
Application of Rocky Mountain Power for Approval of Solicitation Process for 2020 All Source Request for Proposals	<u>DOCKET NO. 20-035-05</u> <u>ORDER APPROVING 2020</u> <u>ALL SOURCE RFP</u>
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ISSUED: July 17, 2020

1. Procedural Background

On January 23, 2020, PacifiCorp, doing business as Rocky Mountain Power (RMP), filed notice of its intent (the “NOI”) to seek approval of a solicitation process pursuant to the Energy Resource Procurement Act (the “Act”).¹ RMP explained it submitted the NOI to comply with Utah Admin. Rule R746-420 (the “Rule”), which requires, among other things, that soliciting utilities give advance notice to the Public Service Commission (PSC) no later than 60 days prior to the filing of such a request.² The NOI explained RMP would solicit bids for up to 6,000 MW of renewable and non-renewable resources plus approximately 600 MW of battery storage, all capable of delivering energy and capacity to PacifiCorp’s system for service on or before December 31, 2023.

Consistent with Utah Admin. Code R746-420-1(3)(a) and pursuant to Utah Code Ann. § 54-17-203, the PSC promptly appointed an Independent Evaluator, Merrimack Energy Group, Inc. (the “IE”), to monitor the solicitation.

On April 9, 2020, RMP filed an application for approval of the 2020 All Source RFP (“Application”), attaching a copy of the 2020 All Source RFP (“RFP”) and requesting the PSC’s

¹ The Act is codified at Utah Code Ann. §§ 54-17-101 through 909.

² See Utah Admin. Code R746-420-1(3)(a) (“The Soliciting Utility shall give advance notice to the [PSC] ... not later than 60 days prior to the filing of the draft Solicitation and Solicitation Process to enable the [PSC] to promptly hire an Independent Evaluator.”).

approval pursuant to the Act and the Rule. Consistent with RMP's NOI, the Application proposes to add up to 1,823 MWs of new proxy solar resources co-located with 595 MWs of new battery energy storage system capacity and 1,920 MWs of new proxy wind resources. The RFP requires proposals to demonstrate that projects will achieve commercial operation no later than December 31, 2024. While the NOI indicated RMP would solicit proposals to be in service by December 31, 2023, the Application explains that RMP adjusted the in-service date because of a change to the federal production tax credit (PTC) that extended wind projects' eligibility so long as they are placed in service before year-end 2024.³ RMP emphasizes, however, that the RFP allows solar bids to propose an on-line date in 2023 to capture the full PTC.⁴ In addition, RMP will accept certain long-lead time resource types that require longer development and construction schedules, placing completion of those types beyond the required December 31, 2024 in-service date.⁵ The Application also requests a waiver of Utah Admin. Code R746-420-3(10)(a), which otherwise requires the IE to "blind" all bids for the evaluation process.

On April 22, 2020 and May 19, 2020, respectively, RMP made supplemental filings (collectively, "Preliminary Corrections") to correct several appendices to the RFP.

³ See Application at 1-2.

⁴ See, e.g., Direct Test. of B. Griswold, filed Apr. 9, 2020, at 7:140-143 (hereafter, "B. Griswold Direct Test.>").

⁵ Application at 2. Initially, RMP identified pumped storage hydro and nuclear resources as eligible "longer lead time" projects. 2020 RFP at 1, attached as Ex. BWG-1 to B. Griswold Direct Test. In response to concerns the DPU expressed about the nuclear project in PacifiCorp Transmission's interconnection queue failing to progress, RMP's Revisions later eliminated nuclear resources as an eligible category of "long-lead resource." RMP's Reply in Support of Application for Approval of Solicitation Process, filed June 15, 2020, at 2 (hereafter, "RMP's Reply").

On April 24, 2020, the PSC held a telephonic scheduling conference. The participating parties stipulated to a schedule for the filing of comments and reply comments, but no party requested a hearing. In its Scheduling Order, issued May 4, 2020, the PSC approved and adopted the parties' proposed schedule, which necessitated waiving otherwise applicable deadlines for comments under the Rule and finding that additional time for adjudicating the docket was warranted and in the public interest beyond the presumptive 60-day period under Utah Code Ann. § 54-17-201(2)(f).

The PSC later granted four parties' requests for intervention in this docket: the Utah Association of Energy Users (UAE); the Interwest Energy Alliance (IEA), Utah Clean Energy (UCE), and the School and Institutional Trust Lands Administration.

