

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of PacifiCorp d/b/a
Pacific Power & light Company's Draft
2022 All Source Request for Proposals
for Resources**

DOCKET UE-210979

**COMMISSION STAFF COMMENTS REGARDING
PACIFICORP'S 2022 ALL-SOURCE REQUEST
FOR PROPOSALS FOR RESOURCES
PURSUANT TO
RCWs 19.405, 19.280 AND WAC 480-107**

February 14, 2022

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Introduction

On December 29, 2021, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company), filed with the Washington Utilities and Transportation Commission (Commission) its Draft All-Source Request for Proposals for Resources (RFP) in Docket UE-210979, as required by rule.¹

On January 4, 2022, the Commission issued a Notice of Opportunity to Provide Written Comments. Consistent with WAC 480-107-017, the public participation schedule includes a 45-day period for public review and comments, and a 75-day period for the Commission to deliberate.

PacifiCorp filed its 2021 IRP with the Commission on September 1, 2021. WAC 480-107-017(1) requires that when a utility files an integrated resource plan (IRP) that identifies a resource need within the following four years, the utility must file a proposed RFP and accompanying documentation with the Commission within 120 days.

The draft RFP is currently scheduled for Commission decision at the Commission's Open Meeting to be held on Thursday, March 10, 2022, to ensure PacifiCorp's draft RFP satisfies its public service obligations. The Commission will consider the information obtained through these bidding procedures when it evaluates the performance of the utility in rate and other proceedings.

Staff assessment of PacifiCorp's Draft RFP

Commission Staff (Staff) performed a compliance review of PacifiCorp's draft RFP. Staff's comments identify five issue areas where PacifiCorp's draft RFP may not meet Washington statutory and rule requirements: the connection between this RFP and a scheduled future demand-side RFP; the consideration of equity in the non-price scoring criteria; collection of nonenergy impact (NEI), community benefit indicator (CBI), and named community² data for only projects located within Washington; bidder and contractor diversity, and community engagement; and consideration of Clean Energy Transformation Act (CETA) requirements associated with the transition to clean energy during bidder shortlist development. At the end of each issue area discussion, Staff provides several specific recommendations to improve the RFP to ensure that all customers are benefiting from the transition to clean energy in compliance with RCW 19.280.030 and 19.405.040.

Compliance with rules

Staff's review is guided by rule and statute. Most applicable to this filing are the Commission's recently promulgated Purchases of Resources rule in WAC 480-107. Staff's compliance review

¹ WAC 480-107-017(1).

² "Named communities" include highly impacted communities and vulnerable populations as defined in RCW 19.405.020 and WAC 480-100-605.

of PacifiCorp's draft RFP filing largely focused on requirements associated with the contents of RFP solicitations³ and bid ranking procedures.⁴

Resource need

PacifiCorp's RFP seeks the following incremental resources, as identified in the Company's 2021 IRP preferred portfolio:

- 1,345 megawatts (MW) of new proxy supply-side wind and solar generation resources and 600 MW of collocated energy storage resources with commercial operation date (COD) by December 31, 2026.
- 274 MW of new proxy demand-side resources (excluding energy efficiency).⁵

In accordance with WAC 480-107-009, this all-source RFP should allow bids from all types of resources that may fill all or part of the resource need. Staff shares some concern in the below issue area discussion whether the existing wording of the RFP may discourage potential demand-side bids.

While PacifiCorp submitted a Clean Energy Implementation Plan (CEIP) contemporaneously to this draft RFP,⁶ the Commission has not approved the CEIP. Subsequent regulatory action taken regarding PacifiCorp's CEIP may impact customer benefit and equity requirements of this RFP. In the event CEIP developments require adjustments to the final RFP bid solicitation, evaluation, and selection process through the end of 2023,⁷ PacifiCorp must notify parties of changes per rule.⁸ To ensure a transparent process, Staff suggests PacifiCorp should also consult with stakeholders and advisory groups, as appropriate.

