

***Task A7 Report of the Utah Independent Evaluator
Regarding PacifiCorp's Draft All Source Request for
Proposals (2020AS RFP)
Docket No. 20-035-05***

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**Report of the Independent Evaluator
Regarding PacifiCorp’s
2020 All Source Request for Proposals (2020AS RFP)
Task A7**

Executive Summary

Merrimack Energy Group, Inc. (“Merrimack Energy”) was retained by the Public Service Commission of Utah (“Commission”) to serve as Independent Evaluator (“IE”) for PacifiCorp’s 2020 All Source Request for Proposals (“2020AS RFP”). One of the tasks (Task A7) required of the IE is to provide a written evaluation including recommendations to the Commission regarding approval of the proposed solicitation or modifications required for approval and the bases for the recommendations.¹ This report is intended to meet that requirement.

Utah Code Section 54-17-101, known as the Energy Resource Procurement Act requires that an affected electric utility seeking to acquire or construct a significant energy resource shall conduct a solicitation process that is approved by the Commission. The Commission shall determine whether the solicitation process complies with this Chapter and whether it is in the public interest taking into account whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electric utility located in the state.

The overall objective of the IE in this process is to ensure the solicitation process could reasonably be expected to be undertaken in a fair, consistent and unbiased manner and results in the selection of the best resource option(s) for customers in terms of price and risk. As a component of the first phase of the solicitation process (RFP Design Phase, i.e. review of the draft RFP and related documents) the objective of the IE is to ensure the RFP will lead to a fair, equitable and transparent process and that the key aspects of the RFP are consistent with Utah Admin. Code and industry standards. To accomplish these objectives the IE has undertaken the following activities:

- Reviewed the Application, Testimony and Draft RFP documents submitted by PacifiCorp on April 9, 2020;
- Attended several presentations by PacifiCorp in both Utah and Oregon regarding the 2020 All Source RFP, including the March 25, 2020 Utah Pre-Issuance Bidder’s Conference and the April 27, 2020 Oregon Commission Workshop;
- Participated in a workshop with PacifiCorp, the Commission and Division staffs in Utah and Oregon and Oregon IE to review PacifiCorp’s models to be used for the solicitation process at various steps in the process and to discuss how the models interact for

¹ Task A7 also states that the IE provide input on the development of screening and evaluation criteria, ranking factors, evaluation methods, and interconnection processes. Ensure that screening and evaluation criteria take into consideration the assumptions included in PacifiCorp’s most recent IRP, any recently filed IRP Update, and any PSC order on the IRP or IRP Update. Presumably, we would assume the Commission’s Order in Docket No. 19-035-02 regarding issues raised on the 2019 IRP Action Plan which underpins the RFP process would require the IE to incorporate the issues raised by the Commission in its Order in review and monitoring of the RFP process.

purposes of conducting the evaluation of proposals. PacifiCorp sent copies of the models to the IEs for review prior to the workshop;

- Submitted comments and questions to PacifiCorp on aspects of the solicitation process and received responses from PacifiCorp on over 40 questions prepared by Merrimack Energy;
- Reviewed the Application of PacifiCorp Regarding Queue Reform Procedures and the FERC Order on Tariff Revisions;
- Reviewed the comments filed by all interested parties in Utah;
- Based on our overall industry experience in serving as IE or a related role in other power procurement processes, assessed PacifiCorp's competitive procurement approach in the 2020 All Source RFP relative to Utah Admin. Code and industry practices.

The IE has prepared its comments and recommendations on major issues identified by multiple parties and recognized by the IE as important to the fairness and transparency of the process as well as other issues identified by the IE that pertain to the development and implementation of an effective and fair competitive bidding process consistent with Utah Statutes.

Several parties raised issues with regard to components of the RFP. If these issues can be resolved to the satisfaction of the parties and the Commission, it is our view that approval of the 2020 All Source RFP is a reasonable result after resolution of these issues or acceptance of suggested modifications for addressing key issues.

Based on Merrimack Energy's review of the RFP and related information, the conclusions and recommendations of the IE are presented as follows:

Conclusions

- The RFP documents and processes are consistent with the Utah Admin. Code, Regulations and Statutes pertaining to the requirements for the design and development of the competitive bidding process. The IE believes that PacifiCorp has adequately addressed the requirements listed in the Statutes, including the following;
 - Utah Admin Code R746-420-1(1) to R746-420-1(3)
 - Utah Admin Code R746-420-3(7);
- Under the current structure of the RFP as an All Source solicitation process along with the suggestion to allow existing projects to submit proposals under certain conditions, it can reasonably be expected that the solicitation process would lead to the acquisition and delivery of electricity at the lowest reasonable cost to the retail customers. The IE and others have suggested revisions to the RFP which should hopefully result in a more competitive process for the benefit of customers;
- Based on the identified requirements in the RFP, the identification of location of resources expected, the shortlist selection approach that is intended to select projects from all types of resources proposed, and the opportunity for all supply-side options to participate, the IE expects there will be a significant market response that will result in a robust and competitive response from the market;

- The 2020AS RFP is a reasonably transparent solicitation process, with a significant amount of information provided to bidders on which the bidders could base their proposals;
- The 2020AS RFP is designed to provide the same information to all bidders at the same time;
- The products sought in this RFP are clearly defined and the information required for each type of resource alternative is specified in the RFP in a clear and concise manner;
- The RFP documents clearly describe the products requested, the requirements of bidders, the evaluation and selection process, eligibility and evaluation criteria and the risk profile of the buyer. In this regard, there is sufficient information to allow bidders to assess whether or not to compete, the product of choice to bid to be most competitive, and the process by which their proposals will be evaluated;
- Parties have raised the issue of ensuring comparability for resource evaluation, notably ensuring that third-party PPA and Build Transfer (BTA) bids are required to compete based on the same set of rules or on a level playing field. The IE also views comparability to be the most challenging issue in a solicitation process in which utility-owned resources compete with third-party resources. While PacifiCorp is not submitting any self-build ownership proposals (benchmark resource) in the 2020AS RFP and is not accepting any bids from any PacifiCorp affiliate, PacifiCorp will still have ownership of any BTA project selected. However, the nature of a Build-Transfer option in which third-party bidders compete to develop, build, and turn over a project to PacifiCorp after meeting the specified milestones based on project specifications outlined by PacifiCorp should serve to minimize the risk of price changes and change orders if implemented and managed properly. One issue associated with comparability is the different terms of the PPAs and BTAs. PacifiCorp has allowed PPA bidders to offer up to a 25-year contract term which is in close approximation of the expected 30-year BTA option. Merrimack Energy has proposed several ways to create a more level playing field in the solicitation process.
- The evaluation process and quantitative methodologies developed by PacifiCorp for undertaking the initial shortlist evaluation including the RFP Screening Spreadsheet Model (formerly referred to as RFP Base Model), the Locational Correlation and Capacity Model (LCC model) and the StorageVET model as well as the IRP models used for evaluating and selecting the final short list (System Optimizer and PaR models) are applicable for the modeling the range of the proposals expected in this RFP. Furthermore, the model methodology is consistent with and likely exceeds industry standards applied by others for conducting such a price and non-price analysis for an All Source RFP. While the spreadsheet model may be unique to PacifiCorp, the model methodology and concept is consistent with the approaches applied by others, notably a comparison of the costs and benefits for each proposal. The portfolio evaluation and risk assessment methodologies and models are very detailed, have been used for development of

PacifiCorp's IRP and have been vetted through the IRP process, and are generally pertinent to the requirements of the Energy Procurement Resource Act.

- The evaluation and selection process is a comprehensive process designed to evaluate the cost implications associated with different resource portfolios, non-price factors required in the Act that influence project viability, and assesses the risk parameters associated with the portfolios.
- PacifiCorp has met the requirements of Utah Admin. Code R746-420-1(2) by providing the IE with data, information and models necessary for the IE to analyze and verify the models. PacifiCorp provided the IE with the latest version of its price screening spreadsheet model that will be used for the phase I shortlist evaluation as well as the latest input assumptions, which may be subject to revisions. In addition, PacifiCorp held a workshop to walk the IEs and regulatory staff through the models to illustrate the flow of information and the capabilities of each model.

Summary of Recommendations²

- The IE has provided recommendations associated with meeting the requirements in the statute for equivalent contract terms. Section R746-420-3(8)(k) states that the solicitation must allow power purchase contract terms equivalent to the projected facility life of the Benchmark option³, which we understand to be 30 years. The recommendation of the IE is to allow PPA bidders to offer either a 30-year term or a 25-year contract with up to a 5-year extension that is a firm price and would be exercised at the option of the buyer;
- Based on the tight schedule to complete Phase I of the process, PacifiCorp proposes to allow bidders 24 hours to cure any deficiencies in their proposals. After comments by Merrimack Energy, PacifiCorp agreed to allow bidders two days to cure but will strongly encourage bidders to cure within 24 hours. To minimize errors on the part of bidders for completing the offer forms we recommend that PacifiCorp hold a Workshop or Technical conference for bidders to walk the bidders through the offer forms and to guide the bidders in completing the required forms. We have suggested similar processes in other solicitations where there are either new resources being solicited or complex forms which may be a challenge for the bidders to complete effectively. The Offer Form Workshop or Technical Conference could take place in conjunction with the Bidder Workshop on July 9, 2020 or as a separate session and should serve to limit bidder errors and minimize the requirements to cure bids before beginning the evaluation process;
- Merrimack Energy recommends that the Commission grant PacifiCorp's request for a waiver of the bid blinding requirements in the Statute (Utah Admin. Code R746-420-3(10)(a)). However, the IE still suggests that questions and answers will be blinded in that

² See Section V of this report for a more detailed description of each of the issues and the basis for the recommendation.

³While Utah Code and Regulations, Section R746-420-3(8) continually refers to a benchmark option, we assume the benchmark option generally means a utility ownership option, including a BTA.

PacifiCorp will not know the identity of the bidder when the questions from the bidders are provided to PacifiCorp for a response by the IE. Merrimack Energy will remove the name or reference to the bidder prior to submitting the question to PacifiCorp;

- Merrimack Energy supports the proposals of the Division of Public Utilities, Office of Consumer Services, and Utah Association of Energy Users regarding the inclusion of existing resources to compete in the All Source RFP as long as the conditions and options are agreed to in advance and are clearly identified in the RFP. We also agree with PacifiCorp’s proposal to conduct a separate solicitation for demand response and energy efficiency resources.
- For the final RFP, we feel PacifiCorp should clarify its specific evaluation and selection methodology for initial and final evaluation and selection so there is no ambiguity regarding the shortlist selection process and decision parameters for each resource type and location;
- Merrimack Energy suggests that PacifiCorp also include a table in the RFP document that lists the net cost components (i.e. cost and value or cost and benefit categories) and provide a brief description of each cost and benefit/value component in the RFP document;
- Merrimack Energy has provided a separate memo to PacifiCorp which included several recommendations associated with the non-price evaluation criteria listed in the RFP and described in more detail in Appendix L of PacifiCorp’s application filing. The revisions suggested are intended to conform the criteria to the statements listed on page 27 of the Draft RFP that “the non-price analysis will gauge the maturity and readiness of the project including the development, site control, permitting, equipment procurement, conformance to PPA or BTA terms and conditions, schedule, and operational characteristics and associated risks of each bid. Merrimack Energy’s primary recommendations include the following:
 - Include the majority of the Conformance to RFP Requirements in Minimum Eligibility Requirements and reallocate all or most of the 5% of the 25% dedicated to Conformance to RFP Requirements to other criteria that reflect more significantly on project viability. The one possible exception may be Compliance with Technical or Operating Specifications, which could be allocated 2%;
 - Merrimack Energy would suggest reducing the percent for Contract Compliance from 10% to 5% or less because of the nature of this criteria which cannot be easily translated into a “check the box” or “self-scoring” criteria. In addition, PacifiCorp has provided two pro forma contracts (PPA for resources and PPA for resource plus storage) and two term sheets (BTA and Storage Agreements). The BTA and Storage Term Sheets are only 12 pages. Instead of awarding points based on whether or not the bidder provides redlines as PacifiCorp proposes, we think it is more appropriate to award points if the bidders attest that they are willing to execute the proforma contract (if they take no or limited exceptions) or if they have had an outside attorney review the contract and term sheet. For example, PacifiCorp proposes to award all 10% of the score to a proposal that

provides comments and redlines. However, the redlines could be designed to shift the risk in the pro forma contract totally to the utility and its' customers, which is a negative outcome for which the bidder will be rewarded under PacifiCorp's proposal. While we have found that it is difficult to treat Contract Compliance as an objective criteria (i.e. self-scoring) aligning the value of a proposal with a defined outcome may be more applicable if the above criteria associated with willingness to execute a contract as is or legal review is undertaken may be more reasonable;

- Allocate the remaining points to Project Readiness and Deliverability criteria;
 - Based on our comments on the other criteria we would suggest allocating a maximum of up to 5% for Contract Conformance and up to 18% to 20% for Project Readiness and Deliverability (i.e. Project Viability). The allocations percentages could be 4% to 5% to each of the four sub-criteria or some other weighting to reflect PacifiCorp's view of categories that may be more important to overall project viability;
 - We also suggest PacifiCorp consider broadening the elements included in Bidder Development Experience and also consider focusing on criteria related to the number of projects completed by the bidder of similar size and technology as proposed rather than the amount of MWs for the projects developed.
- With regard to credit support, if the credit support levels listed in Appendix D are contractual amounts, for consistency purposes, PacifiCorp may want to consider asking bidders to include the cost of this level of security in their bid pricing;
 - Merrimack Energy recommends that the allowable alternatives for all resource options should be clarified in Table 3 of the RFP and agrees with PacifiCorp's clarification response that all bidders will have the opportunity to offer two alternatives and a base bid for the same bid fee, including energy storage options;
 - Given the importance of transmission and interconnection for this RFP and the change in the transmission interconnection process, Merrimack Energy recommends that PacifiCorp hold a Transmission Workshop separate from the Bidders Conference to address transmission issues, including issues identified by OCS and Interwest regarding the Gateway South transmission project, cost implications, other transmission options available for bidders, and provide an overview of the Cluster study process it intends to implement for this RFP;
 - The IE recommends that unless there are any specific reasons to the contrary, it appears reasonable to us that projects in PacifiCorp Transmission's interconnection queue as of April 1, 2020 should be allowed to bid. As Interwest notes, this will allow the potential for more competition while not creating any fairness issues since it appears that potential bidders may not have known in advance that January 31, 2020 would be the cutoff date to get into the queue to be eligible for the RFP;
 - Task B3 of the IE Scope of Work as listed in the Commission's RFP for Independent Evaluator requires the IE to set up and maintain a webpage or database for information

exchange between bidders/potential bidders and PacifiCorp **only if directed by the PSC in its Approval of the Solicitation Process**. Merrimack Energy proposed to establish a webpage on its website to accommodate this requirement similar to the webpages we established for previous PacifiCorp RFPs. The webpage will be used to accept questions from bidders, which Merrimack Energy staff will blind by removing the name of the bidder, before sending the questions to PacifiCorp for a response. Merrimack Energy will then review the responses and post the Question and Answer to the webpage for bidders to review. Merrimack Energy will also post any RFP documents on the webpage as well as posting any Notices to bidders of upcoming schedule items or changes to RFP documents.