The Division of Public Utilities (DPU), the Office of Consumer Services (OCS), UAE, and IEA filed initial comments on or before the date due in the Scheduling Order.

On June 3, 2020, the IE filed its "Task A7 Report of the Utah Independent Evaluator Regarding PacifiCorp's Draft All Source Request for Proposals" (hereafter, "IE's Report"), providing an evaluation and recommendations for the RFP.

On June 15, 2020, RMP filed its Reply Comments, identifying numerous modifications it had made to the RFP to address some of the issues parties raised in their initial comments as well as certain recommendations in the IE's Report. The DPU, OCS, UAE, UCE, and IEA also filed reply comments.

On June 18, 2020, RMP filed a Supplemental Reply, representing that "[a]fter submitting its initial reply comments, [RMP] was made aware that the revised [RFP], filed with the reply

comments, inadvertently omitted some of the intended modifications.”⁶ RMP filed the Supplemental Reply to: (1) “provide a corrected version of the [RFP]”; and (2) “supplement its [initial] reply comments to respond to and clarify transmission-related modeling issues raised by [UAE] in its reply comments.”⁷

On June 29, 2020, RMP submitted additional changes, styled as its Corrected Filing, which RMP explained remedied an inconsistency between the RFP and PacifiCorp’s Open Access Transmission Tariff. RMP represented in the filing that it conferred with the DPU, OCS, UAE, and IEA and that these parties authorized RMP to represent they do not oppose the change.

Recognizing the RFP called for issuance to market on July 6, 2020, the PSC issued Notice of its Decision to approve the RFP on July 2, 2020.

Finally, on July 6, 2020, RMP submitted its Notice of Final 2020 All Source RFP, attaching a further amended version of the RFP to incorporate one modification and a single condition the Oregon Public Utilities Commission imposed in approving the RFP on July 2, 2020.⁸ RMP again represented that it had conferred with the DPU, OCS, UAE, and IEA and that these parties do not oppose the final changes.

⁶ RMP’s Supplemental Reply Comments, filed June 18, 2020, at 1.

⁷ *Id.*

⁸ The modification deleted a requirement concerning bidder litigation and the condition requires RMP to adjust a bidder cut-off date in the event the Federal Energy Regulatory Commission issues an order on rehearing before August 10, 2020 that changes the transition interconnection cluster study cutoff date. Though these changes were made subsequent to the PSC issuing its Notice of Decision, neither materially affects the PSC’s analysis, findings, and conclusions in this order.

This Order collectively refers to the changes RMP adopted in its Preliminary Corrections, Reply Comments, Supplemental Reply, Corrected Filing, and Notice of Final 2020 All Source RFP as the “Revisions” and to the version of the RFP that incorporates all such changes, which RMP attached to its Notice of Final 2020 All Source RFP as the “Final Proposed RFP.”

2. Legal Background

Broadly, the Act requires electric utilities to obtain approval from the PSC prior to acquiring a resource that produces significant energy.⁹ Generally, this entails two distinct approvals from the PSC. First, having identified a need for energy, the utility develops and proposes a solicitation process to meet that need, which the utility must submit to the PSC for approval (“Solicitation Approval Requirement”).¹⁰ Second, once the utility has used the PSC-approved process to identify the particular resource it wants to procure, the utility must submit the resource it selects to the PSC and obtain approval to procure that specific resource (“Resource Approval Requirement”).¹¹

We are here concerned only with the first stage. RMP seeks the PSC’s approval of the RFP to satisfy the Solicitation Approval Requirement. If the PSC approves the RFP in this docket, any resource that RMP ultimately selects out of that process is subject to the Act’s

⁹ See Utah Code Ann. § 54-17-302. The Act defines a “significant energy resource” as a resource that consists of 100 MW or more of new generating capacity with a dependable life of 10 or more years. Utah Code Ann. § 54-17-102(4). Statutory exceptions exist and a utility may seek a waiver of the requirement to obtain the PSC’s approval, though doing so forfeits certain cost recovery advantages the utility would otherwise enjoy under the Act. See *id.* at § 54-17-501. As RMP has not sought such a waiver here, the conditions for and ramifications of qualifying are outside the scope of this order.

¹⁰ *Id.* at § 54-17-201.

¹¹ *Id.* at § 54-17-302.

