

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 2059**

In the Matter of  
  
PACIFICORP, dba PACIFIC POWER  
  
Application for Approval of 2020 All-  
Source Request for Proposal.

FINAL COMMENTS OF  
NORTHWEST AND  
INTERMOUNTAIN POWER  
PRODUCERS COALITION ON  
DRAFT REQUEST FOR PROPOSAL

**I. INTRODUCTION**

The Northwest and Intermountain Power Producers Coalition (“NIPPC”) hereby respectfully submits these final comments on PacifiCorp’s draft 2020 all-source request for proposal (“RFP”). NIPPC stands by the positions taken in its opening comments in this proceeding. While PacifiCorp has agreed to revise several aspects of the RFP in response to NIPPC’s comments, many important issues remain unaddressed, and if not corrected by the Public Utility Commission of Oregon (“Commission” or “OPUC”) will result in a less competitive RFP than would occur with adoption of NIPPC’s proposals. The Independent Evaluator’s (“IE”) Assessment contains a useful table identifying issues that were addressed by PacifiCorp and those that remain in dispute, and NIPPC generally agrees with the IE’s summary of the status of the issues except to the extent inconsistent with our reply comments herein.<sup>1</sup>

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<sup>1</sup> *IE’s Assessment of PacifiCorp’s Final Draft 2020AS Request for Proposals*, Docket No. UM 2059 at 9-12, Table 2-1 (June 10, 2020) (“IE Assessment”).

## II. FINAL COMMENTS

NIPPC provided detailed comments on issues it found to be most important in opening comments, and instead of repeating those comments, these comments briefly summarize the outstanding issues PacifiCorp did not fully and satisfactorily resolve:

- PPA Provisions and Performance Guarantees That Would Not Apply to the Build Transfer Agreement (“BTA”) Bids May Bias the RFP Toward Ownership Options.<sup>2</sup> PacifiCorp did not commit to inclusion of reasonable contingency adders for ongoing operation and maintenance and capital costs for the build transfer bids, and largely dodged this issue in its comments. The IE appears to agree with NIPPC that a reasonable assumption for these costs is needed to ensure BTA bids are not unjustifiably advantaged.<sup>3</sup>
- Proposed Revisions to the Pro Forma PPA.<sup>4</sup> PacifiCorp failed to address NIPPC’s proposed edits to the pro forma power purchase agreement (“PPA”), but the IE supports most of NIPPC’s edits and requests for clarification.<sup>5</sup>
- The RFP Should be Revised to Provide Reasonable Term Normalization Scoring.<sup>6</sup> While PacifiCorp clarified that it will not use generic fill to develop the initial short list, PacifiCorp still has not provided any commitment that it will

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<sup>2</sup> NIPPC Opening Comments at 4-14.

<sup>3</sup> IE Assessment at 21-23.

<sup>4</sup> NIPPC Opening Comments at 14-21.

<sup>5</sup> IE Assessment at 21-23.

<sup>6</sup> NIPPC Opening Comments at 22-28.

transparently provide the requisite sensitivity analysis if generic fill is used in modeling during the final stages of the RFP.

- The RFP Should Not Assign Any Terminal Value to Utility-Owned Resources in this RFP.<sup>7</sup> Terminal value may be appropriate, but instead of addressing NIPPC’s concerns, PacifiCorp simply appears to acknowledge it plans to use terminal value for BTA bids. Yet PacifiCorp fails to provide a mechanism for PPA bidders to obtain the same scoring benefit through a renewal option in the PPA, as is required by the Commission’s Order No. 14-149.<sup>8</sup> Notably, the IE is also concerned with this issue and stated that any terminal value should be conservative, if used at all.<sup>9</sup>
- The Draft RFP’s Non-Price Scoring Criteria Include Impermissibly Subjective and Vague Items That Should be Deleted.<sup>10</sup> While PacifiCorp made some minor edits on this point, it did not fully resolve NIPPC’s concerns raised in comments.
- The Draft RFP’s Credit Requirements Will Preclude Otherwise Qualified Bidders From Participating.<sup>11</sup> PacifiCorp refused to reduce the excess financial assurance requirements that will uniquely disadvantage PPA bidders. NIPPC maintains its

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<sup>7</sup> NIPPC Opening Comments at 28.

<sup>8</sup> See NIPPC Opening Comments at 28 (discussing this requirement).

<sup>9</sup> IE Assessment at 20.

<sup>10</sup> NIPPC Opening Comments at 29-31.

<sup>11</sup> NIPPC Opening Comments at 32-34.

position that the excessive security will disadvantage all PPA bids and be especially problematic for smaller developers.