I. Introduction

Merrimack Energy Group, Inc. (Merrimack Energy) was retained by the Public Service Commission of Utah (“Commission” or “PSC”) to serve as Independent Evaluator for PacifiCorp’s 2020 All Source RFP (“2020 AS RFP” or “2020 RFP”). The scope of work for the assignment requires the Independent Evaluator (IE) to participate in all three phases of the solicitation process: (1) RFP design and solicitation process approval; (2) Solicitation process bid monitoring and evaluation and (3) Energy resource decision approval process. The objective of the IE is to actively monitor the solicitation process for fairness and to render an opinion as to whether PacifiCorp’s solicitation process is fair and in the public interest, and in compliance with Utah Code and Regulations and PSC Orders. The specific tasks for the Independent Evaluator under each phase of the solicitation process as listed in Merrimack Energy’s contract with the Commission are identified below. The specific tasks outlined will guide the activities of the Independent Evaluator throughout the solicitation process.

Solicitation Process Approval

1. Review PacifiCorp’s proposed solicitation process to assure it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to PacifiCorp’s retail customers taking into consideration long-term and short-term impacts, risk, reliability and the financial impacts on PacifiCorp;
2. Review PacifiCorp’s proposed solicitation process, including the associated interconnection process and requirements, to assure the evaluation criteria, methods and computer models are sufficient to evaluate the prospective bids in a manner that is fair, unbiased and comparable, to the extent practicable, and that the evaluation tools will be sufficient to determine the best alternative for PacifiCorp’s retail customers;
3. Review the adequacy, accuracy and completeness of all proposed solicitation materials to ensure that paragraph 1 objectives are achieved. The solicitation materials include: disclosure information, bid templates, disclosure of evaluation criteria, methods, models, contracts, and documents relating to the modification to the interconnection process;

4. Provide input on the development of screening and evaluation criteria, ranking factors, and evaluation methods. Ensure that screening and evaluation criteria take into consideration the assumptions included in PacifiCorp's most recent IRP;
5. Attend PacifiCorp's Bidder/Stakeholder Workshops and Technical Conferences;
6. Facilitate and monitor communications between PacifiCorp and bidders;
7. Provide confidential monthly status reports to the Commission, DPU, and PacifiCorp on all aspects of the solicitation approval process as it progresses;
8. File a written evaluation including recommendations with the Commission regarding the results of the above tasks. Include recommendations on approval of the proposed solicitation or modifications required for approval and the bases for recommendations;
9. Testify before the Commission regarding approval of the proposed solicitation, if necessary.

2. Solicitation Process Monitoring and Evaluation

1. Monitor, observe, validate, and offer feedback to PacifiCorp, the PSC and the DPU on all aspects of the solicitation process, including: the content of the solicitation; communications between bidders and PacifiCorp; evaluation and ranking of bid responses; PacifiCorp Transmission Queue Reform process; creation and selection of the "short list" of bidders for more detailed analysis and negotiation; negotiations between short list bidders and PacifiCorp; ranking of the final list of alternatives; negotiation of proposed contracts with successful bidders; and selection of energy resource(s);
2. Document all substantive correspondence and communications with PacifiCorp and bidders;
3. Attend and participate in PacifiCorp's pre-bid conferences;
4. If directed by the PSC in its Approval of the Solicitation Process, set up and maintain a webpage or database for information exchange between bidders/potential bidders and PacifiCorp. This webpage or database must include all solicitation materials and questions submitted by bidders along with the corresponding responses;
5. Administer the solicitation process by receiving bids and issuing bid numbers before submittal to PacifiCorp for evaluation and ensure all bids are treated in a fair and non-discriminatory manner;
6. If required, serve as the primary conduit for bidders to submit pre-blinded bids; ensure all bids are appropriately blinded as required before submittal to PacifiCorp for evaluation;

7. Monitor all communications with bidders after receipt of bids and monitor negotiations conducted by PacifiCorp and any short-listed bidders;
8. Monitor and audit the evaluation process and validate that evaluation criteria, methods, models and other solicitation processes, including interconnection queue reform, have been applied as approved by the Commission and consistently and appropriately applied to all bids. Audit the bid evaluations to verify that assumptions, inputs, outputs and results are appropriate and reasonable. Analyze, operate, and validate all important models, modeling techniques, assumptions and inputs;
9. Advise the Commission, Division of Public Utilities (“DPU”), and PacifiCorp of any issue that might reasonably be construed to affect the integrity of the solicitation process and provide PacifiCorp an opportunity to remedy the defect identified. Advise the Commission and DPU of significant changes or unresolved issues as they arise;
10. Provide monthly status reports to the PSC, the DPU and PacifiCorp on all aspects of the solicitation process as it progresses noting any deficiencies in the preparation of solicitation materials, maintenance of records, communications with bidders, in evaluating or selecting bids, or negotiations with bidders;
11. Within approximately two weeks of PacifiCorp’s selection of the final short list, provide a draft report to the Commission and DPU detailing the methods and results of PacifiCorp’s initial screening and full evaluation of all bids. Include a description of the bids, selection criteria, the basis for the selection of the short-listed bids and rationale for eliminating bids. Within approximately one week of receipt of comments on the report, modify and file the report with the PSC and provide a copy to the DPU;
12. Monitor all aspects of the negotiation process, including: communications between short list bidders and PacifiCorp; and proposed contract revisions. Provide input to PacifiCorp on the negotiation of proposed contracts with successful bidders or on other matters, consistent with the statute.

3. Participation in the Energy Resource Decision Approval Process

1. File a detailed final report (confidential and public versions) with the Commission and provide a copy to the Division within 21 days of PacifiCorp’s final ranking of bids and identification of its Energy Resource Decision;
2. If requested, meet with the Commission to discuss the Final Report;
3. Participate in any Utah technical conferences related to the Energy Resource Decision Approval Process;
4. Testify during the Energy Resource Decision Approval Process in Utah.

Utah Law Regarding Competitive Bidding

Utah State Law 54-17-101, known as the Energy Resource Procurement Act (2005) requires that an affected electric utility seeking to acquire or construct a significant energy resource⁴ shall conduct a solicitation process that is approved by the Commission. The Commission shall determine whether the solicitation process complies with this chapter and whether it is in the public interest taking into consideration whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electric utility located in the state.

Rule R746-420 – Requests for Approval of a Solicitation Process outlines in detail the requirements of a solicitation process with regard to implementation of the Energy Resource Procurement Act. Among other issues, Rule R746-420-1 provides general provisions regarding the filing requirements for the soliciting utility in seeking approval of the solicitation, a description of the solicitation process and associated requirements, and the roles and responsibilities of an Independent Evaluator to oversee the solicitation process.⁵

According to R746-420-3, all aspects of the Solicitation and Solicitation Process must be fair, reasonable and in the public interest. A proposed Solicitation and Solicitation Process must be reasonably designed to:

- Comply with all applicable requirements of the Act and Commission Rules;
- Be in the public interest taking into consideration:
 - Whether they are reasonably designed to lead to the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of the Soliciting Utility located in the state
 - Long-term and short-term impacts
 - Risk
 - Reliability
 - Financial impacts on the Soliciting Utility; and
 - Other factors determined by the Commission to be relevant;
- Be sufficiently flexible to permit the evaluation and selection of those resources or combination of resources determined by the Commission to be in the public interest;
- Be designed to solicit a robust set of bids to the extent practicable; and
- Be commenced sufficiently in advance of the time of the projected resource need to permit and facilitate compliance with the Act and the Commission rules and a reasonable evaluation of resource options that can be available to fill the projected need.

The specific requirements for the solicitation process are included in Section R746-420-3 of the Rules. The key provisions by topic area in the rules are identified and briefly summarized below.

- (1) ***General Objectives and Requirements of the Solicitation Process*** – Requires that the solicitation process must be fair, reasonable and in the public interest and be designed

⁴ A significant energy resource is defined as a resource that consists of a total of 100 MW or more of new generating capacity that has a dependable life of ten years or more.

⁵ The testimony of Bruce Griswold references Sections in R746-420-1 to demonstrate that PacifiCorp's application complies with Utah Statutes and Rules.

to lead to the acquisition of electricity at the lowest reasonable cost to retail customers in the state;

- (2) **Screening Criteria – Screening in a Solicitation Process** – The utility shall develop and utilize screening and evaluation criteria, ranking factors and evaluation methodologies that are reasonably designed to ensure the solicitation process is fair, reasonable and in the public interest in consultation with the IE and Division;
- (3) **Screening Criteria – Request for Qualification and Request for Proposals** – The soliciting utility may use a Request for Qualification (RFQ) process;
- (4) **Disclosures – Benchmark Option – N/A**
- (5) **Disclosures – Evaluation Methodology** – The solicitation shall include a clear and complete description and explanation of the methodologies to be used in the evaluation and ranking of bids including all evaluation procedures, factors and weights, credit requirements, proforma contracts, and solicitation schedule;
- (6) **Disclosures – Independent Evaluator** – The solicitation should describe the role of the IE consistent with Section 54-17-203 including an explanation of the role, contact information and directions for potential bidders to contact the IE with questions, comments, information and suggestions;
- (7) **General Requirements** – The solicitation must clearly describe the nature and relevant attributes of the requested resource. The solicitation should identify the amounts and types of resources requested, timing of deliveries, pricing options, acceptable delivery points, price and non-price factors and weights, credit and security requirements, transmission constraints, etc.
- (8) **Process Requirements for a Benchmark Option** – N/A –
- (9) **Issuance of a Solicitation** – The utility shall issue the solicitation promptly after Commission approval;
- (10) **Evaluation of Bids**– The IE shall have access to all information and resources utilized by the utility in conducting its analyses. The utility shall provide the IE with access to documents, data, and models utilized by the utility in its analyses; The IE shall monitor any negotiations with short listed bidders.

In addition to the Introduction, the report is presented in five other sections. Section II provides a brief background on the key issues associated with an effective competitive procurement process. Section III describes the key provisions of the initial Draft 2020 All Source RFP. Section IV provides a summary of the positions of the parties in the case as presented in the comments filed by each party. Section V provides a discussion of RFP issues identified by the IE and recommendations for addressing these issues. Finally, Section V provides our conclusions and recommendations.

II. Background

When evaluating and assessing the design of a competitive procurement process, Merrimack Energy, as Independent Evaluator, generally conducts its assessment relative to a number of factors, including the following:

- Regulatory statutes or rules underlying the competitive procurement process in a specific state. For this solicitation, Utah Code and Regulations pertaining to competitive solicitation processes apply;
- The types of resources, products, and contract structures solicited;
- The objectives of the process;
- The fairness and transparency of the process; and
- The consistency with industry standards for similar types of solicitations.

For this type of solicitation (i.e. All Source Solicitation), it is important that the RFP is structured such that all types of eligible resources have a reasonable opportunity to compete.

Criteria for an Effective Procurement Process

In assessing whether a competitive procurement process is likely to lead to a positive outcome which benefits customers, meets the objectives and criteria established, and is consistent with regulations and statutes, Merrimack Energy considers the following questions:

- Is the solicitation process fair, equitable, unbiased, and comprehensive for all bidders?
- Is the solicitation process reasonably transparent to Bidders?
- If applicable, does the solicitation process allow for a reasonably level playing field with regard to the evaluation of utility-ownership options and third-party proposals
- Will the process likely lead to positive benefits to utility customers?
- Is the process adequately designed to encourage broad participation from eligible bidders?
- Do the RFP documents adequately define the products solicited, the objectives of the process, bidding guidelines, the bidding requirements to guide bidders in preparing their bids, the bid evaluation and selection criteria of importance, and the risk factors important to the utility issuing the RFP?
- Are the contracts designed to provide a reasonable balance of risk relative to the objectives of the counterparties, seeking to minimize risk to utility customers while ensuring that projects can reasonably be financed and developed?
- Does the evaluation methodology identify how qualitative and quantitative measures are considered and are consistent with the defined metrics for evaluation and selection?
- Are there differences in the evaluation methods for different technologies that cannot be explained in a technology neutral manner?
- Does the quantitative evaluation methodology allow for consistent evaluation of bids of different sizes, technologies, products and in-service dates?

The application of a fair and transparent competitive procurement process is important for creating competition for the overall benefit of customers. Fairness generally means that all bidders are treated similarly, have access to the same information at the same time, and have equal opportunity of being successful in the process. A reasonable level of transparency⁶ is also another important element leading to a successful solicitation process. Transparency means that there is a reasonable amount of information to guide bidders in preparing a complete proposal to meet utility requirements. Transparency is important with regard to the requirement that no party, particularly an affiliate, should have an informational advantage in any part of the solicitation. Reasonably transparent processes are those that provide information guidance and direction to bidders on the information required by the utility to evaluate their proposal, provide guidance on the bid evaluation criteria, bid evaluation and selection process. Fair and reasonably transparent processes should encourage competition among potential bidders who can adequately determine if they have the ability to effectively compete in the process and lead to more complete and comprehensive proposals. The greater the level of competition for all products sought by the utility the greater the chance for competitive options and lower prices for consumers.

Along with fairness and transparency, another issue of importance to bidders is the possibility for bias in the procurement process. Bias can take several forms such as design of a competitive procurement process in which bidders feel that the process unduly favors one type of resource over another. Bias can also come into play with regard to the application of the quantitative and qualitative evaluation processes such as quantitative methodologies that favor projects of different terms, sizes or in-service dates or different transaction types.