Resource Approval Requirement, *i.e.*, RMP must still submit its choice to the PSC and obtain its approval.¹²

a. Standard for Approving a Solicitation Process under the Act and Rule.

In evaluating a solicitation process, the Act requires the PSC to determine whether the proposed process (i) complies with the Act and applicable administrative rules; and (ii) is in the public interest.¹³ With respect to the latter, the Act enumerates the following factors the PSC must “tak[e] into consideration” in determining whether a solicitation is in the public interest: (A) whether the process “will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost”; (B) “long-term and short-term impacts”; (C) “risk”; (D) “reliability”; (E) “financial impacts on the ... utility”; and (F) “other factors determined by the [PSC] to be relevant.”¹⁴

The Act does not impose exhaustive or detailed requirements solicitations must satisfy, but it requires the PSC to adopt administrative rules consistent with the Act’s instructions to do so.¹⁵ Consequently, the PSC has adopted the Rule, which outlines solicitation requirements in

¹² This assumes RMP does not later seek a waiver of the Resource Approval Requirement, as discussed *supra* at n.10. Though such a scenario is possible, it is unlikely because a utility that obtains such a waiver forfeits certain cost recovery protections the Act extends to resource decisions that satisfy the Solicitation and Resource Approval Requirements. *See id.* at § 54-17-501.

¹³ *Id.* at § 54-17-201(2)(c).

¹⁴ *Id.*

¹⁵ *See id.* at § 54-17-202.

significant detail.¹⁶ We will not encumber this order with a recitation of the Rule’s detailed requirements and raise them only to the extent a question exists as to whether the RFP is in compliance.

Substantively, the Rule requires “[a]ll aspects of a Solicitation and Solicitation Process must be fair, reasonable and in the public interest,” reiterating the Act’s statutory public interest considerations.¹⁷ The Rule also provides that solicitations must be “sufficiently flexible,” “designed to solicit a robust set of bids to the extent practicable,” and “commenced sufficiently in advance of the time of the projected resource need to permit and facilitate ... a reasonable evaluation of resource options that can be available to fill the projected need.”¹⁸

3. Discussion, Findings, and Conclusions

In their respective filings, the DPU, OCS, and intervenors raised numerous concerns and recommended changes to the RFP to address them. Through its Revisions, RMP adopted some of those suggestions, in whole or in part, and rejected others. We do not attempt here to discuss every such suggestion. Rather, our task is to evaluate the solicitation process that RMP has proposed, in its final form, and to determine whether it (i) complies with the Act and Rule; and (ii) is in the public interest based on the factors the Act requires us to consider.

¹⁶ See Utah Admin. Code R746-420. Although we have referred here to R746-420 as “the Rule,” we note for context that the Rule is comprised of R746-420-1 through R746-420-6 and contains more than 5,000 words.

¹⁷ Utah Admin. Code R746-420-3(1)(a).

¹⁸ *Id.* at R746-420-3(1)(b)(iii)-(v).

a. The Final Proposed RFP Complies with the Procedural Requirements of the Act and Rule.

The IE's Report contains a relatively comprehensive discussion of the requirements a utility's solicitation must satisfy to comply with the Act and the Rule, and the IE represents it reviewed the RFP documents to ensure consistency with these requirements and industry standards.¹⁹ Based on its review and analysis, the IE concluded "[t]he RFP documents and processes are consistent with [the Act and Rule] pertaining to the requirements for the design and development of the competitive bidding process."²⁰

Similarly, the DPU represents the Application to "generally comply" with the Act and Rule, explaining "[t]he procedural requirements of the statutes and rules are addressed in ... the Application, and the [DPU] agrees that these have been generally satisfied."²¹

While all parties had one or more suggested revisions to the RFP, no party identified a particular provision or requirement of the Act or Rule with which RMP failed to comply, and like the IE and DPU, the PSC could identify no such deficiency in its review. Accordingly, we find and conclude the Final Proposed RFP complies with the requirements of the Act and Rule.

¹⁹ *See, e.g.*, IE's Report at 11-12.

²⁰ *Id.* at 44. The IE's Report goes on to state with specificity that RMP "adequately addressed the requirements" the Rule imposes under R746-420-1(1) (general filing requirements for the solicitation, including testimony and exhibits); R746-420-1(2) (requirement to provide data, information, and models necessary for the IE to analyze and verify the models); R746-420-1(3) (procedural requirements prior to bid issuance, including 60-day notice to the PSC, pre-issuance bidders' conference, and appropriate notice to potential bidders regarding the timeline for providing comments and other input); and R746-420-3(7) (general requirements of the solicitation process). *Id.*

²¹ DPU Initial Comments at 10, 11.

b. The Final Proposed RFP is in the Public Interest.