Independent evaluator

In the RFP PacifiCorp retains the option of utility ownership, and therefore, in accordance with WAC 480-107-023(1), was required to enlist the services of an independent evaluator (IE) for the 2022 All-source RFP.

On November 12, 2021, the Commission approved PacifiCorp's recommended IE, Bates White, LLC (Bates White) in Docket UE-210779. Bates White provided review and feedback on the RFP design and will participate in the evaluation once the proposals are received. Staff looks forward to additional discussions with Bates White.

Staff describes in greater detail potential issue areas identified during review of PacifiCorp's draft RFP materials.

³ WAC 480-107-025.

⁴ WAC 480-107-035.

⁵ PacifiCorp's Draft 2022 All-Source RFP Main Document, p. 1.

⁶ See Docket UE-210829.

⁷ As sequenced in PacifiCorp's Draft 2022 All-source RFP Cover Letter, p 1-2.

⁸ WAC 480-107-035(4).

Connection Between Evaluations:

PacifiCorp's 2022 all-source RFP and scheduled demand-side RFP

WAC 480-107-007 defines an “all-source RFP” as one that “solicits and accepts bids from any resource capable of meeting all or part of the resource need outlined in the utility’s solicitation documents.” WAC 480-107-009(1) goes on to elaborate that such resources could include unbundled renewable energy credits (RECs), conservation and efficiency, demand response (DR), and distributed energy resources (DERs), among many other resource types. The PacifiCorp RFP, though, is silent on many of these resource types; to take one example, the only mention of “distributed energy resources” in the RFP main document occurs within a footnote that merely restates the previous referenced WA rule sub-section.⁹

In large part, this silence appears to stem from a targeted RFP that PacifiCorp has planned for later in the year. On the first page of the RFP, PacifiCorp states that it intends to issue a targeted RFP in Quarter 3 of 2022 for 274 MW of demand-side resources. Further, PacifiCorp implicitly discourages demand-side bidders from bidding into the current RFP by first, stating that demand-side bidders are “encouraged” to bid into the targeted RFP, and second, by indicating that such bidders may bid into only one of the two RFPs, but not both.¹⁰ Finally, on page 26 of the RFP, PacifiCorp notes: “Bidders responding to the 2022 [all-source] RFP will be evaluated against the requirements and scoring and evaluation processes outlined in the 2021 demand response RFP, whereas bidders responding to the 2022 demand-side RFP will be evaluated against the requirements and scoring and evaluation processes outlined in the upcoming, demand-side RFP.” The Company further states that the 2022 demand-side RFP may include “additional requirements specific to customer located resources and evolving state-specific requirements.”¹¹ Yet the Company is also clear that demand-side bids into this all-source RFP, and demand-side bids submitted in response to the forthcoming demand-side RFP, will be modeled using PacifiCorp’s modeling software (PLEXOS) alongside any supply-side bids that the Company receives.¹²

Staff has some concerns with the Company’s approach. First, by implicitly discouraging demand-side bidders from bidding into the all-source RFP process, PacifiCorp brings up the question of whether the RFP currently under consideration can be considered an “all-source” RFP as defined in rule. Second, Staff is concerned that evaluating demand-side bids submitted to this all-source RFP under one scoring rubric, while evaluating demand-side bids submitted in response to the forthcoming demand-side RFP under a second set of requirements, and yet modeling both sets of bids together with supply-side bids in the same modeling process, could create inconsistencies in how bids are treated. Third, the RFP lacks detail regarding how bids from this all-source RFP and the subsequent demand-side RFP might compete on an equal footing during the PLEXOS bid shortlist optimization process. Finally, given that PacifiCorp

⁹ See footnote three, PacifiCorp’s Draft 2022 All-source RFP Main Document, p. 1, fn. 3.

¹⁰ *Id.*, at 1

¹¹ *Id.*, at 26.