Another consideration in assessing the integrity of the solicitation process is to assess whether the risk allocation associated with contracts for different types of resources or product types is reasonable. Ideally, all contract types and resource types would include provisions/conditions that allow for the same or very similar risk allocation to allow for a completely level playing field. However, in practice this is not inherently practical since different transaction types and resource types have different characteristics. For example, solar projects may have different characteristics than geothermal projects. Placing all of these options on a level playing field in terms of risk allocation and in evaluating bids is a real challenge.

Lastly, one of the key considerations is the level of comparability included in the evaluation process to ensure that all bids are evaluated fairly and placed on a level playing field. This principle is particularly important in cases where a utility-ownership option is competing against third-party options. This report will address the comparability issue in more detail later in the report.

⁶ Merrimack Energy always uses the term “a reasonable level of transparency” because a competitive procurement process is very rarely fully transparent. Bidders, for example, don’t have access to the utility’s models and data used to evaluate other proposals. Likewise, the utility generally doesn’t provide the detailed back-up information for all the criteria used to evaluate bids from a qualitative perspective.

III. Summary of the Key Provisions of the All Source RFP

This Chapter of the Report will provide a high-level description of the Draft 2020AS RFP and the associated Appendices and Attachments.

On April 9, 2020, PacifiCorp (d/b/a Rocky Mountain Power) filed an application with the Utah Public Service Commission (“Commission”) in Docket No. 20-035-05 requesting approval of a the Company’s 2020 All Source Request for Proposals (“2020AS RFP”), seeking new resources to meet projected capacity and energy needs up to the amount identified in the 2019 Integrated Resource Plan (“IRP”) through the end of 2023. The 2019 IRP preferred portfolio includes 1,823 megawatts (“MW”) of new proxy solar resources co-located with 595 MW of new proxy battery energy storage system (“BESS”) capacity and 1,920 MW of new proxy wind by the end of 2023. A Scheduling Conference on the approval of the solicitation process was held on April 24, 2020, with a Scheduling Order issued by the Commission on May 4, 2020.

Based on the Schedule in this Docket, initial comments on the draft RFP were due on May 22, 2020 and the Report of the Independent Evaluator on the draft RFP is due on June 3, 2020. Reply comments by all parties are due on June 15, 2020.

The scope of the draft 2020 All Source RFP is focused on PacifiCorp’s proposal to issue an All Source RFP to acquire resources consistent with its 2019 IRP Action Plan that can achieve commercial operations by the end of December 2023 and as late as December 31, 2024. On January 23, 2020, PacifiCorp notified the Public Service Commission of Utah of its intent to seek approval of a solicitation process for up to 6,000 MW of renewable and non-renewable resources and approximately 600 MW of battery energy storage systems, all capable of delivering capacity and energy to PacifiCorp’s system. Bidders could submit proposals under the following structures: (1) Power Purchase Agreement (“PPA”) for a resource only; (2) PPA for a Battery Energy Storage System (“BESS”) co-located with a renewable resource; (3) Battery Energy Storage Agreement; and (4) Build-Transfer Agreement.

The initial draft of the 2020AS RFP was provided to the IE and posted on PacifiCorp’s website on or around April 9, 2020. The draft RFP provided a detailed description of the resource alternatives sought by PacifiCorp, the logistics for submitting a bid including the information, forms, and schedules required with each type of resource alternative proposed, a description of the bid evaluation process and a description of the evaluation criteria to be used to evaluate and select bids. The draft RFP contains twenty-two Appendices. In addition, there are Forms in the document for bidders to fill out and submit with their proposal. Finally, the draft RFP contains a description of the role of the Independent Evaluator in the bidding process, and a FERC Standard of Conduct.

Subsequent to submission of the draft RFP, the IE prepared a list of questions regarding the RFP and associated documents and sent the questions to PacifiCorp for review and response. On April 17, 2020, PacifiCorp, members of the DPU staffs, and the IEs in Utah and Oregon held a conference call to discuss PacifiCorp’s shortlist evaluation and selection methodology in detail

and input assumptions to prepare for the evaluation process. PacifiCorp also provided the IEs and Division staffs with copies of the models it intends to use for the initial evaluation. PacifiCorp scheduled a workshop on May 13, 2020 to review the models and methodologies which PacifiCorp intends to use for the initial evaluation process and to solicit questions and comments from the parties.

Summary of the Key Provisions From the 2020AS Draft RFP

In addition to posting the draft RFP document, PacifiCorp provided a number of Appendices to the RFP with its filing. The Appendices to the RFP are listed below.

1. RFP Main Document
2. Appendix A – 2020AS RFP Project Technical Specification for BTAs
3. Appendix B-1 – Notice of Intent to Bid
4. Appendix B-2 – Instructions and Information Required in Bid Proposals
5. Appendix C-1 – Bid Summary and Pricing Input Sheet (Instructions)
6. Appendix C-2 – Bid Summary and Pricing Input Sheet
7. Appendix C-3 – Third-Party Energy Performance Report
8. Appendix D – Bidder’s Credit Information
9. Appendix E-1 – PPA and BSA Instructions to Bidders
10. Appendix E-2 – Power Purchase Agreement (PPA) Documents
11. Appendix E-3 – Battery Storage Agreement (BSA) Documents
12. Appendix F-1 – BTA Instructions to Bidders
13. Appendix F-2 – Build Transfer Agreement (BTA) Documents
14. Appendix G-1 – Confidentiality Agreement
15. Appendix G-2 -Non-Reliance Letter
16. Appendix H – 2020AS RFP Location Capacity Limits
17. Appendix H-1 – Major Substations Associated with Locational Capacity Limits
18. Appendix I – FERC’s Standards of Conduct
19. Appendix J – PacifiCorp Transmission Waiver
20. Appendix K – General Services Contract - Operations and Maintenance Services for Project
21. Appendix L – Non-Price Scoring Matrix
22. Appendix M – Role of the Independent Evaluator
23. Appendix N – PacifiCorp’s Organization for RFP Process

Exhibit 1 lists the key provisions of the 2020AS Draft RFP included in Docket No.20-035-05 on the Commission website.

**Exhibit 1
Summary of Key Provisions of the Draft 2020AS RFP**

RFP Characteristics	All Source RFP
Resource Requirements	PacifiCorp’s Resource Requirements are based on an action item from the 2019 IRP to conduct an All Source RFP in 2020. The 2019 IRP preferred portfolio includes 1,823 MWs of new proxy solar resources

	co-located with 595 MW of new proxy battery energy storage system capacity and 1,920 MW of new proxy wind resources by the end of 2023.
Resource Timing – On-line Date	While PacifiCorp originally proposed to secure resources with an end of year 2023 date, federal legislation was passed extending the PTC to allow projects that begin construction in 2020 to receive a 60% PTC if placed into service by year-end 2024. As a result, the 2020AS RFP will consider bids that can achieve commercial operations by December 31, 2024.
Eligibility	PacifiCorp will accept qualified proposals from bidders who currently or have legally binding rights to develop new green-field resources that are discrete generating assets, are not located behind any load served by a utility or net-metered and can be individually metered and remotely monitored. The following resource types were identified as eligible in the RFP: Renewable resources, Renewable plus battery storage, Non-Renewable, Standalone battery storage, pumped storage hydro, and nuclear.
Transaction Structures/Resource Alternatives	PacifiCorp will consider proposals for the following transaction structures: (1) Power Purchase Agreement for up to a twenty-five year term for a resource only or a resource co-located with a BESS; (2) Build-Transfer Agreement whereby the bidder develops the project, assumes responsibility for construction and ultimately transfers the operating asset to PacifiCorp in accordance with the terms of the BTA Agreement; and (3) Control of the output of a BESS as a standalone project through a Battery Storage Agreement (BSA). ⁷
Bid Alternatives	Each bidder shall pay a bid fee of \$10,000 for each base proposal and two alternatives submitted. Bidders will also be allowed to offer up to three additional alternatives to the base bid at a fee of \$3,000 each. Alternatives will be limited to different contract terms, in-service dates, and/or pricing structures. For standalone storage and collocated bids that include a BESS, bidders must submit a base bid that includes battery augmentation and one bid alternative that includes non-augmentation.
Bidding Process/Bidding Requirements	The Company will conduct a multi-stage process. In the first stage, the bidder must submit a Notice of Intent to Bid Form, the Bidder’s Credit Information, and Confidentiality Agreement. In the second stage, bidders are required to submit their proposals and respond to the requirements for the type of transaction structure/resource alternative they are proposing. All bidders must submit Appendix B-2 – Instructions and Information Required in Bid Proposals, Appendix C-2 – Bid Summary and Pricing Input Sheet, Appendix C-3 – Third-Party

⁷ PacifiCorp will accept BTA options for all resources except nuclear. PacifiCorp will also PPA options for Renewable, Renewable with storage, non-renewable and nuclear. PacifiCorp will accept BSA proposals for standalone battery storage and a tolling agreement for pumped storage hydro.

	Energy Performance Report, and redlines or comments to the applicable contract document.
Utility Bid Options	PacifiCorp is not submitting any self-build ownership proposals (benchmark resources) in the 2020AS RFP and is not accepting any bids from any PacifiCorp affiliate.
Evaluation Process – Short List Selection	<p>PacifiCorp proposes a three-phase price evaluation and selection process, with multiple steps as will be described in more detail below. The three phases include (1) Initial Shortlist (2) Interconnection cluster study and contract development and (3) Final Shortlist.</p> <p>Phase I entails the acceptance of the bid, due diligence and screening to ensure bids conform with minimum requirements established in the 2020AS RFP, price and non-price scoring and ranking of bids based on their location in relationship to the 2020 IRP topology and resource type, and advancing the best net cost bids by bid type/technology to the initial shortlist. In the first phase, conforming bids will be evaluated using PacifiCorp’s proprietary pricing models and ranked by resource type within each IRP topology location. PacifiCorp will limit the capacity in a given location to 150% of the capacity chosen by the company’s 2019 IRP portfolio. PacifiCorp will establish an initial shortlist based on both price and non-price factors, The Company intends to evaluate each bid received in a consistent manner by separately evaluating the non-price characteristics of the resource and the price characteristics. Price will account for up to 75% of the score and non-price up to 25%. From a pricing perspective, all bids will be evaluated using PacifiCorp’s proprietary spreadsheet model to calculate the delivered revenue requirement cost of each market bid, inclusive of any applicable carrying cost and net of tax credit benefits. The cost of each bid will be netted against system value curves. Bid costs net of the applicable system value will be used to assign a price score to each bid. This will be achieved by calculating an inflation adjusted real-levelized net cost of capacity expressed in \$/kW based on the capacity contribution of each bid. The calculated net benefit for each resource will be forced ranked, with a maximum of 75 points to the evaluated bid with the highest calculated net benefit by location and resource type and a minimum of 0 points to the evaluated bid with the lowest calculated net benefit; and the remaining bids scored on a 0 to 75 point scale according to the relationship of their respective calculated net benefits to those of the highest and lowest bids.</p> <p>PacifiCorp will use the combined price and non-price results to rank bids. Based on these rankings, PacifiCorp will identify an initial pool of resources by location and resource type based on total bid score (maximum at 100%, with a maximum of 75% for price and a maximum of 25% for non-price factors).</p>

	<p>After PacifiCorp notifies bidders they had been selected for the initial shortlist, Bidders will then be required to notify PacifiCorp Transmission of their selection to the initial shortlist to demonstrate they have met the “commercial readiness” criteria established in PacifiCorp Transmission’s interconnection queue reform process.</p>
Non-Price Evaluation	<p>In phase I of the evaluation process, price and non-price weights are combined to select the short list within each resource Category. The non-price analysis is designed to gauge the maturity and readiness of the project including development, site control, permitting, equipment procurement, conformance to PPA or BTA terms and conditions, schedule, and operational characteristics and associated risks of each bid.</p>
Phase II – Interconnection Cluster Study and Contract Development	<p>Phase II is comprised of the following tasks: transition cluster study report issued by PacifiCorp Transmission, resource capacity factor verification and storage performance performed by third-party consultants for PacifiCorp, preliminary contract negotiations with the initial shortlisted bidders, and bid update by the initial shortlist. At the conclusion of the interconnection cluster study process, results of the transition cluster study will be available to bidders. Bidders will then be required to update their bid pricing and to include study results.</p>
Phase III – Final Shortlist	<p>Phase III is the selection of the final shortlist. In Phase III the same production cost models used for the IRP and for the selection of the initial shortlist in Phase I will be rerun for the initial shortlist resources with updated bid pricing and interconnection cost results.</p> <p>PacifiCorp will use the System Optimizer (SO) model to develop a resource portfolio. As was done in the 2019 IRP and in Phase I, PacifiCorp will perform a reliability assessment to ensure that the selected portfolio of resources can meet all hourly load and operating reserve requirements with sufficient cushion to account for other system uncertainties.</p> <p>PacifiCorp will also evaluate each of the resource portfolios developed with the SO model using Planning and Risk (PaR). PaR captures stochastic risk in its production cost estimates. PaR will be used to calculate the stochastic mean PVRR(d) and the risk-adjusted PVRR(d) and the risk-adjusted PVRR for each policy-price scenario.</p> <p>Based on the results of the evaluation and in consultation with the IEs, PacifiCorp will select one or more resource portfolios for further scenario risk analysis. Before establishing a final shortlist, PacifiCorp may take into consideration, in consultation with the IEs, other factors that are not expressly or adequately factored into the evaluation process described above, particularly any factor required by applicable law or</p>

