



State of Utah

Department of Commerce Division of Public Utilities

MARGARET W. BUSSE
Executive Director

CHRIS PARKER
Director, Division of Public Utilities

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Comments

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Doug Wheelwright, Utility Technical Consultant Supervisor

David Williams, Utility Technical Consultant

Date: March 14, 2022

Re: **Docket No. 21-035-52**, Application of Rocky Mountain Power for Approval of a Solicitation Process for 2022 All Source Request for Proposals

Recommendation (Approval With Conditions)

The Utah Division of Public Utilities (Division) finds that PacifiCorp's Application of Rocky Mountain Power for Approval of Solicitation Process for 2022 All Source Request for Proposals (Application) generally meets the relevant statutory and administrative requirements. The Division recommends the Public Service Commission of Utah (Commission) approve the Application, subject to the conditions listed below.

Issue

PacifiCorp, doing business as Rocky Mountain Power (the Company), filed the Application on January 26, 2022 with the Commission, seeking approval of the solicitation process for its 2022 All Source Request for Proposals (2022AS RFP). In Utah the solicitation process is generally governed by Utah Code sec. 54-17-201 through 203 and Utah Admin. Code R746-420.

Background

The 2022AS RFP results from the Company's 2021 Integrated Resource Plan (2021 IRP). The IRP's preferred portfolio included Action Item 2d, which stated that "PacifiCorp will issue an all-source Request for Proposals (RFP) to procure resources that can achieve commercial operations by the end of December 2026."¹ The 2022AS RFP is seeking approximately 1,345 megawatts (MW) of new wind and solar energy resources, collocated with 600 MW of capacity of new battery energy storage system (BESS) by the end of 2026.²

In accordance with Utah Code Ann. sec. 54-17-203, in January 2022, the Commission appointed an independent evaluator (IE) for the 2022AS RFP. On January 26, 2022, the Company filed its Application along with Direct Testimony from Heather Eberhardt. Attached as an exhibit to the testimony was the draft 2022 RFP solicitation (Draft 2022AS RFP) and associated appendices. The Company held a pre-issuance bidders conference on January 11, 2022, and a Technical Conference on February 17, 2022.

The Company expects that the 2022AS RFP will include Benchmark Options, as defined by Utah Code sec. 54-17-102(2) (i.e., an energy resource that may be constructed or owned by the Company). The Company expects to propose both Owned Benchmark Resources and Market Benchmark Resources, as described in Utah Admin. Code R746-420-3(4)(a).³ One notable difference between this 2022AS RFP and the previous RFP is that there is not an initial shortlist for the 2022AS RFP, and thus no option for bidders to offer updated bid prices before the final shortlist, as they were able to do in the previous RFP.

Utah Code sec. 54-17-102(2) defines a "benchmark option" as "an energy resource against which bids in an open bid process may be evaluated that ... could be constructed or owned by" the

¹ 2021 Integrated Resource Plan, Volume I, p. 325. Available at: <https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2021-irp/Volume%20I%20-%209.15.2021%20Final.pdf>

² Direct Testimony of Heather B. Eberhardt, Docket No. 21-035-52, filed January 26, 2022 (Eberhardt Testimony), lines 34-37.

³ Eberhardt Testimony, lines 159-163.

Company. The Utah Administrative Code states the following about disclosures related to Benchmark Options:

(4) Disclosures. If a Solicitation includes a Benchmark Option, the Solicitation shall include at least the following information and disclosures:

(a) Whether the Benchmark Option will or may consist of a Soliciting Utility self-build or owned option (Owned Benchmark Resource) or if it is a purchase option (Market Benchmark Resource);

(b) If an Owned Benchmark Option is used, a description of the facility, fuel type, technology, efficiency, location, projected life, transmission requirements and operating and dispatch characteristics of the Owned Benchmark Option. If a Market Benchmark Option is used, the Soliciting Utility must disclose that a market option will be utilized and any inputs that will be utilized in the evaluation...⁴

In Appendix O to the 2022AS RFP, the Company lists 18 Market Benchmark Options and 13 Owned Benchmark Options that could be bid into the 2022AS RFP.⁵

Discussion

The Division finds that for the most part, the Draft 2022AS RFP and associated attachments meet the requirements set forth in Utah Code sec. 54-17-201 et seq. and Utah Admin. Code R746-420-1 et seq. However, the Division has some requests for clarification and suggestions for improvement, as detailed below. The IE will submit a separate set of comments focusing on more technical aspects of the Draft 2022AS RFP.

