidelines. I do not believe it adds anything to our analysis to have an IE to opine that an RFP is “fair” based on the IE’s imposition of fundamental changes to our ratemaking principles or to our competitive bidding guidelines.<sup>40</sup>

---

<sup>39</sup> Order 07-018 at 3 (“[S]imply providing an explanation of significant deviations and having a least-cost, least-risk goal for IRP analysis and cost-effectiveness goal for bid evaluation is not sufficient.”). As I noted earlier, I would exclude Uinta from shortlist acknowledgement. Our IRP public meeting involved extended discussion of the appropriate size of the Energy Vision 2020 project; the size we landed on was ultimately driven by its connection to the transmission build. I see no good reason to acknowledge a larger acquisition.

<sup>40</sup> For example, we have previously rejected IPP set-asides, rejected capping utility construction costs, acknowledged that PPA and ownership models result in meaningfully different flow-through of ratepayer costs, and acknowledged that utility owned projects can have some terminal value. Unless and until we change our guidelines, we have tasked the IE with recognizing rather than rejecting these conclusions.

Certain parties have asserted since our competitive bidding guidelines were adopted in 1991 that the Commission's guidelines fail to appropriately address a build-vs-buy bias, or that they fail to appropriately address differences in the way utility vs PPA bids are scored. While the Commission has never claimed to have created the perfect paradigm for competitive solicitations, it has concluded that the guidelines we have adopted are better than the alternatives that have been proposed to this point.

For our competitive bidding guidelines to have continued significance to the competitive solicitation process, I believe the IE's analysis of those specific guidelines are the relevant ones. On the basis of the IE's review, I might support some minor tweaking of the shortlist, but I would not reject the shortlist out of hand.<sup>41</sup>

### C. Queue Issues

To the extent there are concerns about fairness stemming from the interconnection queue issue, I understand them, but do not agree with the conclusion that queue issues ultimately undermine this RFP. Long queues with uncertain interconnection costs have been an issue in the industry since FERC implemented open access.<sup>42</sup> Sites best suited to high capacity factor wind and solar projects are loaded with generators in queues hoping to be well positioned to get online. While some bidders might not have known precisely where they fell in the cutoff, they were presumably aware that transmission constraints could limit which generators could get online.<sup>43</sup>

While some complain that this RFP improperly focused on locking up the value of only those wind resources high in the queue, I do not necessarily view that as problematic from a ratepayer or fairness perspective. Ideally, generators would have ample access to cheap, available transmission out of Wyoming and Montana, but they do not. The developers with the foresight to have acquired sites that allow them to get interconnected and delivered in wind-rich areas are those best situated to deliver low-cost resources within the PTC window. This RFP could be viewed as a chance to acquire for the benefit of Oregon ratepayers the

---

<sup>41</sup> Given the lack of meaningful impact one way or other, I would support making the 50 percent PPA bid a 100 percent PPA bid in the interest of diversity. It is difficult to discern how this modification could be harmful.

<sup>42</sup> See, e.g., Bruce W. Radford, *The Queue Quandary*, Pub. Util. Fort. Mar. 2008 at 28 (noting that as early as 2008 the Midwest ISO interconnection queue would have required anywhere from forty to three hundred years to process under FERC's Order 2003 interconnection procedures).

<sup>43</sup> Interconnection and transmission access has been an issue since our first competitive bidding docket in 1991, and it has only grown more challenging over time. These issues are not easy to address at the state level. As we stated in 1991, "[Staff] recommends that the Commission not address or attempt to resolve open transmission access issues (other than an admonition to soliciting utilities to make their best efforts to help winning bidders get their electricity to the utility's system), and that such issues are best deal with at the federal level." Order 91-1383 at 13.

very wind resources best positioned to deliver high-quality energy at low rates, rather than leaving those resources for the next buyer that comes along.

#### D. Conclusion

I believe PacifiCorp's shortlist aligns with its acknowledged IRP, that the RFP satisfies the Commission's competitive bidding guidelines, and that the process was, overall, fair, and I would approve the shortlist with perhaps some minor adjustments. To the extent my colleagues' non-acknowledgement is based on concerns about the ordering of the shortlist, I understand that our utility-owned vs. PPA decisions can be difficult. While I believe the IE's report supports the current shortlist, I would entertain some minor modifications to that list.

To the extent my colleagues believe this RFP did not comport with our standards, or that the solar RFP somehow undercut this RFP, I strongly disagree that our standards support that conclusion. We ask utilities to comply with our standards in their resource planning processes. The steps we have asked them to follow involve a massive amount of work and follow a logical process. While I believe the Commission has authority to change its standards or to depart from prior practice, I believe doing so has consequences and should be done carefully.<sup>44</sup> Absent good cause for a change in direction, utilities should be able to understand what is asked of them and to count on some measure of regulatory certainty from us. In this case, I do not see any value to be added to our process, nor to our outcomes, by minimizing the IRP-RFP alignment standard, or by informing a utility that the IRP action item we acknowledged no longer sets the standard for the scope and review of an RFP and RFP acknowledgement.<sup>45</sup>



*Lisa D. Hardie*

**Lisa D. Hardie**  
Chair

<sup>44</sup> For example, if the rationale for the majority opinion turns on the idea that RFP is, in effect, a "mini-IRP," rather than an effort to obtain an acknowledged IRP item in a competitive fashion, and the majority concludes that the results of the solar RFP undermine the utility's IRP action items, then it seems internally inconsistent to argue that our IRP acknowledgment retains much value.

<sup>45</sup> Some states are even exploring a new paradigm in which utilities first conduct RFPs before they conduct IRPs. Oregon could certainly consider such a model, but it is not the model we have, nor have we informed utilities how we might evaluate resource plans under some new IRP/RFP standard.