	Commission order.
Credit Requirements	Appendix D – Bidder’s Credit information lists the information bidders are required to provide with Appendix B-1 – Intent to Bid Form. The bidder may be required to post credit assurances for the applicable bid categories of Power Purchase Agreement or Build Transfer Agreement, each of which will be expected to have a COD date of no later than December 31, 2024. The RFP selected resources have the potential to expose PacifiCorp and its ratepayers to credit risk in the event a selected bidder is unable to fulfill its obligations pursuant to the terms of an executed agreement. The credit risk profile is a function of several factors: (1) type of resource agreement; (2) size of the resource; (3) expected energy delivery start date; (4) term of underlying contract; and (5) Creditworthiness of bidder and bidder’s credit support provider. For PPAs, development security is \$200/kW provided at contract execution. The amount will be reduced to \$100/kW. The amount of credit assurance for BTA options is \$200/kW.
Transmission	<p>PacifiCorp will not accept Build-Transfer transactions for projects using third-party transmission service for delivery to PacifiCorp’s system. PacifiCorp is accepting new resources proposed under a PPA transaction capable of interconnecting with third-party transmission systems and using third-party firm transmission service to deliver to PacifiCorp’s transmission system.</p> <p>All proposals will require firm transmission on PacifiCorp’s network transmission system to load and proposed resources must be able to be designated by PacifiCorp’s merchant function as a network resource eligible for inclusion in PacifiCorp ESM’s network integration transmission service agreement with PacifiCorp’s transmission function.</p>
Interconnection	Bidders will be required to meet the minimum eligibility requirement for RFP conformance demonstrating that its project bid conforms with the project’s interconnection documentation, which could be : (a) only an interconnection request, as long as it was submitted by the interconnection customer to PacifiCorp’s transmission function on or before January 31, 2020; (b) serial queue interconnection documentation of the bidder has the option to keep that documentation under the parameters of PacifiCorp’s proposed interconnection queue reform transition process; or (c) an executed LGIA.
Accounting Issues	All contracts proposed to be entered into as a result of this RFP will be assessed by PacifiCorp for appropriate accounting and tax treatment. Given the term length of the PPA, or the useful life of the asset to be acquired under an asset acquisition or alternative ownership proposal, accounting and tax rules may require either: (i) a contract be accounted for by PacifiCorp as a capital lease or operating lease for book purposes pursuant to ASC 840; (ii) a contract to be accounted for by PacifiCorp as a capital lease for tax purposes or (ii) assets owned by

	<p>the seller, as a result of an applicable contract, be consolidated as a variable interest entity (VIE) onto PacifiCorp’s balance sheet.</p> <p>Potential accounting treatment impacts may be incorporated into the bid evaluation and selection process. For instance, if PacifiCorp determines that a long-term PPA offering would be treated as a capital lease for tax purposes, PacifiCorp would be treated as the tax owner for the proposed facility.</p>
Imputed Debt	PacifiCorp will not take into account potential costs to the Company associated with direct or inferred debt as part of the economic analysis in the initial shortlist evaluation. However, after completing the shortlist and before the final resource selections are made, PacifiCorp may take direct or inferred debt into consideration. In so doing, PacifiCorp may obtain a written advisory opinion from a rating agency to substantiate PacifiCorp’s analysis and final decision regarding direct or inferred debt.
FERC’s Standards of Conduct	FERC Standards of Conduct is included in the RFP as Appendix I.
Role of the IE	Appendix M to the RFP describes the role of the IE in the process.
Contracts	The Company provides a pro forma PPA (resource only and resource co-located with storage), Build-Transfer (BTA) Term Sheet and Battery Storage Term Sheet
Schedule	<p>A detailed schedule is provided in the RFP including the following important dates:</p> <ul style="list-style-type: none"> • RFP Issued to Market – July 6, 2020 • RFP bids due – August 10, 2020 • Initial Shortlist Scoring Completed – September 4, 2020 • PacifiCorp notifies bidders selected to Initial Short list – October 14, 2020 • Cluster Study Results posted – April 15, 2021 • Bidders provide pricing update including cluster study results – April 22, 2021 • Final Shortlist Selected – May 25, 2021 • IE review of Final Shortlist Completed – June 1, 2021 • Execute Agreements – November 8, 2021

IV. Positions of the Parties

As noted, interested parties were allowed to submit comments by May 22, 2020 on the Application of Rocky Mountain Power for approval of the Solicitation Process for the 2020 All Source Request for Proposals (“Application”), including the Draft RFP and associated documents. Comments on the draft RFP were filed on the due date by the Division of Public Utilities, Utah Office of Consumer Services (“OCS”), Utah Association of Energy Users (UAE),

and the Interwest Energy Alliance. A summary of the comments and positions of each party is provided below.

Division of Public Utilities

The Division of Public Utilities (“Division”) concluded that the Application generally meets the relevant statutory and administrative requirements and recommends that the Public Service Commission of Utah (“Commission”) approve the Application, subject to conditions listed in the comments.

The Division of Public Utilities identified the following recommendations based on review of the RFP and associated documents:

1. The Division recommends that the RFP make it clearer that the IRP results do not dictate where the winning RFP bids will ultimately be located, or what types of the winning bids will be;
2. In light of FERC’s recently issued order approving most of PacifiCorp Transmission’s proposed interconnection reforms, the Division recommends that the Company in its reply comments in the current docket explain the nature and extent of any revisions to the RFP required as a result of the FERC order;
3. The Division noted that in response to a question in the 2020AS RFP Q&A process, the Company did indicate that it would consider accepting bids from existing sources: “PacifiCorp has allowed existing projects to bid in previous RFPs and would consider a similar approach in the 2020AS RFP if parties support it...” with some conditions. Since apparently there is at least some interest from an existing site, the Division recommends that existing sites be allowed to bid, subject to conditions approved by the IE;
4. The Division does not request that demand response bids be allowed to bid into the RFP at this late date but does recommend that (1) the Company address whether in general it believes demand response projects are appropriate for all-source RFPs, and why demand response was not included in this RFP, and (2) the Company confirm that it is planning on issuing a separate RFP for demand response and energy efficiency, with a general timeline (if known);
5. In light of the Coronavirus pandemic, the Division recommends more information regarding when and how new load forecasts will be used during the RFP process, and to what extent the RFP maximum capacity sought might be impacted by the load forecasts and price forecasts;
6. The Division has some comments about the proposed criteria used in the scoring and will address scoring concerns in its reply comments based on the reply from the Company to the IE’s questions about the non-price criteria;
7. Overall, the process used by the Company to select its final short list complies with the dictates of the Utah Code Ann. Section 54-17-201(2) (e). The models and overall portfolio selection process are similar to those used in the IRP. The risk, reliability, and cost impacts of the bids are evaluated by the IRP methodology. The procedural requirements of the statutes and rules are addressed in pages 5-11 of the Application, and the Division agrees that these have been generally satisfied;

8. The Company requests a waiver of the requirement in Utah Admin Code R746-420-3(10)(a) that the IE blind all bids for the evaluation process. The Division supports this waiver, especially since the Company is not submitting a self-bid in this RFP.

Utah Office of Consumer Services (OCS)

The OCS provided a number of comments on the draft 2020AS RFP. For the final version of the 2020AS RFP, the OCS recommends that the PSC require PacifiCorp to:

1. Explain how it will perform meaningful evaluations of scenarios that do not include the Gateway South Transmission line. The OCS states that in light of the PSC's May 13, 2020 IRP Order that PacifiCorp did not perform adequate modeling analyses, specifically not presenting any modeling results without the Gateway South project, PacifiCorp's economic modeling of bids should include scenarios without the Gateway South transmission line. The OCS believes that this 2020AS RFP docket is such a proceeding in which PacifiCorp should perform economic evaluation to determine if constructing the Gateway South Transmission project will result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers. The OCS recommends that the PSC should further direct PacifiCorp to incorporate plans within its RFP documents explaining how it will evaluate scenarios without the Gateway South project, and how it will consider other alternatives including the referenced NTTG alternative transmission expansion case. Finally, the OCS recommends that the Utah IE be directed to pay particular attention to this issue in its oversight role of the RFP;
2. Address the risks that OCS had identified which are not addressed in the Draft RFP including:
 - a. PacifiCorp should discuss its expected Gateway South project construction schedule and explain how PacifiCorp plans to ensure it will complete construction by December 2024 and explain to bidders the risks to the bidder if the project is delayed as well as the nature of measures to mitigate the risks;
 - b. PacifiCorp should explain how it will mitigate the risk of the Gateway South project becoming uneconomic because either the RFP selects less than 1,900 MW of wind or less than 1,900 MW of wind is ultimately constructed in the eastern Wyoming region;
 - c. Whether the 2019 IRP preferred portfolio which targets a low GHG resource plan is actually PacifiCorp's least cost, least risk plan;
3. Allow existing resources to bid under the conditions suggested by the Company in its response to discovery request OCS 1.17, including meeting the following conditions: (1) bidder cannot terminate an existing contract to bid into the RFP; (2) an existing contract with PacifiCorp will expire before the required on-line date; and (3) bids must meet all other requirements in the 2020AS RFP;
4. Update the RFP to clearly explain all the ways in which BTA and PPA bids are evaluated differently, including the inclusion of terminal value benefits in the evaluation of non-PPA resources and the exclusion of certain BTA costs from capital revenue requirements. OCS states that it is concerned PacifiCorp has not adequately justified the reasonableness of these terminal value benefits and is not convinced that they should be included exclusively in the evaluation of non-PPA resources;

5. Update the RFP document to better explain how system value curves are derived and used in price scoring and bid ranking and specifically explain the purpose of the step in which the size of the resource is reduced to half. The OCS believes that transparency would be increased and that bidders and other interested parties would benefit greatly by PacifiCorp including a step-by-step explanation of how the price score for each bid will be determined;
6. Identify the exact vintage of the load forecast that will be used for each stage of RFP bid evaluation and commit to using recently updated load and price forecasts for each evaluation stage. The OCS also recommends that PacifiCorp be required to update its load forecast, and its electric and natural gas price forecasts at the time it performs its final RFP screening since there will be much greater clarity about the COVID-19 virus impacts at that time.

Utah Association of Energy Users

The Utah Association of Energy Users (UAE) submitted initial comments on May 22, 2020. UAE initially summarized the relevant regulations and standards which govern the RFP as well as the requirements necessary for RFP approval and resource selection approval. UAE also raised a number of comments on the RFP. A summary of the key points raised by UAE in its comments is presented below:

1. PacifiCorp's willingness to accept bids of varying resource types that can deliver to any location on PacifiCorp's transmission system addresses serious concerns that UAE raised with respect to the 2017R RFP;
2. The RFP should allow bids from existing resources. Allowing existing resources to bid into the RFP makes it more likely that the RFP will result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to retail customers. The Commission should modify the RFP to allow bids from existing resources;
3. The RFP should clarify issues related to a change in commercial operation date from 2023 to 2024. UAE notes that while the Company's proposal to extend the proposed in-service date for all projects to December 31, 2024 may be reasonable, UAE requests that PacifiCorp clarify the impact of the later in-service date relative to the following:
 - a. Bid evaluation – it is not clear how PacifiCorp intends to compare bids proposing 2023 in-service dates with bids proposing 2024 in-service dates. PacifiCorp should describe how this comparison is proposed to work;
 - b. Locational capacity limits – given that the in-service date for projects in the RFP has been modified from 2023 to 2024, PacifiCorp should clarify when transmission projects that support the 2019 IRP will be completed. If the Locational Capacity Limit for a certain area identified in Appendix H or transmission projects identified in the 2019 IRP to support the preferred portfolio are proposed to be different in 2023 and 2024, the RFP should make that clear;
 - c. Evaluation of solar bids – the RFP should make clear how PacifiCorp will evaluate a 2023 solar project that is selected to the initial shortlist, only to find out later that the project cannot interconnect by 2023;

4. The RFP should identify in-service dates for Pumped Storage Hydro and Nuclear projects – UAE suggests that the RFP should require such projects to include an in-service date within a reasonable period of time, consistent with a reasonable construction schedule for each project type;
5. The RFP should clarify certain minimum eligibility requirements
 - a. Material Litigation
 - b. Site Control- UAE indicated that it assumes a bidder will be evaluated based on the definition of site control contained in PacifiCorp’s Open Access Transmission Tariff approved by FERC. If so, the RFP should so specify. To the extent PacifiCorp proposes to use a different definition of site control, the RFP should include that definition;
 - c. Bid consistent with Interconnection Request – UAE requests that the minimum eligibility requirements for bidders should be modified from the current provision in the RFP that asserts that bidders may be disqualified for failure of the bid interconnection description and capacity to be consistent with the interconnection request with PacifiCorp Transmission;
6. The RFP should clarify terms related to transmission service including requesting that PacifiCorp provide its interpretation of how FERC’s approval of the interconnection queue reform process, including any modifications to PacifiCorp’s initial request, may impact this proceeding, if at all, and any appropriate clarifications should be included in the RFP;
7. The RFP should clarify how the delivered revenue requirement cost of each type of bid will be calculated. PacifiCorp does not explain how it proposes that the delivered revenue requirement cost of each bid should be determined or how it proposes to normalize the calculation of the delivered revenue requirement cost for PPA bids and BTA bids. PacifiCorp should explain how it proposes to normalize the revenue requirement cost for a 25-year PPA as compared to a 30-year BTA. Clarification as to such issues should be included in the RFP;
8. The RFP should clarify how different risk profiles of each type of bid will be evaluated. According to UAE, critical to satisfaction of the public interest standard is comparability to the greatest extent practical in the evaluation of BTAs and PPAs. There are inherent differences in benefits and risks faced by ratepayers with a company-owned resource as opposed to a PPA. The RFP identifies some of the comparative benefits or costs of BTAs and PPAs, but does not address any differences in risk such as (i) curtailment by a transmission operator for reliability or related purpose; (ii) revenue requirement costs; and (iii) performance guarantees.