As a preliminary matter, we note RMP filed notice of its RFP in January of this year, nearly four years prior to the target commercial operation date for most categories of eligible resources. Under RMP's proposed schedule, the RFP will issue to market on July 6, 2020 and bids are due on August 10, 2020. An extensive, multi-phase process to study, evaluate, and ultimately select resources follows such that winning bidders execute contracts by November 8, 2021 to be in operation by year-end 2024.²² Acknowledging that some milestones are subject to change in such a complex endeavor, the PSC finds the proposed schedule allows reasonable and sufficient time to identify and select the lowest reasonable cost option to fulfill RMP's needs.²³

We do not attempt to discuss here every requirement, term, condition, and attribute of the RFP, rather we highlight and address those aspects of the RFP that are most relevant to our determination. Broadly, we divide these into two categories: (i) those that determine the pool of eligible bidders and bids; and (ii) those that determine how submitted bids will be evaluated and selected.

²² The IE initially expressed concern that the time for evaluation and selection of bids was aggressive and suggested the following ameliorative revisions: (i) an additional workshop to minimize errors on bid forms; and (ii) additional time for bidders to cure deficiencies in their proposals. IE's Report at 5. RMP revised the RFP to incorporate both. *See* RMP's Reply at 23 (workshops); Final Proposed RFP at 9 (allowing additional time to cure).

²³ By extension, we find the solicitation complies with Utah Admin. Code R746-420-3(1)(b)(v), having been commenced "sufficiently in advance of the time of the projected resource need to permit and facilitate ... a reasonable evaluation of resource options that can be available to fill the projected need."

- i. The Final Proposed RFP is designed to solicit a large number of bids from a diverse mix of generation resources and is likely to solicit bids from lowest cost, least risk alternatives.

In assessing whether a solicitation will identify optimal options, a primary consideration must be the scope of potential projects that are eligible to bid. Generally, a solicitation that invites a large and diverse group to participate is more likely, for example, to solicit lower cost bids than a solicitation restricted to a smaller, more homogenous pool of eligible participants.²⁴ The former is, other things being equal, simply less likely to categorically exclude the lowest cost option from submitting a bid. The Rule recognizes as much by requiring bids “be designed to solicit a robust set of bids to the extent practicable” and be “sufficiently flexible to permit the evaluation and selection” of those resources that are in the public interest.²⁵

Here, the RFP’s scope is broad in numerous, significant respects. First, the RFP is an all-source solicitation, placing no meaningful limitations on the category of generation resources it will consider. Generally, renewables (with or without storage) and non-renewables are eligible to bid, as are resources that provide standalone battery storage and pumped storage hydro.²⁶ While existing plants were initially ineligible to bid, RMP revised the RFP to allow them²⁷ in response

²⁴ We recognize that a utility’s specific requirements may unavoidably narrow the pool of eligible bids based on resource type, location, size, or other considerations. We do not mean to suggest otherwise. However, it should be uncontroversial to observe that a utility increases the likelihood of identifying the lowest cost alternative by soliciting proposals from the largest and most diverse pool of bidders that are capable of meeting the utility’s requirements.

²⁵ See Utah Admin. Code R746-420-3(1)(b)(iii), (iv).

²⁶ See, e.g., IE’s Report at 17; Final Proposed RFP at 22.

²⁷ RMP’s Reply at 3. The RFP conditions bids from existing facilities such that they may not terminate an existing contract with PacifiCorp in order to bid it into the RFP and any existing

to concerns several parties expressed.²⁸ Second, the RFP is not geographically restrictive with respect to the location of projects, which are generally eligible to bid so long as they are capable of interconnecting with or delivering to PacifiCorp's transmission system in its east or west balancing authority areas.²⁹ Third, the RFP imposes a low minimum generation capacity (greater than 20 MW), allowing smaller projects to compete.³⁰ Fourth, the RFP is relatively flexible with respect to allowable transaction structures, inviting proposals for power purchase agreements (PPAs),³¹ build-transfer agreements (BTAs),³² and several other less common arrangements.³³

The IE's Report agrees these characteristics should lead to a "significant," robust," and "competitive" market response that "can reasonably be expected" to "lead to the acquisition and delivery of electricity at the lowest reasonable cost."³⁴

contract must expire no later than December 31, 2024. *Id.*; *see also* OCS's Initial Comments at 4-5 (agreeing these conditions on existing facilities are reasonable).