Benchmark Options

It is unclear to the Division whether a “purchase option” as described in R746-420-3(4)(a) consists of: (i) an option to purchase the project outright, thus resulting in a Company-owned project if the option is exercised; or (ii) the option to enter into a power purchase agreement (PPA), thus resulting in a PPA that would be similar to PPAs that the Company would enter into

⁴ Utah Admin. Code R746-420-3(4).

⁵ Appendix O, PacifiCorp’s Company Alternative (Benchmark Resources), in the document titled “Appendices A-Q Umbrella Document,” Docket No. 21-035-52, filed January 26, 2022 (p. 66 of the pdf).

with non-Benchmark Option bidders (e.g. bids with no connection to the Company that bid into the RFP as a PPA);⁶ or (iii) something else. It is also not clear when the exercise of the option to purchase would take place.

In response to a question by the IE, the Company stated that the Market Benchmark Option “implies that the resource is still owned and controlled by a 3rd party developer with whom PacifiCorp has a purchase option rather than ow[n]ing the resource outright at the time the benchmark is bid into an RFP.”⁷ However, the Division wishes to understand the nature of the purchase options, including the following information:

- Is the option to purchase the entire project, or to purchase energy as part of a PPA, or something else?
- When would the option to purchase be exercised, if it is? After the project is selected to the final shortlist, but before the commercial operation date (COD)? Or would the purchase take place after the COD? If the former, at what point during development or construction would the option be exercised?
- What procurement services, if any, will be provided by the third-party developer with whom the option is held? Are procurement service options present for all Market Benchmark Resources, or just some?

The Division requests that the Company describe the type of purchase option that corresponds to each of the Market Benchmark Resources listed in Appendix O, providing at least the information in the bulleted questions above.

Requested Waiver Regarding Blinding of Bids

The Company is requesting a waiver of the requirement to blind bids under Utah Admin. Code R746-420-3(10)(a). The rationale for waiving the blinding requirement is that waiving has limited value, given that the size, location, and type of bid will effectively identify that bid. The Company notes that this waiver has been granted in prior dockets.⁸ The process by which the

⁶ The difference could be that a “normal” PPA bid has no prior agreement with the Company, while a Market Benchmark Resource could have an energy purchase option already in place (conditioned on acceptance to the final shortlist).

⁷ PacifiCorp’s Response to Utah Independent Evaluator (Merrimack Energy) Questions, March 9, 2022.

⁸ See, e.g., Order Approving 2020 All Source RFP, Docket No. 20-035-05, Application of Rocky Mountain Power for Approval of Solicitation Process for 2020 All Source Request for Proposals at 18 (July 17, 2020) at 18.

Company proposes to evaluate the benchmark bids entails benchmark bids being scored separately from, and prior to, the other bids.⁹ The blinding would therefore appear to entail additional work for the IE and the Company, for very limited benefit. The Division does not object to the waiving of the blinding requirement, assuming the IE has no objection, or other reasons that are not apparent weigh against the waiver.

If the requirement to blind bids is waived, the Division's understanding is that most of the requirements of Utah Admin. Code R746-420-3 remain in effect. For example, the requirements of Utah Admin. Code R746-420-3(8) ("Process Requirements for Benchmark Options") remain in effect, despite some references to blinded bids or personnel. The Company should flag any rule requirements it believes are no longer in effect because of a waiver of the blinding requirements.

Preference for Dispatchable Resources

The draft RFP states that "PacifiCorp has a preference for resources which can be dispatched but will also accept non-dispatchable resources."¹⁰ The Division requests clarification of the meaning of this statement, given that the stated goal of the RFP is to fulfill the preferred portfolio of the Company's 2021 Integrated Resource Plan (IRP), which calls for "1,345 megawatts (MW) of new proxy supply-side wind and solar generation resource and 600 MW of collocated energy storage resources with commercial operation date ("COD") by December 31, 2026."¹¹ Does the referenced statement mean that the Company would prefer more than 600 MW of collocated energy storage (which is dispatchable), and less of the stand-alone wind and solar (which is not dispatchable)? How will this preference be reflected in the evaluation of bids and the modeling?