Interwest Energy Alliance (Interwest)

Interwest Energy Alliance submitted comments on May 22, 2020. Interwest noted that the RFP represents a significant opportunity for economic development benefits in rural areas of Utah. Interwest also identified several goals for its comments in this proceeding. Finally, Interwest indicated that its members support the RFP and seek approval with minor changes that will reduce costs and burdens for bidders and ratepayers. Interwest, therefore, highlighted several

areas that it believed warrant clarification or revision to prevent misunderstanding about PacifiCorp's needs for the facilities to be acquired under the RFP. The comments include:

1. Alternative business models should be allowed under one base bid. Interwest recommends that the RFP be revised to allow different contracting structures to be included as an alternative under one base bid rather than requiring this alternative to be submitted and modeled as a separate base bid (with a separate bid fee). Interwest provided a revised Table 3 Bid Fee Guidelines with its proposed changes redlined;
2. Resource data requirements should be specific to the technology. Interwest notes that solar projects should not be required to provide the same amount of on-site data as wind projects;
3. Bids on third-party transmission systems require additional transmission service capacity verification. Interwest recommends clarification related to bids originating from third-party transmission systems, including related to what proof will be required that transmission service capacity is available, and whether it will be a static query of OASIS reservations or also a forward-looking inquiry into potential retirements and transmission build-out;
4. Clarify renewable energy capacity contributions, and relative bid ranking;
5. Transmission costs should be modeled in as system costs. Interwest recommends that PacifiCorp clarify how it will model the costs of interconnection upgrades including Gateway South as to individual bids which may connect to the new line. Interwest recommends that PacifiCorp's modeling in the review of bids provide analysis sufficient for the Commission to be allowed to evaluate individual project proposals independently of the cost of any planned transmission lines to which the projects propose to interconnect, regardless of whether the planned transmission lines have received a certificate of public convenience and necessity;
6. The January 31, 2020 cutoff may arbitrarily eliminate efficient projects. A more reasonable alternative would be to allow those projects that were in PacifiCorp's Transmission interconnection queue as of April 1, 2020 to be eligible to bid. PacifiCorp has already signaled its willingness to agree to this date in its comments at FERC, and this date would align with the going-forward April 1 cluster windows;
7. Extension of safe-harbor deadlines may be important to Commission review. Interwest recommends that PacifiCorp provide additional information to the Commission related to the extension in safe-harbor requirements for continuous construction applicable to the federal production tax credit applicable to wind and federal investment tax credit applicable to solar. This may extend the potential for additional projects to be cost effective as part of an overall expansive renewable energy portfolio.

V. Discussion of RFP Issues

This section begins with a listing of the factors that are important for an effective competitive bidding process in any state and under any circumstance based on Merrimack Energy's experience and consistent with Utah statutes and Commission directives. Following these factors, this section continues with a more detailed assessment and discussion of the important competitive bidding issues associated with the 2020AS Draft RFP. The IE has identified several

issues that arose in review of the Draft RFP and related documents and discussions with PacifiCorp that warrant review and discussions as having an impact on the success of the competitive procurement process. Some of the issues identified are common considerations in most power procurement solicitation processes. These issues will be presented and discussed from several perspectives including fairness principles, transparency of the process, consistency with Utah statutes, and consistency with industry standards.

In addition to Merrimack Energy’s review of the RFP documents, Merrimack Energy staff and representatives from the Division participated in calls and workshops with the PacifiCorp team to discuss the RFP process, notably focusing the discussion on the bid evaluation methodology and process as well as the models to be used in the evaluation process. Merrimack Energy also prepared three lists of questions for PacifiCorp based on review of the Draft RFP and related documents as well as a review of the models and evaluation methodology.

Based on the comments of the participants in the proceeding as well as Merrimack Energy’s view of the key Draft RFP issues based on review of the 2020AS Draft RFP and associated documents, the following issues are addressed: (1) Comparability of third-party bids and utility-owned resources; (2) RFP schedule; (3) bid blinding; (4) bid eligibility; (5) clarification language in RFP regarding shortlist evaluation and selection; (6) initial shortlist – price score; (7) reasonableness of overall quantitative evaluation methodology and process; (8) non-price criteria; (9) consistency with Energy Resource Procurement Act; (10) credit requirements; (11) allowable alternative bids; (12) transmission and interconnection issues and requirements; (13) deadline for project eligibility; (14) webpage; (15) models and input assumptions; (16) rationale for limiting the amount of MWs in Wyoming East to 1,920 MW.

A. Characteristics of any Effective Competitive Bidding Process

In assessing whether a competitive procurement process is likely to lead to a positive outcome which benefits customers, meets the objectives and criteria established, and is consistent with regulations and statutes, Merrimack Energy considers characteristics of the competitive procurement process associated with fairness and transparency principles.

The application of a fair and transparent competitive procurement process is important for creating competition for the overall benefit of customers. Fairness generally means that all bidders are treated similarly, have access to the same information at the same time, and have equal opportunity of being successful in the process. A reasonable level of transparency⁸ is also another important element leading to a successful solicitation process. Transparency means that there is a reasonable amount of information to guide bidders in preparing a complete proposal to meet utility requirements. Reasonably transparent processes are those that provide information, guidance, and direction to bidders on the information required by the utility to evaluate their proposals, provide guidance on the bid evaluation criteria, bid evaluation and selection process. Fair and reasonably transparent processes should encourage competition among potential bidders

⁸ Merrimack Energy always uses the term “a reasonable level of transparency” because a competitive procurement process is very rarely fully transparent. Bidders, for example, don’t have access to the utility’s models and data used to evaluate other proposals. Likewise, the utility generally doesn’t provide the detailed back-up information for all the criteria used to evaluate bids from a quantitative perspective.

who can adequately determine if they have the ability to effectively compete in the process and lead to more complete and comprehensive proposals. The greater the level of competition for all products sought by the utility the greater the chance for competitive options and lower prices for consumers.

B. Utah Specific Competitive Factors

The Energy Resource Procurement Act, codified at Utah Code §§ 54-17-101 et seq. (the “Act”), as applied to the facts of this RFP, controls this assessment by the IE. The Act creates a public interest standard for Commission review and approval of this Draft RFP in UCA § 54-17-201(2)(c)(ii) as follows:

In ruling on the request for approval of a solicitation process, the commission shall determine whether the solicitation process:

* * *

(ii) is in the public interest taking into consideration:

- (A) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state;
- (B) long-term and short-term impacts;
- (C) risk;
- (D) reliability;
- (E) financial impacts on the affected electrical utility; and
- (F) other factors determined by the commission to be relevant.

Section R746-420-3 also addresses the general requirements of a solicitation process. This Section states that all aspects of a Solicitation and Solicitation process must be fair, reasonable and in the public interest. A proposed Solicitation and Solicitation process must be reasonably designed to comply with all applicable requirements of the Act and Commission rules.

C. Comments of Merrimack Energy on the PacifiCorp 2020AS RFP

Below is a compendium of the comments of Merrimack Energy on PacifiCorp’s 2020AS RFP. The comments reflect the positions of the interested parties who submitted comments, our own assessment based on our review of the 2020AS Draft RFP, requirements of Utah Code and Regulations and industry practices associated with similar solicitations.

1. Comparability⁹

In order for the RFP process to satisfy the criteria for an effective and efficient competitive bidding process and produce a result that is in the public interest, all resource options should, to the greatest extent possible, be made directly comparable and put on an even footing or “level playing field” for evaluation and selection purposes, such that no single bidder or resource option has an unfair advantage over another bidder or resource option. In competitive procurement processes where a utility self-build option or utility ownership option is allowed to compete, comparability is a very important consideration in the RFP design and evaluation process.

For this solicitation, PacifiCorp has committed to not submit any self-build ownership proposals (benchmark resources) in the 2020AS RFP and is not accepting any bids from any PacifiCorp affiliate. PacifiCorp is accepting proposals for Power Purchase Agreements (PPA) with terms of up to 25 years for a renewable or non-renewable resource only and for collocated resources with a Battery Energy Storage System. PacifiCorp will also accept proposals for Build-Transfer (BTA) transactions whereby the bidder develops the project, assumes responsibility for construction and ultimately transfers the asset to PacifiCorp in accordance with the terms of the Build-Transfer Agreement. PacifiCorp will then own the asset and can be expected to include the asset in ratebase. The major consideration is that a utility ownership option is generally developed on a cost of service basis.¹⁰ This means that the utility cost is not fixed at the time of submission. However, under the terms of the BTA, bidders may be required to provide a reasonably firm price with limited change order opportunities during contract negotiations which could limit pricing risk.

UAE, in its comments, states that critical to the satisfaction of the public interest standard is comparability to the greatest extent practical in the evaluation of the BTAs and PPAs. UAE further states that it has no inherent bias in favor of BTAs or PPAs; its focus is on cost and risk. However, it is both a statutory requirement and a critical component of fairness to PacifiCorp ratepayers that BTAs and PPAs be evaluated on a fair and comparable basis. UAE notes there are inherent differences in benefits and risks faced by ratepayers with a company-owned resource as opposed to a PPA. The RFP identifies some of the comparative benefits or costs of the BTAs and PPAs, but does not address any differences in risk. UAE identifies three risks imposed on the PPA developer that PacifiCorp does not intend to assume for owned resources. These include curtailment¹¹, revenue requirement costs, and performance guarantees. The different terms of the resources are also cited, however, in this case PacifiCorp is allowing PPA bidders to bid for up to a 25-year term which is fairly closely aligned with a 30-year ownership option. ***However, to ensure comparability in the evaluation process, PacifiCorp could allow PPA bidders to offer a 30-year term or allow a 25-year contract with a 5-year extension option exercisable by PacifiCorp.***

⁹ Comparability refers to the evaluation of power generating resources with different project structures and characteristics on a fair and consistent basis. For example, resources that will be owned by the utility will have a very different cost and risk structure than a Power Purchase Agreement (PPA) where the bidder submits essentially a firm price and must absorb the risks and benefits of changes in costs for the project relative to its contract pricing.

¹⁰ This is also referenced as a “cost-plus” basis.

¹¹ UAE focused on PPA bidders not being compensated for curtailment by the transmission operator for reliability or related purposes. The PPA has a category for Compensatable Curtailment Energy that includes net output curtailed for economic reasons which is compensated by PacifiCorp under the PPA.

Comparability issues also arise as they pertain to the evaluation of proposals. Given the differences in benefits and risks of PPAs and BTAs, they cannot easily be evaluated against each other on a “fair and comparable basis” as required by Utah law unless the significance of these differences is recognized or addressed through assignment of values to the different risks or by taking appropriate steps to reduce these differences. The BTA option overall should include less risk and therefore fewer differences as compared to a self-build option. For example, a well-designed BTA call shift risk to the Seller, much like a PPA by limiting deviations in the bid price. In other words, the BTA bidder would be generally required to hold the price bid, subject to allowable change orders which PacifiCorp may have some control over. If such a bidder is bidding to clear specifications (which PacifiCorp has provided) and requirements this would also minimize any required revisions. Ideally, bidders would submit proposals for both PPAs and BTAs for the same resource types to assess the side-by-side comparison of bid pricing, given any differences on risk. If one of the objectives of the process is to assess PPA and BTA proposals for the same resources, adopting Interwest’s recommendation to allow bidders to offer a BTA as an alternative under a single base bid could encourage both BTA and PPA bids. Encouraging bidders to offer both proposals would be another way of attempting to allow for a side-by-side comparison. Alternatively, with a limited time to submit offers it may be preferable to allow individual bidders to make their own choices on which type of transaction structure to offer.

With regard to the concern raised by UAE regarding revenue requirements costs, one of the functions of the IE is to generally ensure all costs are included in a utility-ownership project including acquisition price, O&M costs, Capex, land lease costs, taxes, insurance, administrative costs, etc. PacifiCorp will provide the IE with the evaluation models for each proposal which include the inputs used as well as the evaluation outputs. Merrimack Energy will scrutinize the costs included in the BTA proposals to ensure all costs are accounted for and to ensure that Investment Tax Credits (“ITC”) and Production Tax Credits (“PTC”) for these BTA options are appropriately addressed in the modeling.¹²

2. RFP Schedule

PacifiCorp proposed an aggressive schedule for the 2020AS RFP based on the timing for the cluster study process. Based on an RFP issuance date of July 6, 2020, bids will be due about one month later on August 10, 2020. The Initial Shortlist scoring and ranking is scheduled to be completed by September 4, 2020 and notification of selection of the initial shortlist is scheduled for October 14, 2020. The two-month process for completing the evaluation, scoring and selection of the bids submitted is, in our view, extremely aggressive given what we expect will be a large number of bids submitted. The schedule from receipt of bids until shortlist selection is very similar to the schedule implemented for the 2017 Renewable RFP that considered only wind bids.

¹² The IE has found that BTA options for Solar PV and Solar plus Storage proposals do not compete well against PPA proposals for the same resources because of the IRS requirement that utilities use normalization accounting for the ITC benefits associated with utility-owned projects which essentially requires the utility to spread out the ITC benefits over time as opposed to taking the ITC benefit up front as a tax credit that can be monetized in year 1 as is the case with a third-party PPA proposal..

Our concern for the 2020AS RFP is that there are likely to be a number of errors on the part of bidders attempting to fill-out the offer forms, especially with the inclusion of new resources such as storage and co-located resources. *To minimize errors on the part of bidders for completing the offer forms we recommend that PacifiCorp hold a Workshop or Technical conference for bidders to walk the bidders through the offer forms to guide the bidders in completing the required forms. We have suggested similar processes in other solicitations where there are either new resources being solicited or complex forms which may be a challenge to complete effectively. The Offer Form Workshop or Technical Conference could take place in conjunction with the Bidder Workshop on July 9, 2020 or as a separate session.*

In an attempt to ensure Phase I of the process could be completed on schedule, PacifiCorp has stated in the RFP that bidders will be required to respond to bid questions and cure any bid document deficiencies within 24 hours of bid review and requests. Merrimack Energy feels this timeframe is unreasonably short and provides no flexibility to bidders. The usual time for a response to such questions is generally approximately 3 business days. Merrimack Energy raised this issue in its questions to PacifiCorp regarding the Draft RFP. PacifiCorp responded that it does not believe the current schedule will accommodate 3 business days but will adjust the language to reflect the preference for a one business day turnaround but allow a maximum of 2 business days. The IE agrees with the 2-business day limit and the inclusion of language in the RFP to strongly encourage the bidders to respond within 24 hours.

3. Bid Blinding

The Commission's RFP rules require that the IE receive and "blind" bid responses.¹³ In its Application¹⁴, PacifiCorp requested a waiver of this requirement consistent with similar requests in past RFPs. PacifiCorp noted that the Commission has approved such requests based, in part, on recommendations of both the IE and Division of Public Utilities who questioned the value of blinding bids in previous solicitations. PacifiCorp indicated that blinding bids will create an administrative burden on the IE and the Company, with no commensurate value. Blinding bids will provide limited value because the detailed project information included in each bid (e.g. the proposed location of the resource) will effectively identify the bidder. The DPU also supports the Company request to waive the requirement in Utah Admin Code R746-420-3(10)(a) that the IE blind all bids for the evaluation process, especially since the Company is not submitting a self-bid in this RFP.