²⁸ *See, e.g.*, DPU's Initial Comments at 5-6; OCS's Initial Comments at 4-5; UAE's Initial Comments at 4 (noting that existing resources are more likely to propose a power purchase agreement than a build-transfer agreement and encouraging their eligibility).

²⁹ Final Proposed RFP at 1-2; *see also* IE's Report at 20. Whether interconnection to PacifiCorp's system is required or reliance on third-party transmission is acceptable is contingent on the type of contract. *See id.*

³⁰ Final Proposed RFP at 2. Qualifying facilities under the Public Utility Regulatory Policies Act are an exception and may participate if their nameplate capacity is greater than the state standard avoided cost schedule as detailed in the RFP. *Id.*

³¹ Under a PPA, the bidder contracts to develop a project and to sell the power, capacity, and environmental attributes to PacifiCorp for a period of 15 to 30 years. Final Proposed RFP at 2.

³² Under a BTA, the bidder contracts to develop a resource and to later transfer the asset to PacifiCorp. *Id.*

³³ For example, the RFP allows for battery storage agreements and contemplates that pumped storage hydro will be "transacted through an individually negotiated tolling agreement." *Id.* at 3.

³⁴ IE's Report at 44.

- ii. The Final Proposed RFP's process for evaluating and selecting bids is reasonably designed to select resources that are in the public interest.

In the preceding subsection, we discuss the broad range of resources the RFP will consider and the advantages of such an approach, but this expansiveness, perhaps inevitably, complicates the task of evaluating and comparing bids against each other. For example, resources geographically near one another that share generation characteristics and transmission pathways may be relatively easy to compare on an “apples to apples” basis. However, fairly evaluating extremely diverse resources against one another is necessarily more complicated, and parties may reasonably disagree as to the most appropriate methods for doing so. In fact, the primary points of contention in this proceeding are generally related to this issue.

Broadly, the RFP proposes a three-phase evaluation and selection process, each phase containing multiple steps.³⁵ In Phase I, RMP will screen all submitted and accepted bids to ensure conformance with the RFP and then score and rank the bids (including price and non-price considerations, weighted as described in the RFP) “based on their location in relationship to the 2020 IRP topology and resource type.”³⁶ Phase I will result in the selection of an “initial shortlist.” RMP identifies the following tasks to occur in Phase II: (i) PacifiCorp Transmission will conduct and prepare a transmission cluster study report (“Transmission Study”) and PacifiCorp will engage a third party to verify the capacity factor of proposed wind and solar resources selected to the initial shortlist and to assist in the evaluation of bids that include

³⁵ The PSC does not attempt to fully summarize the process here but only to provide an outline to contextualize this discussion. The Final Proposed RFP contains an exhaustive description of the process. *See* Final Proposed RFP at 26-36.

³⁶ *Id.* at 27.

storage; (ii) PacifiCorp will work with initial shortlist bidders to work through preliminary contract development; and (iii) once the Transmission Study is complete, initial shortlist bidders will be required to update their bid pricing to include direct assigned and network upgrade costs as discussed in the RFP. In Phase III, PacifiCorp will rerun the initial shortlist resources with the updated bid pricing and interconnection costs and engage in numerous analytical processes described in the RFP to identify a final shortlist.

We are mindful the parties have proposed numerous suggestions to revise the RFP's process for comparing and evaluating bids and that RMP's Revisions have adopted some such suggestions and that RMP has declined to incorporate others. However, we also recognize that in any large, complex procurement, stakeholders are all but certain to have varying preferences and disagreements as to the methods the procurement employs to evaluate and select bids.

On the whole, we find the process outlined in the Final Proposed RFP is reasonably designed to identify and select resources that are in the public interest. The IE's Report strongly supports our conclusion, including but not limited to the following observations:

- “The evaluation process and quantitative methodologies developed by PacifiCorp for undertaking the initial shortlist evaluation ... as well as the IRP models used for evaluating and selecting the final short list ... are applicable for the modeling [of] the range of the proposals expected in this RFP.”³⁷
- “[T]he 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.”³⁸
- “The portfolio evaluation and risk assessment methodologies and models are very detailed, have been used for development of PacifiCorp's IRP and have been

³⁷ IE's Report at 45.