- Minimum Eligibility Requirement No. 8. – Current or Threatened Litigation Should Not Be Precluded.<sup>12</sup> PacifiCorp agreed to only a very minor edit to the unreasonable eligibility requirement banning bidders with legal disputes with PacifiCorp, and both Staff and the IE agree with NIPPC that this ban should be stricken as an atypical and unjustified.<sup>13</sup> This is a fundamentally important provision that would have harmful impacts on the competitive market. Therefore, in order to protect ratepayers, the Commission should strike this limitation and make it clear that PacifiCorp cannot exclude bidders that may oppose PacifiCorp in any litigation or regulatory context.
- Minimum Eligibility Requirement No. 30 – The Interconnection Request Should Not be Limited to Only Applications Submitted Before January 31, 2020.<sup>14</sup> PacifiCorp unreasonably refused to accommodate this proposal, which will single-handedly bar dozens of potential low-cost bids from participating in this RFP. The extension to the placed-in-service requirements for the production tax credit for wind facilities now allows PacifiCorp to accommodate a reasonable change to the RFP to include bidders that are not included in the first cluster study

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<sup>12</sup> NIPPC Opening Comments at 35-37.

<sup>13</sup> IE Assessment at 21-23.

<sup>14</sup> NIPPC Opening Comments at 39-42.

this fall, and the Commission should require PacifiCorp to accommodate such bids. In the alternative, the Commission could adopt the IE's recommendation to require PacifiCorp to hold a follow-on RFP for bidders stuck in the April 2021 cluster study, and to be more conservative in this RFP's selection. In addition, current proposed federal relief legislation would also extend the 30% solar investment tax credit through 2025,<sup>15</sup> so if PacifiCorp conducts a second follow-on RFP, there is some possibility that PacifiCorp could also take advantage of the investment tax credits for solar projects coming online in later years. In addition, the rapid observed rate of technology improvements in the industry suggests that future projects could have a higher likelihood of being lower cost for ratepayers.

- PacifiCorp Needs to Make Changes to Accommodate Pumped Storage Hydro Resources.<sup>16</sup> While PacifiCorp agreed to make some limited changes to accommodate bids for pumped storage hydropower, PacifiCorp unreasonably refused to allow for a longer PPA term than 25 years, which the IE agrees should be allowed.<sup>17</sup> Additionally, PacifiCorp's revisions to the RFP still only allow five years for the pumped storage facility to achieve commercial operation when NIPPC and others maintain that 10 years may be necessary to bring such a resource online.

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<sup>15</sup> <https://www.solarpowerworldonline.com/2020/06/solar-storage-included-in-1-5-trillion-moving-forward-act-introduced-in-house/>.

<sup>16</sup> NIPPC Opening Comments at 44-45.

<sup>17</sup> IE Assessment at 22.

- PacifiCorp Should Be Required to Use or Explain Why It Is Not Planning on Using Its Own Transmission Assets to Benefit Ratepayers.<sup>18</sup> PacifiCorp refused to meaningfully consider NIPPC’s proposal and instead made a blanket assertion that all of PacifiCorp’s existing transmission assets are already fully utilized. Without sufficient time or discovery rights to review PacifiCorp’s assertions, NIPPC is unable to verify its accuracy. However, even so, PacifiCorp may not be thinking of all of the creative solutions a bidder may propose to use existing transmission rights that could greatly benefit ratepayers. Significant ratepayer savings could be obtained by requiring PacifiCorp to consider bids that allow for creative arrangements using existing transmission arrangements.
- The RFP Should Allow Different Contracting Structures as an Alternative Rather Than as an Additional Base Bid.<sup>19</sup> PacifiCorp refused to accommodate this reasonable proposal made by NIPPC and others.
- The RFP Should Not Limit Build-Transfer Opportunities to Projects Interconnecting on the PacifiCorp System.<sup>20</sup> PacifiCorp unreasonably refused to allow for BTA bids for off-system projects, even though PacifiCorp’s concern that it would need transmission to reach its system could be solved by a transmission solution proposed by the bidder.

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<sup>18</sup> NIPPC Opening Comments at 47-49.

<sup>19</sup> NIPPC Opening Comments at 49-50.

<sup>20</sup> NIPPC Opening Comments at 51.

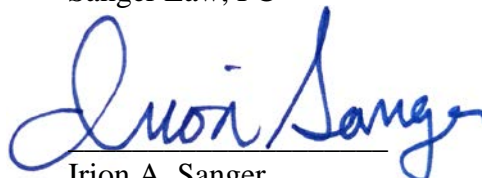
### III. CONCLUSION

In closing, NIPPC appreciates the opportunity to comment on PacifiCorp's RFP and recommends that the Commission condition approval of the RFP the revisions discussed above, as further explained in the NIPPC's opening comments.

Dated this 26th day of June 2020.

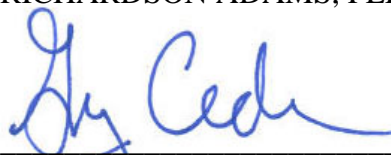
Respectfully submitted,

Sanger Law, PC



Irion A. Sanger  
Sanger Law, PC  
1041 SE 58th Place  
Portland, OR 97215  
Telephone: 503-756-7533  
Fax: 503-334-2235  
irion@sanger-law.com

RICHARDSON ADAMS, PLLC



Gregory M. Adams  
OSB No. 101779  
515 N. 27<sup>th</sup> Street  
Boise, Idaho 83702  
Telephone: (208) 938-2236  
Fax: (208) 938-7904  
greg@richardsonadams.com

Of Attorneys for Northwest and  
Intermountain Power Producers Coalition