⁹ See Utah Admin. Code R746-420-3(8)(h): "All relevant costs and characteristics of the Benchmark Option must be audited and validated by the Independent Evaluator prior to receiving any of the bids and are not subject to change during the Solicitation except as provided herein." Although this rule seems to just require that costs be validated before other bids are in, the Eberhardt Testimony states that the Benchmark Option will be *scored* before market bids are received. Eberhardt Testimony, lines 171-73.

¹⁰ Draft 2022AS RFP, p. 4.

¹¹ *Id.* at. 1.

Non-Price Scoring

The Final Shortlist of the RFP is selected by assigning points to bids in two categories: Price (75 points) and non-price (25 points). The non-price scoring is described in the spreadsheet “Appendix L Non-Pricing Scoring Matrix”.¹² The Draft RFP states:

Non-price scores are determined using a non-proprietary, self-scoring matrix. Developers will be asked to grade themselves as part of their bid package, which PacifiCorp will audit before determining a final non-price score for each bid.¹³

The Division suggests that bidders not be required, or even allowed, to submit their own scoring as part of their own bid. The Division believes that if self-scoring is a required part of the bid, it may lead to arguments about whether the self-scoring was correctly scored, causing unnecessary work for the Company and the IE. Some questions on the self-scoring matrix seem relatively straightforward—for example, if Appendix B-1 (Notice of Intent to Bid) was submitted, the bidder selects “yes” and receives a point.¹⁴ However, for some questions it may not be as “obvious” what the correct answer is—for example, one item on the matrix reads: “Bidder's Financing Plan demonstrates ability to finance project construction and ongoing operations.” The Division envisions possible scenarios in which the correct answer to this item could be argued either way.

If the bidders must submit a self-scored matrix with their bid, they are “locked in” to their answer, and will most likely judge questions in their favor in borderline cases. This could result in protracted arguments between the bidder, the Company, and the IE if specific items are contested.

The Division recommends that self-scored matrices should not be submitted with bids. It is true that there still could be disagreements on individual non-price items, but these disagreements

¹² Appendix (PacifiCorp_2022AS_RFP_App_L_Non-price_Scoring_Matrix.xlsx), in the zipped folder *RMP Exhibit HBE-1 – 2022AS RFP Appendices A-Q*, Docket No: 21-035-52, filed January 26, 2022 (Appendix L). Available at: <https://pscdocs.utah.gov/electric/21docs/2103552/322070RMPEXHBE1ApndcsAQ1-26-2022.zip>

¹³ Draft 2022AS RFP, p. 31.

¹⁴ Since there are more than 25 items in the non-price scoring matrix, getting one point as a result of a “yes” answer does not translate as one whole point out of the 25 possible points in the non-price scoring matrix. See the formulae for cells C14, C15, and C16 of the matrix.

will likely be less frequent when bidders are not “locked in” to the score they have already submitted. The Division’s understanding is that these categories will be scored independently of the bidders’ self-scores, so self-scoring submissions do not save the IE or the Company any work.

Filing Requirements for Benchmark Options

As discussed above, the Utah Admin. Rules require the following disclosures for Benchmark Options:

(4) Disclosures. If a Solicitation includes a Benchmark Option, the Solicitation shall include at least the following information and disclosures:

(a) Whether the Benchmark Option will or may consist of a Soliciting Utility self-build or owned option (Owned Benchmark Resource) or if it is a purchase option (Market Benchmark Resource);

(b) If an Owned Benchmark Option is used, a description of the facility, fuel type, technology, efficiency, location, *projected life, transmission requirements and operating and dispatch characteristics* of the Owned Benchmark Option. If a Market Benchmark Option is used, the Soliciting Utility must disclose that a market option will be utilized and *any inputs that will be utilized in the evaluation ...*¹⁵

According to the rule, the information in (4)(a) and (4)(b) should be included *with the Solicitation itself*.¹⁶ The emphasized information has not been provided. For example, the Company has not provided “projected life, transmission requirements and operating and dispatch characteristics of the Owned Benchmark Option[s].”

Part (4)(b) of the quoted rules states that the Solicitation should include “any inputs that will be utilized in the evaluation” of a Market Benchmark Option. Read strictly, this would require the

¹⁵ Utah Admin. Code R746-420-3(4) (emphasis added).

¹⁶ The “Solicitation” is defined in Utah Code sec. 54-17-102(5) as “a request for proposals or other invitation for persons to submit a bid or proposal through an open bid process for construction or acquisition of a significant energy resource.” It seems fairly clear that this refers to the RFP itself (“request for proposals or other invitation”), not the RFP process in general.