¹² *Id.* (“As part of the evaluation process, both the supply-side RFP and the demand-side RFP bids will be input into Plexos and included in the final IRP portfolio analysis to determine the final shortlist.”)

does not plan to issue the demand-side RFP until Quarter 3 of 2022, inherent uncertainty exists around demand-side RFP specifications and ultimate timing. These factors could disadvantage would-be demand-side bidders, should these parties elect to wait for a forthcoming demand-side RFP that PacifiCorp may or may not actually issue.

In its final RFP, PacifiCorp can make some changes that resolve Staff's concerns. Staff recommends that the Company:

- Delete the language “discouraging” demand-side bidders from bidding in the all-source RFP and allow bidders to bid into one or both RFPs.
- Solidify and clarify the schedule for the demand-side RFP.
- Elaborate on what information will be supplied with the targeted RFP that would be useful to demand-side resources. Doing so may have the effect of encouraging demand-side resources to wait until later this year to bid, which would be acceptable if doing so would allow them to bid while having better information in hand.
- Evaluate demand-side bids using the criteria established in the 2022 demand-side RFP, rather than either the 2021 DR RFP or the 2022 demand-side RFP.
- Clarify the concurrent evaluation methodology for enabling bids from both this 2022 all-source RFP and the subsequent demand-side RFP to compete on an equal footing during the PLEXOS bid shortlist optimization and development process.

Collection of NEI, customer benefit indicator, and named community data

CETA requires that an electric utility must, consistent with the requirements of RCW 19.280.030 and 19.405.040, ensure that all customers are benefiting from the transition to clean energy. Staff understands that both the Commission and its regulated companies are new to the interpretation of this statute, especially as it applies to RFPs, and that compliance with CETA will necessarily improve iteratively.

PacifiCorp has taken some steps toward incorporating this statute into its resource acquisition through Appendix P—Equity Questionnaire. This questionnaire requires information about the demographics of the closest community to the project and the Census tract in which the project will be located, basic details on expected tax and employment benefits, environmental impacts, and contractor/subcontractor diversity. Projects in Washington are additionally required to provide narrative explanations of the connection of the bid to key CETA concerns and to the Company's customer benefit indicators (CBIs), as well as more in-depth scores for key socioeconomic factors about the Census tract in which the project will be located.

Like all electric utilities, PacifiCorp recently submitted its first CEIP,¹³ which contains the Company's proposed CBIs.¹⁴ The CEIP has also begun to identify vulnerable populations and highly impacted communities,¹⁵ and should guide the Company's planning efforts such that all customers benefit from the transition to clean energy. Staff believes it is not too early to begin to

¹³ See Docket UE-210829.

¹⁴ WAC 480-100-640(4)(c).

¹⁵ WAC 480-100-640(4)(a) and (b).

incorporate CBIs into resource acquisition decisions, and Staff notes the inclusion of the Company's draft CBIs as part of bidder considerations. Staff provides these comments in line with feedback provided on the Company's CEIP.

Despite these first steps, Staff has two primary concerns about the way in which PacifiCorp goes about collecting data for NEIs, CBIs, and named communities. The first centers around how much of this data is required to be submitted by bidders.

One of the three tabs in the Appendix P spreadsheet is designed to be answered by bidders with resources located within Washington (this is labeled "2 WA Resource Questions"). This tab contains questions related directly to CETA. The questions ask about the impact the resource will have on nearby communities, what impact the resource would have on the Company's CBIs, and to provide the Washington Department of Health Environmental Health Disparities map¹⁶ rank for the resource's Census tract.

Staff's misgivings about Appendix P are two-fold. First, throughout the RFP, the Company uses the word "requests" when discussing Appendix P, making it sound like Appendix P is optional. Staff does not believe that providing such data should be optional.

More concerning is the fact that the "2 WA Resource Questions" tab is meant to be filled out *only* for resources located within Washington. This concerns Staff because the Company may ultimately allocate resources both within and outside Washington to serve Washington ratepayers. Not having such equity data on hand for non-Washington resources strikes Staff as shortsighted given that without this additional data, non-Washington resources may not meet state regulatory requirements driven by CETA. Further, as Staff noted in its comments on the Company's draft CEIP,¹⁷ Staff finds no loophole in CETA's equity provisions indicating that they should apply only to resources located within the state.