³⁸ *Id.*

vetted through the IRP process, and are generally pertinent to the requirements of the [Act].”³⁹

- “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.”⁴⁰

The DPU similarly observed the “models and overall portfolio selection process are similar to those used in the IRP” and that “[t]he risk, reliability, and cost impacts of the bids are evaluated by the IRP methodology.”⁴¹

Nevertheless, we do wish to highlight two issues that warrant additional discussion. First, several parties and the IE expressed concern the RFP did not fully and effectively consider transmission scenarios that did not include the unbuilt “Gateway South” (or “GWS”) transmission line.⁴² Numerous parties suggested “[e]conomic modeling of bids should include scenarios without the Gateway South transmission line.”⁴³ On our initial review, we found these concerns compelling as it did not appear the transmission costs associated with scenarios that did not entail construction of Gateway South would be accurately and fairly compared with those that assumed and relied on its construction. However, in its Supplemental Reply, RMP made several commitments to address this problem, including but not limited to the following:

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ DPU’s Comments at 10.

⁴² *See, e.g.*, OCS’s Comments at 2; UAE’s Reply Comments at 2-5; IEA’s Comments at 7; DPU’s Reply Comments at 3-4; IE’s Report at 42.

⁴³ OCS’s Comments at 2; *see also* IE’s Report at 42 (recommending PacifiCorp hold a workshop “to address transmission issues, including issues identified by OCS and [IEA] regarding the Gateway South transmission project [and] other transmission options available for bidders”).

- (1) “Inasmuch as the final shortlist evaluation includes bids dependent upon GWS, [RMP] will perform, at minimum, a sensitivity that removes GWS and all bids that require GWS”; and
- (2) “Inasmuch as the final shortlist evaluation includes bids dependent upon GWS, [RMP] will perform a sensitivity that replaces GWS with an alternative transmission build-out scenario that is reasonably aligned with options identified in the Norther[n] Tier Transmission Group[’s] 2018-2019 Regional Transmission Plan.”⁴⁴

The PSC finds these and the other commitments RMP makes in its Supplemental Reply are reasonable and adequately address this issue.

Second, several parties and the IE raised concerns as to whether the RFP requires (third-party) PPAs and BTAs to compete “on a level playing field.”⁴⁵ Again, RMP incorporated revisions to address some of these concerns into the Final Proposed RFP.⁴⁶ Still, other points of disagreement remain with respect to how RMP will fairly compare PPAs and BTAs, including but not necessarily limited to (1) any terminal value RMP assigns to BTAs; (2) the costs, benefits, and risks that ratepayers, as opposed to counterparties, bear with respect to federal or state tax credits or changes in tax rates;⁴⁷ and (3) any other costs, benefits, and risks ratepayers, rather than counterparties, bear under each contract structure.

⁴⁴ RMP’s Supplemental Reply at 3.

⁴⁵ IE’s Report at 45.

⁴⁶ For example, RMP adopted the IE’s recommendation that RMP increase the potential contract term for PPAs to 30 years and provided an explanation to address UAE’s concerns about normalization of the revenue requirement for 25-year PPAs versus 30-year BTAs and RMP’s assumptions about operating and capital costs of BTA bids and how those are incorporated into the delivered revenue requirement. RMP’s Reply at 20-21, 23.

⁴⁷ The PSC is specifically interested in how a bid for resources located in Wyoming would impact Utah ratepayers in the event Wyoming increases its wind tax; a proposition that has been discussed extensively recently.

We recognize the importance of ensuring that RMP evaluates PPAs and BTAs in a fair and reliable manner that fully accounts for any unique risks, benefits, and other distinct attributes associated with each contract structure. However, it is not reasonable to expect, nor does the Act require, procurements to resolve every potential comparative variable that may arise among many competing kinds of projects in advance and prior to approval of the solicitation process.

As we discuss above, the Rule requires the solicitation process to include sufficient time to ensure it identifies and procures resources that are in the public interest by the date of the customers' projected need. Here, the IE characterizes the proposed schedule as "aggressive" in order to procure operational resources by the date RMP needs them. To delay this process, which we have found to be intelligently designed to identify and select resources to meet this need, for the purpose of resolving such granular questions is not in the public interest.