The IE's experience with other solicitation processes that have used bid blinding to avoid any evaluation and communication bias is that there is no certainty that the bidder could remain anonymous. Furthermore, blinding bids could be time consuming and costly with limited value. Also, given that PacifiCorp is not submitting a benchmark resource or self-build option, and that bidders are competing in this process without the presence of a benchmark bid, Merrimack Energy does not believe blinding bids would add value to the process. Since we would expect a large number of proposals in response to this RFP, the requirement to blind the bids could

¹³ See Utah Admin. Code R746-420-3(10)(a) and R746-420-6(2)(f).

¹⁴ See Direct Testimony of Bruce W. Griswold, page 10.

significantly extend the already short timeframe for evaluating and ranking bids by resource type for purposes of shortlisting. *The IE therefore supports PacifiCorp's request for a waiver of the bid blinding requirement.*

The IE does suggest that blinding the Q&As remain a part of this process. Also, if the Commission decides that some form of blinding is required, one option may be to restrict the availability of pricing data only to the evaluation team members who will conduct the quantitative evaluation. Merrimack Energy has found that perhaps the primary bias associated with the access to proposal information is for the qualitative evaluation team members, who are largely involved in a subjective evaluation process knowing who the best proposals are from a pricing perspective and allow this information to somehow bias their evaluation of the qualitative criteria.

4. Bid Eligibility – Eligible Bid Options

Several stakeholders have raised concern about project types identified as not eligible to bid into the RFP. In particular, the two types raised include existing projects and Demand Response resources. The Division, OCS and UAE suggest allowing existing resources to bid. A general view is that excluding existing resources from being allowed to participate is inconsistent with the fact that this is an All Source RFP. The stakeholders appear amendable to the conditions identified by PacifiCorp for including existing resources. These include:

- Bidder cannot terminate an existing contract to bid into the RFP;
- Contract with PacifiCorp will expire before the required on-line date;
- Bids must meet all other requirements in the 2020AS RFP

Presumably, existing resources should be eligible if they offer new capacity increments that are not under contract. Options such as repowering of an existing resource, proposals to add energy storage to an existing solar resource, the addition of incremental capacity at an existing site, etc. may be such examples of eligible options. However, if existing resources are allowed to bid, the conditions under which the additional generation would be offered has to be considered and identified in the RFP. For example, under what conditions, if any, would a bidder who wishes to add storage to an existing solar facility be eligible to compete? Would such a bidder have to expand its solar project capacity along with adding storage to be eligible? Would the existing contract amounts be required to be honored? Would a material modification of the interconnection agreement be required? While we support allowing existing projects to compete, it is necessary to carefully define the incrementality requirements that the bid must meet.

A second option identified as not being eligible to submit a bid is demand response resources. It is generally accepted that demand response, energy efficiency and load management resources are eligible to compete in an All Source RFP. Merrimack Energy has found that such resources have had difficulty competing in an All Source RFP. PacifiCorp has stated that it is planning on issuing a separate RFP for demand response and energy efficiency resources. Our view at this point is that issuance of a separate RFP for demand response and energy efficiency resources is a preferred solution to jump start this market as opposed to competing with other resources in an All Source RFP. It is possible that if such resources do not fare well in the process and cannot be

competitive it may discourage development of this resource through a competitive process. Initially establishing a targeted RFP for a specific resource may be a better springboard for the resource.

Merrimack Energy supports the inclusion of existing resources to compete in the All Source RFP as long as the conditions and options are clearly identified in the RFP. We also agree with PacifiCorp’s proposal to conduct a separate solicitation for demand response and energy efficiency resources.

5. Clarification of Language in the RFP Regarding Shortlist Evaluation and Selection

The IE found that PacifiCorp’s description regarding selection of the initial shortlist by IRP topology location does not appear to be totally consistent based on the description of the process in the draft RFP and in presentations. For example, in Section 6.A.2 of the draft RFP on page 26 it states “Conforming bids will be evaluated using PacifiCorp’s proprietary pricing models and ranked by resource type within each IRP topology location. PacifiCorp will limit the capacity in a given location to 150% of the capacity chosen by the Company’s 2019 IRP preferred portfolio.” In the next paragraph in that section it states “Bids located in Southern Oregon would be separated by resource type (i.e. solar, solar with a BESS, wind, etc.) then ranked and selected up to a total of 750 MW for each resource type.” The initial quote appears to imply that PacifiCorp will select an initial shortlist based on 150% of the IRP identified portfolio for all resources in total for a specific location while the second quote indicates that bids will be separated, evaluated and selected by resource type. In our questions to PacifiCorp regarding our RFP review we identified the process based on our understanding based on a presentation of PacifiCorp on the solicitation process. As we understood, PacifiCorp’s evaluation and selection process would be applied as follows:

1. In Phase I, an initial shortlist will be developed for each bubble or topology location. PacifiCorp will select capacity by resource type for each location consistent with the 150% of the portfolio identified. For example, if Southern Oregon is showing 500 MW of resources selected in the IRP, PacifiCorp will select up to 750 MW for each resource type (i.e. 750 MW of solar, 750 MW of solar plus storage, 750 MW of wind, etc.) and not based on 750 MW of total capacity regardless of the resource type selected;
2. For areas such as Goshen with no resources identified, PacifiCorp will select a total amount of bids up to 150% of the assumed interconnection limits. In this case, PacifiCorp will not select 150% by resource type but based on all resource types;
3. The initial combined price scores and non-price scores will be used to select the shortlists at each bubble as identified above;
4. PacifiCorp will then use the SO model to evaluate all the shortlisted bids selected by location to derive an initial shortlist for Phase I. The initial shortlist will be selected up to 150% of the total resources required from the IRP analysis;
5. The shortlist of bids selected in (4) above will be studied by PacifiCorp Transmission through the cluster study process;
6. Similar to prior RFPs, shortlisted bidders will then have the opportunity to submit best and final offers. The estimated direct assigned and network upgrade costs, along with any

updates in pricing based on best and final offers for each project, will update the existing screening model to provide new inputs into SO for each project reviewed;

7. The PaR model will then be used to conduct stochastic scenario risk analysis;
8. A final shortlist can then be selected.

PacifiCorp made one revision to the Merrimack Energy’s write-up by noting that direct assigned and network upgrade costs would be included into the final SO portfolio analysis as described in (6) above but agreed with the IE’s description otherwise.

For the final RFP, we feel PacifiCorp should clarify its specific evaluation and selection methodology for initial and final evaluation and selection so there is no ambiguity regarding the shortlist selection process and decision parameters for each resource type and location.

6. Initial Shortlist – Price Score

In Section 6.A.2, PacifiCorp provides a description of both the price and non-price factors included in the initial shortlist evaluation. On page 27 of the draft RFP, PacifiCorp describes the price evaluation methodology as follows:

The cost of each bid will be netted against system-value curves, which will be developed and locked down with the IE in advance of receiving bids. The system-value curves will be developed from Planning and Risk (PaR) model simulations that will calculate the hourly marginal system energy value of a flat energy profile and the operating reserve value of a flat operating reserve profile, by location. Bid costs net of the applicable system-value will be used to assign a price score to each bid. This will be achieved by calculating an inflation-adjusted real-levelized net cost of capacity expressed in \$/kW based on the capacity contribution of each bid.

Merrimack Energy believes the net cost analysis proposed by PacifiCorp is a viable and reasonable methodology for evaluating and ranking each proposal and is superior to Levelized Cost of Energy Analysis (LCOE) used for shortlisting purposes for some other All Source solicitations which focus only on the cost side of the equation for evaluating and ranking similar resource types, including solar and storage options.

Merrimack Energy suggests that PacifiCorp also include a table in the RFP document that lists the net cost components (i.e. cost and value or cost and benefit categories) and also provide a brief description of each component. An example of the type of table we were considering is the table included in Merrimack Energy’s Final Report for the 2017R RFP which identified the Cost categories (X) and Benefit categories (Z) for PPAs and BTAs.

Summary of Cost/Benefit Components for Each Bid Type

Component	PPA Option	BTA Option
PPA Bid Price (\$/MWh)	(X)	
Capital Revenue Requirements	-	(X)

PTC Benefit	-	Z
Integration Cost	(X)	(X)
O&M, Lease, Insurance	-	(X)
Property Taxes	-	(X)
Wyoming Wind Tax	-	(X)
Network Upgrade Revenue Requirements	(X)	(X)
Terminal Value	-	Z
Energy and Capacity Value	Z	Z

7. Reasonableness of the Overall Quantitative Evaluation Methodology and Process

PacifiCorp generally intends to use its IRP models and methodologies to undertake the quantitative evaluation methodology for the bids submitted. PacifiCorp notes in the draft RFP that its bid evaluation process is designed to identify the combination and amount of new resources that will maximize customer benefits through the selection of bids that will satisfy projected capacity and energy needs while maintaining reliability.

In Phase I – Initial Shortlist bids will initially be screened after receipt against minimum requirements for RFP conformance. Conforming bids will then be evaluated using PacifiCorp’s proprietary pricing models (RFP Screening Spreadsheet model and Location Correlation and Capacity model) and ranked by resource type based on total price and non-price score. The price component will be based on a net cost metric which compares costs and benefits associated with each proposal. As a result, in this phase of the process, PacifiCorp is essentially comparing and evaluating bids for the same resource type at each bubble or location. Solar projects are competing against solar projects and so on for different types of resources. Merrimack Energy has served as IE on several All Source solicitation that have used a similar process but focus on comparing the levelized cost of similar resources. The goal for the All Source solicitation is to generally select a shortlist of all project types with different characteristics to allow for evaluation of different types of bids in an overall portfolio rather than just selecting the lowest cost or best value bids which may be dominated by one resource type. In a solicitation, such as PacifiCorp’s All Source solicitation where there are likely to be a large number of bids, developing a methodology to identify and select the best bids by each resource type is necessary for conducting a more detailed evaluation on a limited number of the best bids. PacifiCorp’s Phase I process accomplishes that objective and also considers costs and benefits associated with each bid submitted rather than just the cost side of the calculation as others have done. In addition, PacifiCorp uses the System Optimizer (SO) model for shortlist selection during Phase I.

PacifiCorp has also recognized some of weaknesses of the SO model regarding the granularity of the model to evaluate energy storage resource value by utilizing the StorageVET model to develop adjustments to the SO model to account for operating reserves and dispatch granularity. PacifiCorp has provided its spreadsheet models for Phase I as well as the StorageVET model to the IEs for review prior to receipt of bids and has conducted a workshop with the IEs and Commission/Division staffs in Utah and Oregon to walk through the models.

Overall, Merrimack Energy believes that PacifiCorp has developed a sound evaluation methodology and process to effectively distinguish the value of the bids submitted. Comparing the costs and benefits of resources in the first phase is an improvement over a levelized cost only approach and also results in an improved process for evaluating bids with different terms and start dates as well as different characteristics such as storage project size relative to the solar component or bids with different discharge durations.

8. Non-Price Criteria

Introduction

With the proposed change in PacifiCorp Transmission's Interconnection Queue process from a "first-come, first-served" serial interconnection queue study process to a "first-ready, first-served" cluster study process, PacifiCorp is placing a premium on those projects that are commercially viable and can successfully be developed as proposed. As PacifiCorp Transmission states in its Revised Straw Proposal (page 4), an approach that places a higher value on commercially ready projects, and discourages speculative projects from standing in the way of those projects that are ready to proceed is required.

In addition, the RFP states on page 27 "the non-price analysis will gauge the maturity and readiness of the project including development, site control, permitting, equipment procurement, conformance to PPA or BTA terms and conditions, schedule, and operational characteristics and associated risks of each bid." In conjunction with the requirement outlined by PacifiCorp Transmission and the intent of non-price criteria listed in the RFP, we have reviewed the non-price criteria listed in Appendix L to the RFP.

PacifiCorp's evaluation criteria as listed in the RFP document weights price as 75% and non-price criteria at 25% as the basis for ranking and selecting an initial shortlist of proposals. Merrimack Energy has reviewed the non-price factors included in Appendix L and has provided a separate document to PacifiCorp which includes a number of suggestions to ensure the non-price criteria can more effectively distinguish between projects that are viable and those that may be more immature and potentially less viable projects. While we agree with PacifiCorp's description and application of the non-price criteria listed in the RFP, we feel at this point that the three non-price criteria and weights proposed may not adequately assess project viability or be effectively designed to appropriately award percentages as identified above. We have attempted to suggest changes toward reworking the criteria as well as options for consideration. Merrimack Energy provided comments on all non-price evaluation criteria listed in Appendix L. However, for the purposes of RFP design, Merrimack Energy is only focusing on the primary suggested revisions. Potential options are identified below with regard to each of the criteria specified.

1. Conformance to RFP Requirements (5%) – PacifiCorp awards up to 5% of the total 25% in this category if the bidder can demonstrate that its proposal provides all complete documents and all major components are in compliance. If documents are missing and major components are out of compliance, the proposal will receive 1%. In Merrimack Energy's view, the majority of the criteria listed here are really minimum eligibility requirements and not non-price evaluation

criteria. Arguably, PacifiCorp would actually give 1% to a proposal that probably should be rejected as non-conforming.

Based on our review of the minimum eligibility requirements, the first four criteria listed in this non-price factor are either already included in the minimum eligibility requirements or could easily be included. If not clearly specified, we think minimum eligibility requirements could be easily revised to account for the basic documentation bidders are required to provide. The one possible exception may be Compliance with Technical or Operating Specifications if this criterion cannot be addressed as a minimum eligibility requirement. If so, up to 5% of the points can then be re-allocated toward criteria that better reflect whether a project is viable.¹⁵ ***Our first recommendation therefore is to ensure the minimum eligibility requirements reflect the conditions described in the Conformance to RFP requirements criteria and reallocate all or most of the 5% of the 25% to other criteria that reflect more significantly on project viability.***

2. Contract Compliance (10%) – The second non-price category is Contract Compliance. PacifiCorp weights Contract Compliance heavily in its non-price evaluation. While a number of utilities include this criterion as part of the non-price evaluation process few, if any, award 40% (10% relative to a total of 25%) of the non-price points to this criterion. This criterion is usually applied to assess how likely it is for the utility to reach agreement with a counterparty without requiring a significant shift in the risk profile to the utility or its customers on the one hand or to the counterparty on the other hand. Therefore, for this criteria a utility will generally review the redlines proposed by the bidder or comments on the agreements provided by the bidder and assess if the bidder is taking major exceptions to the agreement and whether or not the exceptions taken would unduly shift risk to the utility and its customers and create difficulty for reaching contract execution. This criterion could be important for this solicitation wherein the contract negotiation process will be initiated at the same time as the Cluster study process is being undertaken and will not be completed until the end of the solicitation process. Certainly, PacifiCorp would prefer to determine early in the process if it is likely that the interest of the bidder and the utility are reasonably aligned with regard to the contract or if the bidder will propose exceptions that the utility does not find acceptable or workable. Also, it wasn't clear if PacifiCorp intended that bidders would be bound by their redlines or comments.