Company representatives indicated in discussions with Staff that it struggles with requiring all bids – specifically those not located in Washington – to submit the CETA-specific information. Staff understands that the Company is trying to strike a delicate balance in a multistate system planning process, but it remains unclear to Staff how PacifiCorp would measure whether resources located outside of Washington but may ultimately be allocated to Washington contribute to meeting CETA's equity goals.

To alleviate these concerns, Staff recommends that the Company:

- Clarify that Appendix P is required and not requested; and

¹⁶ Accessed from <https://fortress.wa.gov/doh/wtn/WTNIBL/>.

¹⁷ "Staff Informal Comments on PacifiCorp's Draft Clean Energy Implementation Plan" (Dec. 10, 2021), accessed from: https://www.pacificorp.com/content/dam/pacorp/documents/en/pacificorp/energy/ceip/UE-210829_PacifiCorp_draft_CEIP-WA-UTC_Staff_comments_final_12_10_2021.pdf.

- Add information requests for all bidders, including those bidding resources located outside of Washington, to submit the information requested in the “2 WA Resource Questions” tab of Appendix P.

Non-price scoring approach's weighting of equity considerations

Staff's second concern about Appendix P revolves around how it is scored as part of the RFP's non-price scoring criteria. The non-price criteria are described in the main body of the RFP¹⁸ and captured in Appendix L. Appendix L consists of 73 yes/no questions. Roughly one-third of these are labeled as being minimum criteria, meaning that if the bidder answers “no,” the bid will be considered ineligible for further consideration. The remainder are scored on a binary scale, where a “yes” response garners a score of 1 and a “no” receives no points.

How Appendix P fits into the scoring rubric in Appendix L is of concern to Staff for several reasons. First, PacifiCorp applies the binary scoring system to Appendix P. That indicates that if a bidder were to not complete Appendix P, it would not be disqualified from the bidding. Staff believes that the data collected through Appendix P is integral to CETA compliance, and therefore should be treated as a minimum requirement rather than just one of many scored items. Second, other than the Environmental Health Disparities ranking mentioned earlier in these comments, Appendix P does not require the bidder to supply any quantitative data, making Staff question how the Company would differentiate one bidder from another. Third, it seems that merely completing Appendix P would earn the bidder a point, making Appendix P more like an exercise in box-checking rather than a meaningful evaluation or accounting of costs and benefits.

Finally, Staff questions whether this current bid scoring treatment would make a measurable difference in choosing a bidder that is well-equipped to comply with 480-107-025(2) over one that is not. In Appendix L, only three of the 45 items scored on the binary scale are allotted to the data captured in Appendix P. The impact of Appendix P when evaluating bids, therefore, appears quite small. Notably, Puget Sound Energy's approved All-Source RFP evaluation matrix weights bidders' CETA equity plan higher than any other single element in a submission.¹⁹ Staff is struck by the differences in approach between the PacifiCorp 2022 and PSE 2021 RFPs when it comes to incorporating such equity criteria.

Staff recommends additional discussions regarding Appendices L and P. We suggest the Company re-evaluate how the equity questionnaire in Appendix P gets scored in Appendix L's non-price scoring matrix. At a minimum, Staff believes that Appendix P deserves more weight than it currently receives; that it should be a “minimum requirement” in Appendix L; and that there should be some way to differentiate one bid's equity responses from another's, likely via quantitative ranking and scoring methodologies. Staff is open to PacifiCorp's suggestions on how to achieve these goals.

¹⁸ 2022 All-source RFP Main Document, p. 33-34.

¹⁹ See Docket UE-210220, Final 2021 All-Source RFP, p. A-3 (filed June 30, 2021).