As discussed *supra* at 5, the Act requires an additional proceeding before the PSC, whereby RMP must submit its selected resources for approval (*i.e.*, RMP must still satisfy the Act's Resource Approval Requirement). The PSC and the parties will have ample opportunity to fully explore and litigate these issues during that process, and RMP should be prepared to explain how it fairly and accurately evaluated the unique risks, benefits, and other distinct attributes associated with bids structured as BTAs as opposed to PPAs. The PSC expressly cautions RMP that failure to do so may be a basis for the PSC declining to approve a selected resource under Utah Code Ann. § 54-17-302.

- iii. Taking into consideration the statutory factors, the PSC finds the Final Proposed RFP is in the public interest.

As we have detailed in the preceding subsections, we find the Final Proposed RFP is reasonably designed to solicit bids and select the lowest cost generation resources to meet RMP's projected need, and therefore it "will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost" to Utah's retail customers.

With respect to the "long-term and short-term impacts," "risk," "reliability," and "financial impact" factors, we discuss *supra* at 13-14 that the Final Proposed RFP utilizes detailed models consistent with and vetted through PacifiCorp's IRP process. Based on our review, the IE's Report, and other parties' consistent input, we find these factors favor our determination that the Final Proposed RFP is in the public interest.

Finally, the Act also asks the PSC to consider other factors we deem to be relevant. In addition to the solicitation's inclusivity and extensive, methodical review process, we find the Final Proposed RFP provides a commendably transparent process, providing relatively exhaustive and well-defined requirements to bidders at the same time, in a reasonably clear and concise manner.⁴⁸ We conclude this is consistent with both the letter and spirit of the Act and further maximizes the likelihood the process will identify and select resources in the public interest.

⁴⁸ Our findings here are consistent with the IE's Report, which concluded the RFP "is a reasonably transparent solicitation process, with a significant amount of information provided to bidders ... at the same time" and that the resources sought "are clearly defined and the information required ... is specified in the RFP in a clear and concise manner." IE's Report at 44-45.

c. The PSC Waives the Blind Bidding Requirement.

Utah Admin. Code R746-420-3(10)(a) provides the IE “shall ‘blind’ all bids and supply blinded bids” to the soliciting utility (“Blind Bidding Requirement”). Citing numerous PSC orders granting waivers under similar circumstances, RMP asks the PSC to waive the requirement.⁴⁹ RMP argues “[a]s in past solicitation processes, blinding bids will provide limited value because the detailed information that will be included in each bid will effectively disclose the bidder’s identity,” thereby “creat[ing] an administrative burden on the IE and [RMP] with no commensurate value.”⁵⁰ Noting the “already short timeframe for evaluating and ranking bids by resource type for purposes of shortlisting,” the IE expressly supports RMP’s request for a waiver.⁵¹ Like RMP, the IE concludes 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.”⁵² Finally, the DPU supports RMP’s request, finding it significant that RMP “is not submitting a self-bid in this RFP.”⁵³

Because of the time constraints and the apparent futility of blinding such project-specific bids, the PSC finds the burden the Blind Bidding Requirement would impose on the IE and RMP significantly outweighs any benefit to blinding the bids under these circumstances. The PSC

⁴⁹ Application at 7-8.

⁵⁰ B. Griswold Direct Test. at 10:200-207.

⁵¹ IE’s Report at 32.

⁵² *Id.* at 31.

⁵³ DPU’s Initial Comments at 10.

grants RMP's request for a waiver consistent with our prior orders and Utah Admin. Code R746-1-109.

4. Order

Pursuant to its authority and obligations under Utah Code Ann. §§ 54-17-201 through 203 and Utah Admin. Code R746-420 and consistent with the foregoing discussion, the PSC approves the Final Proposed RFP. RMP's request to waive the Blind Bidding Requirement otherwise applicable under Utah Admin. Code R746-420-3(10)(a) is granted.

The PSC directs the IE to set up and maintain a webpage or database for information exchange between potential bidders and PacifiCorp consistent with the IE's scope of work and the IE's Report.⁵⁴

DATED at Salt Lake City, Utah, July 17, 2020.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#314723

⁵⁴ The IE's scope of work consists of such an exchange provided the PSC directs the IE to do so in its order approving the solicitation process. The IE's Report describes its proposal to fulfill this requirement at p.43.

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the PSC within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on July 17, 2020, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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