Company to fill out an Appendix C-2 (“Pricing Input Sheet”) for each Company Market Benchmark Option—that is the information that will serve as inputs in the evaluation—and include that information with the Solicitation.

In the 2017 RFP (Docket No. 17-035-23), there were four Benchmark Options submitted.¹⁷ The Division’s understanding is that the Company did submit the information required, but did not submit it with the draft or final Solicitation. For example, the final report of the IE in Docket 17-035-23 stated:

PacifiCorp provided the IEs with a complete proposal for each Benchmark option. The Company provided a *very detailed description of the benchmark resource, including the technology, cost information, transmission and interconnection, permitting status, site control, etc.* The Company provided all the same information as other bidders were required to submit. As noted, benchmark bids and third-party bids were required to provide the same information.¹⁸

It appears that the emphasized information was filed, but not with the Solicitation. Thus it appears that no party in that docket read the rule as requiring the information to be submitted with the Solicitation. The Division requests clarity from the Company and from other parties regarding what the R746-420-3(4)(b) requirement entails.

At the very least, the Division recommends that the Company provide the following for each Owned Benchmark Option in Appendix O, as these seem to be required by the rule:

- Projected life
- Transmission requirements and status (e.g., LGIA executed, cluster study status, etc.)

The Division requests clarification and input from the Company, the IE, and other parties on whether “operating and dispatch characteristics” and “inputs” are required to be filed *with the*

¹⁷ See RFP Appendix L, Docket No. 17-035-23, filed as final on August 18, 2017, as part of document *Appendices A-O to RFP Main Document*. This Appendix L in the 2017 RFP was titled “PacifiCorp’s Company Owned Self-Build Alternatives (Benchmark Resource)” implying that the four Benchmark Options were Owned Benchmark Resources, and not Market Benchmark Resources, but this is not clear.

¹⁸ *Final Report of Merrimack Energy Group, Inc.*, Docket No 17-035-23 and Docket No 17-035-40, filed February 27, 2018, p. 71 (report available at: <https://pscdocs.utah.gov/electric/17docs/1703523/300621IERedacFinRep2-27-2018.pdf>) (emphasis added).

Solicitation by rule R746-420-3(4)(b), or are just required to be provided to the IE at some point during the RFP.

It is also not clear what requirement (4)(c) means in the context of this RFP. The Division assumes that Plexos modeling is the “manner in which resources of differing characteristics or lengths will be evaluated,” but requests that the Company explain its reading of this requirement, and explain how much of this description must be filed with the Solicitation.

Can Projects Be Bid Both as Benchmark Option and as Third-Party Bids?

The Division’s understanding is that in the 2017 RFP (Docket No. 17-035-23), there were bids that were submitted both as a benchmark bid and as a bid from a third-party developer:

PacifiCorp entered into a Development Transfer Agreement with Invenergy Wind Global LLC for three projects from Invenergy (TB Flats I and II, TB Flats I, and Ekola Flats). Through its Development Transfer Agreement, PacifiCorp secured long-term exclusive leasehold rights to develop and construct the majority of the sites required. Invenergy also had the rights to submit these proposals into the PacifiCorp 2017R RFP.¹⁹

The Division requests information about whether this possibility is envisioned by the Company for this RFP, and if so, the Company should provide details on the procedure by which one project can be submitted as both a benchmark bid and a third-party bid.

Testing Bids as Portfolios

The Division’s understanding is that the bids will be tested as portfolios.²⁰ This presents an asymmetry between the benchmark bids and the non-benchmark bids. The benchmark bids must be evaluated prior to the date that non-benchmark bids are even due.²¹ This means that the non-benchmark bids will be in a portfolio with each other (and the benchmark bids), while the

¹⁹ *Id.* at footnote 20. See also RFP Appendix L, Docket No. 17-035-23, filed as final on August 18, 2017, as part of document *Appendices A-O to RFP Main Document*.

²⁰ See, e.g., Company Exhibit HBE-2 (2022AS RFP Pre-Issuance Bidders Conference Presentation Held January 11, 2022), pp. 9-15. See also PacifiCorp’s 2022 All-Source RFP Bid Evaluation, Bid Selection, Models and Assumptions (February 17, 2022 Technical Conference Presentation), pp. 8-15.