Bidder diversity, contractor diversity, and community engagement

As a final note on CETA equity compliance, Staff does not believe that the current RFP proposal captures enough “information identifying energy and nonenergy benefits or burdens...or other information that may be relevant” to a bidder’s ability to contribute.²⁰ Staff emphasizes that, unlike CBIs, PacifiCorp must include such energy and nonenergy impact criteria regardless of whether the Commission has yet approved the Company’s CEIP. Specifically, Staff recommends PacifiCorp consider:

- The bidder’s previous experience implementing programs in partnership with diverse communities and entities (such as subcontractors), including women-, minority-, disabled-, and veteran-owned organizations and businesses.
- Whether the bidder has a written diversity-equity-inclusion (DEI) commitment, policy, or plan, and whether bidder or project leadership have received DEI training.
- Bidder employee diversity statistics.

Such information could be provided in the narrative portion of the bid as outlined in Appendix B-2 of the RFP. Currently the RFP requires bidders to agree to yearly contractor diversity reporting, which Staff believes is a good first step.

The Company is also allowing bidders to submit one additional bid, without having to pay an extra bid fee, as an opportunity for bidders to illustrate the costs of a different workforce and contractor strategy in line with CETA and PacifiCorp’s diversity and workforce goals.²¹ It is not clear if the Company explored the option of awarding additional points in Appendix P for higher workforce standards or more robust CETA compliance, rather than simply exploring the potential additional cost for such alternative bids. Awarding additional points for committing to specific labor standards is in line with Staff and stakeholder comments on PSE’s recent distributed energy resource RFP.²²

Further, Staff believes WAC 480-107-025(2) empowers PacifiCorp to ask questions of its bidders to understand how they have engaged the communities in which they hope to construct projects. This was the approach taken by Avista in its recent all-source RFP.²³ Data requests that would elicit useful information from bidders include:

- What has the developer done to inform the local community of the project and project plans? Has the local community been receptive to the potential development? Have any groups or individuals objected to the proposed development? If so, what are their concerns?

²⁰ WAC 480-107-025(2).

²¹ PacifiCorp’s Draft 2022 All-source RFP Main Document, p. 18-19.

²² See Docket UE-210878, “Staff Comments on PSE’s 2021 Draft Request for Proposals for Distributed Energy Resources,” p. 5.

²³ See Docket UE-210832, Avista Draft All-Source RFP, Appendix C, p. 8.

- Asking the developer to provide a summary of community engagement for the project site and interconnect facilities to the point of the transmission system, along with any specific proposed adjustment to the project based on these engagement activities. This summary may include meeting dates, attendees, meeting minutes, community support or opposition.
- Asking the developer to provide copies of any letters, memos, emails, news articles, or other communications demonstrating the level of support by the local community.

Incorporating CETA requirements into bidder shortlist optimization

Finally, Staff has concerns about the manner in which PacifiCorp intends to meet the requirements in WAC 480-107-009(1) to “contribute to an equitable distribution of energy and nonenergy benefits to vulnerable populations and highly impacted communities.” On page 38 of the RFP, the Company states: “Following the final shortlist selection...PacifiCorp will review the Equity Questionnaire [Appendix P] for each resource and evaluate the associated risks and benefits to vulnerable populations and highly impacted communities associated with those bids. PacifiCorp, in consultation with the [independent evaluator], may add or replace resources allocated to Washington customers in order to meet CETA goals.”

Staff's concerns center around whether this approach also meets the requirement in WAC 480-107-035(1) to account for the “risks imposed on ratepayers” and “public policies regarding resource preference” when one of those policies is to provide service for ratepayers at the lowest reasonable cost. Adding or replacing resources after portfolio optimization brings with it the risk of increasing costs to Washington ratepayers if, for instance, a higher-cost resource is substituted for a lower-cost one. Staff recommends that the Company incorporate the requirements of WAC 480-107-009(1) into PLEXOS as part of the optimization process, rather than evaluating them post-optimization.

Conclusion

Beyond the observed deficiencies detailed in these comments, Staff has reviewed this Draft RFP and believes it is reasonably consistent with PacifiCorp's 2021 IRP and recent filings.

Staff will withhold a final recommendation until after other stakeholders respond to the Commission's Notice. Staff intends to present its final recommendations at the Commission's March 10, 2022, Open Meeting.