



State of Utah
Department of Commerce
Division of Public Utilities

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Action Request Response

To: Utah Public Service Commission

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Joni S. Zenger PhD., Utility Technical Consultant

Date: October 2, 2018

Re: **No Action**, Docket No. 18-999-01, PacifiCorp's Notice of Non-Competitive Procurement for work related to wind repowering projects.

Recommendation (No Action)

PacifiCorp (Company) filed notice with the Utah Public Service Commission (Commission) that it entered into non-competitive procurement contracts with General Electric International, Inc. (GE) and Vestas-American Wind Technology, Inc. (Vestas) for work related to wind repowering projects approved by the Commission in Docket No. 17-035-39. Given the procurement contracts are within the scope of the Company's Procurement Policy, the Division recommends the Commission take no action.

Issue/Discussion

On August 20, 2018, PacifiCorp filed notice with the Commission that it has entered into a non-competitively bid procurement contract with GE in the amount of approximately \$553 million, including taxes, for repowering the following Company-owned wind plants in Wyoming: Dunlap I, Glenrock I, Glenrock III, High Plans, McFadden Ridge I, Rolling Hills, Seven Mile Hill I, and Seven Mile Hill II. The Company has also entered into a non-competitively bid contract with

Vestas for approximately \$163.8 million, including taxes, for turbine supply equipment associated with repowering the Company's Marengo I and Marengo II wind plants located in Washington. The Commission directed the Division to review the Company's notice for compliance and to make recommendations by September 24, 2018. The Division filed a request for an extension of time, pending discovery responses from the Company. The Commission extended the Action Request due date to October 4, 2018.

The Division conducted discovery and reviewed the Company's Procurement Policy and Procurement Procedures, approved by the Commission on January 16, 1991, in Docket No. 90-2035-01 and updated in Docket No. 16-035-03. In accordance with the Company's Procurement Policy, the Company must file a documented justification with the Commission for the purchase of goods and services exceeding \$1,000,000 that are not competitively bid. The Company's procurement contract with GE exceeds the \$1,000,000 threshold, as does the Vestas contract. The Company's Procurement Policy and Procedures allow exclusions and exceptions to the competitive solicitation process when it is impossible, impractical, or otherwise demonstrated to be in the interest of PacifiCorp and its customers.

The Division finds that the respective GE and Vestas contracts fall within the acceptable exceptions and exclusions from competitive bidding requirements based on the following:

1. The Company's wind repowering projects integrate new turbine technology with existing wind turbine generator equipment (WTG) components, for which GE has proprietary and intellectual proprietary rights at the Company's Wyoming wind plants and for which Vestas has proprietary and intellectual property rights at the Company's Marengo I and Marengo II plants in Washington; no other respective supplier offers a repowering solution for the wind turbines.
2. The Company is contractually required to use GE wind turbine technology for the balance of repowering at the Company's fleet of Wyoming wind projects for which GE

wind turbine equipment was initially purchased in November of 2016.¹ Similarly, the Company is contractually required to use Vestas WTG equipment that was purchased in December of 2016 for its respective Marengo I and Marengo II wind plants.² Without the respective GE and Vestas equipment purchases, the Company would not be able to qualify the repowering projects for 100 percent of the production tax credits (even if there was another supplier available), which is necessary for the repowered facilities to be economic.

3. As noted previously, the respective GE and Vestas wind repowering projects are a continuation of prior sole source decisions, and according to Section 7 of the Company's Procurement Procedures, do not require an additional filing.³ The Company's August 20, 2018 notice to the Commission is for informational purposes.

Inasmuch as the Company's non-competitively bid GE contract and its non-competitively bid Vestas contract each exceeds \$1,000,000, the Company is required to justify each respective non-competitive procurement of wind turbine equipment. The GE and Vestas contracts fall within the exceptions and exclusions criteria in that there is an "only a known supplier,"⁴ for the WTG parts and technologies; competitive bidding is impossible or impractical. GE has intellectual and proprietary rights for its wind turbine supply equipment, and Vestas has intellectual and proprietary rights built into its wind turbine supply equipment.

The Company has reported its GE and Vestas procurement contracts in adherence to its Procurement Policy and Practices. The Company's August 20, 2018 notice to the Commission is for informational purposes, and no action is required by the Commission.

¹ PacifiCorp's Notice of Non-Competitive Procurement with General Electric International, Inc., January 13, 2017.

² PacifiCorp's Notice of Non-Competitive Procurement with Vestas-American Wind Technology, Inc., January 26, 2017.

³ PacifiCorp Procurement Procedures, Exception Reporting, February 3, 2016, p. 4.

⁴ PacifiCorp Procurement Policy, June 8, 2016, p. 2.

Conclusion

The Company has reported to the Commission its purchases of goods or services exceeding \$1,000,000 from GE and Vestas, respectively, that were not competitively bid. The Company has demonstrated that the respective GE and Vestas non-procurement purchases meet acceptable exceptions and exclusions to competitive bidding, per the Company's Procurement Policy and Procedures. The GE and Vestas non-competitive procurements help ensure qualification for the tax credits that are essential to the projects' economic value.

The Company's August 20, 2018 notice to the Commission is for informational purposes, and no action is required by the Commission. The Division notes that the Company's February 3, 2016 Procurement Policy and Procedures must be updated and reviewed on the earlier of the next general rate case filing or every five years.

Cc: Jana Saba, Rocky Mountain Power