Furthermore, the individual criteria PacifiCorp applies for this criterion do not distinguish whether a bidder is likely to take exceptions to the pro forma agreements or indicate whether or not the bidder is attempting to unduly shift risk to PacifiCorp and its customers and would be a particular challenge for negotiating a contract. For this criterion, PacifiCorp proposes to award 10% if a bidder simply provides a red-line of the contract and also provides comments on the contract and 5% if the bidder provides comments but no redlines. However, it is entirely possible that a bidder that provides redlines and is therefore awarded 10% could propose redlines that take significant exceptions to the key provisions of the agreement and propose changes to the contract that may not be acceptable to PacifiCorp. Alternatively, we have seen a number of cases where bidders take no exceptions and provide no redlines with their initial proposals either because the bidder did not retain an attorney to review the contract or decided to wait until it was shortlisted to engage in contract review. While a utility may conclude that a counterparty who

¹⁵ We would also recommend clarity on how the percentages would be awarded for the 2%. The criteria applied seem overly broad and difficult to assess given the broad application.

takes no exceptions is amendable to executing the contract as is, in most similar situations this is not the case. The bidder generally prefers to see whether or not it is selected to the shortlist and has a reasonable chance to negotiate a contract before spending time and money marking up a contract. We have found that there is generally no relationship between the extent of redlines and success in facilitating negotiations if the bidder's proposal is selected for negotiations.

Merrimack Energy has attempted to identify several options PacifiCorp could take to allow for a more reasonable viability assessment and not a “check the box” or “self-scoring” solution. However, if PacifiCorp prefers a “check the box or self-scoring solution” we would recommend the following:

- We would suggest that 5% or less is allocated to this category, not 10% as proposed because of the complicated nature of this criterion. In addition, another challenge with this criterion is that PacifiCorp has provided two pro forma Agreements (PPA for resources and PPA for resources with Storage) and two Term Sheets (BTA and Storage Agreement), both of which are only 12 pages. The differences in detail between the PPA and other agreements is likely to skew the review and assessment of this criterion. PacifiCorp could also require the Bidders to attest that it has used the services of an outside or internal attorney to review and comment on the pro forma agreement as part of the bidder's proposal and/or attest that the bidder who provides little or no comments would be willing to execute the proforma contract. In conclusion, we feel that application of this criterion based on PacifiCorp's proposal in Appendix L will not add value to the evaluation and could actually serve to benefit proposals which provide an overall negative in the evaluation (i.e. a bidder who includes a large number of redlines which shifts risk to customers could get a 10% score without PacifiCorp undertaking an assessment to determine if the redlines are in fact shifting risk or provide redlines which may result in a low probability of reaching agreement).

3. Project Readiness and Deliverability

PacifiCorp has included four sub-criteria for this category. Based on our proposed revisions to the percent allocations for the first two categories, we would recommend increasing the percent allocations for the criteria listed in this category. In addition, we have a few suggested revisions to the first criterion – Bidder's Development Experience as described below:

Bidder's Development and Construction Experience Related to Large Energy and/or storage projects including O&M Plan and Financing Plan

- PacifiCorp proposes to award 0% if the bidder has no operating projects; 1% if less than 300 MW of operating projects; and 2% if greater than 300 MW of operating projects
- In many other solicitations the utility awards points based on the number of power projects overall or the number of projects of similar size and technology being proposed.
- One question we have is what is the rationale for the 300 MW
- Also, this criterion should probably be about the bidder's experience in developing, constructing, financing, and operating projects, which does take into account both

financing experience and O&M experience but does not really pertain to the quality of the O&M Plan or Financing Plan.

- We would suggest the following descriptions for allocation of scores in this category
 - The Bidder or Development Team demonstrates that it has developed, constructed, financed and operated 3 or more projects of similar size and technology proposed – 5% (or higher if revised allocation);
 - The Bidder or Development Team demonstrates that it has developed, constructed, financed and operated at least one project of similar size and technology – 3% or higher;
 - Bidder has developed, constructed, financed, and operated at least three power generation projects of any technology – 2% or higher;
 - Bidder has not developed any projects to commercial operations (i.e. bidder may have projects under development but has not yet completed any projects) – 0%

Recommendations

- ***Based on our comments on the other criteria we would suggest allocating up to 5% for Contract Conformance and up to 20% for Project Readiness and Deliverability (i.e. Project Viability). The allocations percentages could be 4% to 5% to each of the four sub-criteria or some other weighting to reflect PacifiCorp's view of categories that may be more important to overall project viability. We also suggest PacifiCorp consider broadening the elements included in Bidder Development Experience and also consider focusing on criteria related to the number of projects completed by the bidder of similar and technology as proposed rather than amount of MWs for the projects developed.***

9. Consistency with Energy Resource Procurement Act

In its comments, UAE notes that Part 2 of the Energy Resource Procurement Act includes requirements for a solicitation process. The intent of Part 2 and the Rules implementing it is to ensure a robust array of bids from all available resource types and from varying owners/developers. Only if a robust set of bids for market resources is received can bids be fairly compared and evaluated. The ultimate goal of the Act and Rules is to ensure that the resources with the lowest reasonable cost to customers can be identified and procured, regardless of the nature or ownership of the resources (page 2). Merrimack Energy believes the 2020 All Source RFP will lead to a very robust response from the market with a range of resource options and contract types for several reasons:

1. With the addition of the suggestion to allow existing resources to compete under the conditions and exceptions identified, the RFP is an All Source supply-side RFP with a range of eligible resource options and contract structures;
2. Merrimack Energy expects a very robust response based on recent All Source solicitations for which we have served as IE with the two most recent solicitations each generating over 200 bid alternatives from a complete range of supply-side resource options;

3. PacifiCorp's evaluation process for shortlist selection including the initial shortlist designed to select bids for all resource types will ensure that all eligible resource options will have the opportunity to compete;
4. The minimum size bid option for the RFP is 20 MW which should encourage a wide range of resource types from a broad list of bidders/developers;
5. PacifiCorp is allowing bidders to submit a base bid and two alternatives under the bid fee. Bidders could also submit other alternatives with an additional bid fee;
6. The RFP is not including a self-build option and affiliates are not allowed to submit a bid. While this could limit some competitive options, overall it should not discourage any bidders from competing.

10. Credit Requirements

Appendix D includes Bidder's Credit Information required with submission of Appendix B-1 – Intent to Bid Form. In Appendix D, PacifiCorp implies that PacifiCorp will assess the credit risk profile of the bidder which is a function of (1) type of resource agreement; (2) size of resource; (3) expected energy delivery date; (4) term of underlying contract; and (5) creditworthiness of bidder and bidder's credit support provider. PacifiCorp also states that all bidders will receive a Credit Rating which will be used in determining the amount of any credit assurances to be posted. PacifiCorp also identifies the credit assurance amount for both a PPA and BTA options in this section of the RFP. PacifiCorp has determined the amount of credit assurances required for PPAs to be \$200/kW, based upon nameplate project size, to be provided at contract execution. The amount of credit assurances required will be reduced to \$100/kW upon the project achieving commercial operation date. For BTAs, the amount of credit assurances required will be \$200/kW, based upon the nameplate project size.

It is not clear how the credit rating to be determined by PacifiCorp will be used to determine the amount of credit assurances to be posted as it relates to the credit assurances amounts listed in Appendix D. Will the credit support levels of \$200/kW for "development period" security identified in Appendix D serve as a contractual limits for both PPAs and BTAs subject to potential reductions depending on the credit risk profile of the bidder? We have served as IE in other RFPs where the utility encourages the bidders to include the cost of security in their bid price. *If the credit support levels listed above from Appendix D are contractual limits, for consistency purposes, PacifiCorp may want to consider asking bidders to include the cost of security in their bid pricing.*

11. Allowable Alternatives/Bid Fees

Section 3.G. of the Draft RFP addresses Bid Evaluation Fees and includes Bid Fee Guidelines for each resource option. This section states that Bidders must pay a fee (Bid fee) of \$10,000 for each base proposal and two alternatives submitted. Bidders will also be allowed to offer up to three additional alternatives at a fee of \$3,000 each. Alternatives will be limited to different contract terms, in-service dates, and/or pricing structures. PacifiCorp has expanded the alternatives available to bidders from the 2017 Renewable RFP, which is a positive development.

Merrimack Energy has one question with regard to the alternatives allowed as described in Table 3. Table 3 requires bidders for Co-located BESS and Standalone BESS to submit a base bid that includes battery augmentation and one bid alternative that includes non-augmentation. It is not clear from the description whether bidders still have two alternatives available as bidders for other resources have or if the required bid for non-augmentation is classified as one alternative. From a fairness standpoint, the IE believes that all resource bidders should have the same number of alternatives. Merrimack Energy posed that question to PacifiCorp. PacifiCorp responded that Co-located BESS and Stand-alone BESS are required to submit a base bid that includes battery augmentation and one bid alternative that includes non-augmentation. This non-augmentation bid alternative will not count toward the two alternatives. Co-located BESS and Stand-alone BESS may offer two additional bid alternatives limited to different contract terms, in-service dates, and/or contract pricing.

Merrimack Energy recommends that the allowable alternatives for all resource options should be clarified in Table 3 and agrees with PacifiCorp's clarification response that all bidders will have the opportunity to offer two alternatives and a base bid for the same bid fee.

12. Transmission and Interconnection Issues/Requirements

This solicitation will be the first solicitation undertaken via PacifiCorp Transmission's Queue Reform process. In addition, as noted in the Direct Testimony of Bruce W. Griswold (page 3) transmission issues could play a prominent role based on the IRP Action Plan which includes several transmission action items that PacifiCorp states are necessary to be completed in the 2023 timeframe, including new transmission resources such as Energy Gateway South and several transmission reinforcement projects, should the 2020AS RFP result in actual projects being selected consistent with the preferred portfolio topology. In Merrimack Energy's experience, in most solicitation processes, transmission interconnection and availability are among the most challenging and important issues for project success.

Merrimack Energy submitted a few questions to PacifiCorp related to transmission including inquiring if the transmission requirements listed in the testimony and action plan could change if the actual projects selected are not consistent with the preferred portfolio topology. PacifiCorp responded that the RFP results could produce a different mix of resources and locations than the preferred portfolio.

Merrimack Energy also asked if the resources selected are in areas or volumes different than the preferred portfolio, would the transmission projects proposed change to reflect a different location or are these investments locked-in to any generation resource portfolio selected. PacifiCorp has not provided a response to this question.

In its comments, the OCS stated that PacifiCorp should discuss its expected Gateway South construction schedule and explain how it plans to ensure it will complete construction by December, 2024. PacifiCorp should also explain what will happen to bidders counting on qualifying for production tax credits (PTCs) that require their projects to be online by December 2024 if the Gateway South project is delayed. OCS recommends that PacifiCorp provide

additional information in its RFP documents describing the nature of these measures so that the PSC, potential bidders, and other interested parties will be aware of the contingencies that could occur in the event of a delay in the Gateway South project.

Interwest recommends that PacifiCorp clarify how it will model the costs of interconnection upgrades including Gateway South as to individual bids which may interconnect to the new line. Interwest recommends that PacifiCorp's modeling in the review of bids provide analysis sufficient for the Commission to be allowed to evaluate individual project proposals independently of the cost of any planned transmission lines to which the projects propose to interconnect, regardless of whether the planned transmission lines have received a certificate of public convenience and necessity.

In previous PacifiCorp solicitations, Merrimack Energy has requested that PacifiCorp either hold a transmission workshop or dedicate a significant portion of the Bidders Conference presentation to transmission-related issues. Given the importance of transmission and interconnection for this RFP and the change in the interconnection process, *Merrimack Energy recommends that PacifiCorp hold a Transmission Workshop separate from the Bidders Conference to address transmission issues, including issues identified by OCS and Interwest regarding the Gateway South transmission project, other transmission options available for bidders, and provide an overview of the Cluster study process it intends to implement for this RFP.* As we have seen in a number of other RFPs, transmission and interconnection issues generally have important implications for project success and it is important for the success of a competitive procurement process to meet the lowest reasonable cost standards of the Utah Statutes for bidders to have a complete understanding of their options, obligations, and implications regarding transmission access and interconnection.

13. Deadline for Project Eligibility

PacifiCorp Transmission's Application for Queue Reform established a January 31, 2020 eligibility date to be in the interconnection queue for projects to be eligible to bid. Interwest stated in its comments (page 8) that a more reasonable alternative would be to allow those projects that were in PacifiCorp Transmission's interconnection queue as of April 1, 2020 to be eligible to bid. Interwest states that PacifiCorp has already signaled its willingness to agree to this date in its comments at FERC, and this date would align with the going-forward April 1 cluster window. Interwest also states that potential bidders did not receive notice that January 31, 2020 would be a cutoff date before PacifiCorp Transmission filed their proposal with FERC. This notice period is more reasonable and will allow a significant number of additional projects to participate, more likely resulting in a least-cost, least-risk procurement.

The IE recommends that unless there are any specific reasons to the contrary, it appears reasonable to us that projects in the queue as of April 1, 2020 should be allowed to bid. As Interwest notes, this will allow the potential for more competition while not creating any fairness issues since it appears that potential bidders may not have known in advance that January 31, 2020 would be the cutoff date.