²¹ See proposed 2022AS RFP schedule, Draft 2022AS RFP, p. 12.

benchmark bids will not be able to be in a portfolio with the non-benchmark bids (since the latter won't even be submitted yet). The Division's requests further explanation of how this process works.

The Division's understanding is that the benchmark bids may be in a portfolio that includes hypothetical proxy bids, but questions how the benchmark bid scores be affected if the actual bids turn out to be significantly different than the proxy bids used. Utah Admin. Code R746-420-3(4)(f) states that the Solicitation must include:

Assurances that the Benchmark Option will be validated by the Independent Evaluator and that no changes to any aspect of the Benchmark Option will be permitted after the validation of the Benchmark Option by the Independent Evaluator and prior to the receipt of bids under the RFP and that the Benchmark Option will not be subject to change unless updates to other bids are permitted...

Presumably, this section of the rules means that the price scores of the benchmark bid must be fixed before the non-benchmark bids are received. However, could there be a scenario where the non-benchmark bids are disadvantaged, because they used actual resources in their Plexos portfolio (actual benchmark bids plus actual non-benchmark bids), while the benchmark bids used hypothetical proxy bid information in their Plexos portfolio? The Division requests clarification on this point.

Demand Response Non-Price Scoring

For generation resources, the non-price scoring is as follows:²²

Bid Submittal Completeness	5 points
Contracting Progress and Viability	5 points
Project Readiness and Deliverability	15 points

For demand response bids, the non-price scoring is as follows:²³

Diversity in workforce	10 points
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²² See Appendix L (Non-Price Scoring Matrix).

²³ See Appendix Q-1.02 Contract Exhibit B Pricing and Performance Template for Demand-side Bids, Docket No. 21-035-52, RMP Exhibit HBE-1. January 26, 2022, at "Tab 3 NonPrice Scoring".

Customer/Community/Economic²⁴ 10 points (if 1 or more of these three achieved)

The three items in the Customer/Community/Economic category are:

- Customer outreach and/or incentive design includes emphasis on equitable access for >25% forecasted participants
- Community benefits in design such as critical facility focus and community resilience values, >25% program impacts design
- Local economic development – Program design incorporates partnering with local businesses for >50 % of delivery or equipment costs

The Division notes that the demand response non-price scoring is substantively different than the non-price scoring for generation resources, both in total number of points and categories of points. The IRP Standards and Guidelines state that “PacifiCorp's future integrated resource plans will include... An evaluation of all present and future resources, including future market opportunities (both demand-side and supply-side), on a consistent and comparable basis.”²⁵ The Division realizes that this is an IRP guideline, not an RFP guideline, but submits that the scoring for different types of resources should be made similar to the extent possible. The Division requests clarification on the following questions:

1. What policies or rules influenced the non-price scoring categories for demand response?
2. Can the Company make the non-price scoring categories for generation and demand response more similar? If not, please explain why.

Conclusion

The Division finds that the Draft 2022AS RFP generally meets the requirements of the relevant statutes and administrative rules, under the condition that more information is provided regarding the following issues:

- Information regarding the type of purchase option that corresponds to each of the Market Benchmark Resources listed in Appendix O

²⁴ This is the Division’s shorthand characterization of this second 10-point category, not the Company’s.

²⁵ Report and Order on Standards and Guidelines, Docket No. 90-2035-01, June 18, 1992, pp. 42-43.

- Clarification of the meaning of the statement that “PacifiCorp has a preference for resources which can be dispatched but will also accept non-dispatchable resources,” given the stated goal of the RFP is to procure 1,345 MW of new wind and solar generation resources, and 600 MW of collocated energy storage resources
- The Company should flag any rule requirements it believes are no longer in effect because of a waiver of the blinding requirements
- Clarification from the Company regarding what the R746-420-3(4)(b) requirement entails, especially in regard to what information is required to be filed with the Solicitation
- Information about whether one project can be submitted as both a benchmark bid and a third-party bid, and if so, details on the procedure
- More detail on the possible asymmetry between the benchmark bids and the non-benchmark bids with respect to the portfolios used in Plexos modeling
- More information on the difference between the non-price scoring of demand response and generation resources

Furthermore, the Division recommends that self-scored matrices for non-price scoring should *not* be submitted with bids.

Cc: Jana Saba, Rocky Mountain Power
Michele Beck, Office of Consumer Services