14. Webpage

Task B3 of the IE Scope of Work as listed in the Commission’s RFP for Independent Evaluator requires the IE to set up and maintain a webpage or database for information exchange between bidders/potential bidders and PacifiCorp **only if directed by the PSC in its Approval of the Solicitation Process**. Merrimack Energy proposed to establish a webpage on its website to accommodate this requirement similar to the webpages we established for previous PacifiCorp RFPs, including the 2017 Renewable RFP. The webpage will be used to accept questions from bidders, which Merrimack Energy staff will blind by removing the name of the bidder, before sending the questions to PacifiCorp for a response. Merrimack Energy will then review the responses and post the Question and Answer to the webpage for bidders to review. Merrimack Energy will also post any RFP documents on the webpage as well as posting any Notices to bidders of upcoming schedule items or changes to RFP documents.

15. Models and Input Assumptions

Based on Utah Administrative Code R746-420-1(2), PacifiCorp was required to provide to the IE data, information, and models necessary for the IE to analyze and verify the models at the time of filing, or earlier if practicable. PacifiCorp provided the IE the latest version of its RFP Screening spreadsheet model (formerly called the RFP Base Model) and its Locational Correlation and Capacity Model (LCC) for the initial shortlist evaluation as well as the latest input assumptions for the evaluation as required, although such assumptions would be subject to revision. In addition, PacifiCorp provided the IEs the StorageVET Model, an EPRI developed model designed to assess the energy arbitrage value of storage. The IE was able to download and review the models and verify that the RFP Screening model and LCC model should provide consistent and reviewable results. In addition, PacifiCorp held a workshop with the IEs on May 13, 2020 to walk through the models and solicit questions from the IEs. PacifiCorp noted that the SO model does not have all the granularity required to determine arbitrage and reserve values associated with storage. As a result, PacifiCorp has incorporated the StorageVET Model to better capture the value of storage.

Merrimack Energy supports the approach by PacifiCorp to recognize shortcomings in its current modeling capability and include in its methodology and evaluation tools another modeling tool capable of assessing the value of emerging resources, such as storage, as an enhancement to its IRP modeling capability.

16. Rationale for Limiting the Amount of MWs in Wyoming East to 1,920 MW

On page 26 of the RFP, PacifiCorp notes that the expansion attributed to Gateway South will enable 1,920 MW of interconnection capability for generation projects in this area and therefore the capacity limit will be specifically tied to 1,920 MW. Bids in the Wyoming east cluster are expected to trigger Gateway South to be added and account for its cost as part of the initial shortlist modeling process and later in the final shortlist modeling and selection process. As we

understand, PacifiCorp will only select 1,920 MW for Wyoming East and not the 150% of capacity selected in other areas. While Merrimack Energy asked for clarification in its questions to PacifiCorp and received a response, it is still not clear why only 1,920 MW will be included on the shortlist or what the basis for selection will be. Will PacifiCorp select only projects with interconnection agreements in place or a priority position in the queue irrespective of its bid price and overall score or will bids be ranked based on their bids and actual ranking. If the later, we don't fully grasp the reason for limiting the shortlist. Merrimack Energy requests a further explanation for the basis of this determination and further clarification in the RFP.

VII. Conclusions and Recommendations

Based on Merrimack Energy's review of the RFP and related information, the conclusions and recommendations of the IE are presented as follows:

Conclusions

- The RFP documents and processes are consistent with the Utah Admin. Code, Regulations and Statutes pertaining to the requirements for the design and development of the competitive bidding process. The IE believes that PacifiCorp has adequately addressed the requirements listed in the Statutes, including the following;
 - Utah Admin Code R746-420-1(1) to R746-420-1(3)
 - Utah Admin Code R746-420-3(7);
- Under the current structure of the RFP as an All Source solicitation process along with the suggestion to allow existing projects to submit proposals under certain conditions, it can reasonably be expected that the solicitation process would lead to the acquisition and delivery of electricity at the lowest reasonable cost to the retail customers. The IE and others have suggested revisions to the RFP which should hopefully result in a more competitive process for the benefit of customers;
- Based on the identified requirements in the RFP, the identification of location of resources expected, the shortlist selection approach that is intended to select projects from all types of resources proposed, and the opportunity for all supply-side options to participate, the IE expects there will be a significant market response that will result in a robust and competitive response from the market;
- The 2020AS RFP is a reasonably transparent solicitation process, with a significant amount of information provided to bidders on which the bidders could base their proposals;
- The 2020AS RFP is designed to provide the same information to all bidders at the same time;

- The products sought in this RFP are clearly defined and the information required for each type of resource alternative is specified in the RFP in a clear and concise manner;
- The RFP documents clearly describe the products requested, the requirements of bidders, the evaluation and selection process, eligibility and evaluation criteria and the risk profile of the buyer. In this regard, there is sufficient information to allow bidders to assess whether or not to compete, the product of choice to bid to be most competitive, and the process by which their proposals will be evaluated;
- Parties have raised the issue of ensuring comparability for resource evaluation, notably ensuring that third-party PPA and Build Transfer (BTA) bids are required to compete based on the same set of rules or on a level playing field. The IE also views comparability to be the most challenging issue in a solicitation process in which utility-owned resources compete with third-party resources. While PacifiCorp is not submitting any self-build ownership proposals (benchmark resource) in the 2020AS RFP and is not accepting any bids from any PacifiCorp affiliate, PacifiCorp will still have ownership of any BTA project selected. However, the nature of a Build-Transfer option in which third-party bidders compete to develop, build, and turn over a project to PacifiCorp after meeting the specified milestones based on project specifications outlined by PacifiCorp should serve to minimize the risk of price changes and change orders if implemented and managed properly. One issue associated with comparability is the different terms of the PPAs and BTAs. PacifiCorp has allowed PPA bidders to offer up to a 25-year contract term which is in close approximation of the expected 30-year BTA option. Merrimack Energy has proposed several ways to create a more level playing field in the solicitation process.
- The evaluation process and quantitative methodologies developed by PacifiCorp for undertaking the initial shortlist evaluation including the RFP Screening Spreadsheet Model (formerly referred to as RFP Base Model), the Locational Correlation and Capacity Model (LCC model) and the StorageVET model as well as the IRP models used for evaluating and selecting the final short list (System Optimizer and PaR models) are applicable for the modeling the range of the proposals expected in this RFP. Furthermore, the model methodology is consistent with and likely exceeds industry standards applied by others for conducting such a price and non-price analysis for an All Source RFP. While the spreadsheet model may be unique to PacifiCorp, the model methodology and concept is consistent with the approaches applied by others, notably a comparison of the costs and benefits for each proposal. The portfolio evaluation and risk assessment methodologies and models are very detailed, have been used for development of PacifiCorp's IRP and have been vetted through the IRP process, and are generally pertinent to the requirements of the Energy Procurement Resource Act.
- The evaluation and selection process is a comprehensive process designed to evaluate the cost implications associated with different resource portfolios, non-price factors required in the Act that influence project viability, and assesses the risk parameters associated with the portfolios.

- PacifiCorp has met the requirements of Utah Admin. Code R746-420-1(2) by providing the IE with data, information and models necessary for the IE to analyze and verify the models. PacifiCorp provided the IE with the latest version of its price screening spreadsheet model that will be used for the phase I shortlist evaluation as well as the latest input assumptions, which may be subject to revisions. In addition, PacifiCorp held a workshop to walk the IEs and regulatory staff through the models to illustrate the flow of information and the capabilities of each model.

Summary of Recommendations¹⁶

- The IE has provided recommendations associated with meeting the requirements in the statute for equivalent contract terms. Section R746-420-3(8)(k) states that the solicitation must allow power purchase contract terms equivalent to the projected facility life of the Benchmark option¹⁷, which we understand to be 30 years. The recommendation of the IE is to allow PPA bidders to offer either a 30-year term or a 25-year contract with up to a 5-year extension that is a firm price and would be exercised at the option of the buyer;
- Based on the tight schedule to complete Phase I of the process, PacifiCorp proposes to allow bidders 24 hours to cure any deficiencies in their proposals. After comments by Merrimack Energy, PacifiCorp agreed to allow bidders two days to cure but will strongly encourage bidders to cure within 24 hours. To minimize errors on the part of bidders for completing the offer forms we recommend that PacifiCorp hold a Workshop or Technical conference for bidders to walk the bidders through the offer forms and to guide the bidders in completing the required forms. We have suggested similar processes in other solicitations where there are either new resources being solicited or complex forms which may be a challenge for the bidders to complete effectively. The Offer Form Workshop or Technical Conference could take place in conjunction with the Bidder Workshop on July 9, 2020 or as a separate session and should serve to limit bidder errors and minimize the requirements to cure bids before beginning the evaluation process;
- Merrimack Energy recommends that the Commission grant PacifiCorp's request for a waiver of the bid blinding requirements in the Statute (Utah Admin. Code R746-420-3(10)(a)). However, the IE still suggests that questions and answers will be blinded in that PacifiCorp will not know the identity of the bidder when the questions from the bidders are provided to PacifiCorp for a response by the IE. Merrimack Energy will remove the name or reference to the bidder prior to submitting the question to PacifiCorp;
- Merrimack Energy supports the proposals of the Division of Public Utilities, Office of Consumer Services, and Utah Association of Energy Users regarding the inclusion of existing resources to compete in the All Source RFP as long as the conditions and options are agreed to in advance and are clearly identified in the RFP. We also agree with

¹⁶ See Section V of this report for a more detailed description of each of the issues and the basis for the recommendation.

¹⁷While Utah Code and Regulations, Section R746-420-3(8) continually refers to a benchmark option, we assume the benchmark option generally means a utility ownership option, including a BTA.

PacifiCorp's proposal to conduct a separate solicitation for demand response and energy efficiency resources.

- For the final RFP, we feel PacifiCorp should clarify its specific evaluation and selection methodology for initial and final evaluation and selection so there is no ambiguity regarding the shortlist selection process and decision parameters for each resource type and location;
- Merrimack Energy suggests that PacifiCorp also include a table in the RFP document that lists the net cost components (i.e. cost and value or cost and benefit categories) and provide a brief description of each cost and benefit/value component in the RFP document;
- Merrimack Energy has provided a separate memo to PacifiCorp which included several recommendations associated with the non-price evaluation criteria listed in the RFP and described in more detail in Appendix L of PacifiCorp's application filing. The revisions suggested are intended to conform the criteria to the statements listed on page 27 of the Draft RFP that "the non-price analysis will gauge the maturity and readiness of the project including the development, site control, permitting, equipment procurement, conformance to PPA or BTA terms and conditions, schedule, and operational characteristics and associated risks of each bid. Merrimack Energy's primary recommendations include the following:
 - Include the majority of the Conformance to RFP Requirements in Minimum Eligibility Requirements and reallocate all or most of the 5% of the 25% dedicated to Conformance to RFP Requirements to other criteria that reflect more significantly on project viability. The one possible exception may be Compliance with Technical or Operating Specifications, which could be allocated 2%;
 - Merrimack Energy would suggest reducing the percent for Contract Compliance from 10% to 5% or less because of the nature of this criteria which cannot be easily translated into a "check the box" or "self-scoring" criteria. In addition, PacifiCorp has provided two pro forma contracts (PPA for resources and PPA for resource plus storage) and two term sheets (BTA and Storage Agreements). The BTA and Storage Term Sheets are only 12 pages. Instead of awarding points based on whether or not the bidder provides redlines as PacifiCorp proposes, we think it is more appropriate to award points if the bidders attest that they are willing to execute the proforma contract (if they take no or limited exceptions) or if they have had an outside attorney review the contract and term sheet. For example, PacifiCorp proposes to award all 10% of the score to a proposal that provides comments and redlines. However, the redlines could be designed to shift the risk in the pro forma contract totally to the utility and its' customers, which is a negative outcome for which the bidder will be rewarded under PacifiCorp's proposal. While we have found that it is difficult to treat Contract Compliance as an objective criteria (i.e. self-scoring) aligning the value of a proposal with a defined outcome may be more applicable if the above criteria associated with willingness to execute a contract as is or legal review is undertaken may be more reasonable;

- Allocate the remaining points to Project Readiness and Deliverability criteria;
 - Based on our comments on the other criteria we would suggest allocating a maximum of up to 5% for Contract Conformance and up to 18% to 20% for Project Readiness and Deliverability (i.e. Project Viability). The allocations percentages could be 4% to 5% to each of the four sub-criteria or some other weighting to reflect PacifiCorp's view of categories that may be more important to overall project viability;
 - We also suggest PacifiCorp consider broadening the elements included in Bidder Development Experience and also consider focusing on criteria related to the number of projects completed by the bidder of similar size and technology as proposed rather than the amount of MWs for the projects developed.
- With regard to credit support, if the credit support levels listed in Appendix D are contractual amounts, for consistency purposes, PacifiCorp may want to consider asking bidders to include the cost of this level of security in their bid pricing;
 - Merrimack Energy recommends that the allowable alternatives for all resource options should be clarified in Table 3 of the RFP and agrees with PacifiCorp's clarification response that all bidders will have the opportunity to offer two alternatives and a base bid for the same bid fee, including energy storage options;
 - Given the importance of transmission and interconnection for this RFP and the change in the transmission interconnection process, Merrimack Energy recommends that PacifiCorp hold a Transmission Workshop separate from the Bidders Conference to address transmission issues, including issues identified by OCS and Interwest regarding the Gateway South transmission project, cost implications, other transmission options available for bidders, and provide an overview of the Cluster study process it intends to implement for this RFP;
 - The IE recommends that unless there are any specific reasons to the contrary, it appears reasonable to us that projects in PacifiCorp Transmission's interconnection queue as of April 1, 2020 should be allowed to bid. As Interwest notes, this will allow the potential for more competition while not creating any fairness issues since it appears that potential bidders may not have known in advance that January 31, 2020 would be the cutoff date to get into the queue to be eligible for the RFP;
 - Task B3 of the IE Scope of Work as listed in the Commission's RFP for Independent Evaluator requires the IE to set up and maintain a webpage or database for information exchange between bidders/potential bidders and PacifiCorp **only if directed by the PSC in its Approval of the Solicitation Process**. Merrimack Energy proposed to establish a webpage on its website to accommodate this requirement similar to the webpages we established for previous PacifiCorp RFPs. The webpage will be used to accept questions from bidders, which Merrimack Energy staff will blind by removing the name of the bidder, before sending the questions to PacifiCorp for a response. Merrimack Energy will then review the responses and post the Question and Answer to the webpage for bidders to review. Merrimack Energy will also post any RFP documents on the webpage as well

as posting any Notices to bidders of upcoming schedule items or changes to RFP documents.