



February 7, 2006

VIA ELECTRONIC MAIL

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Re: PacifiCorp's Written Comments on the Commission's proposed changes to Chapter 480—107, in Docket No. UE-030423

In response to the Commission's January 23, 2006 Notice of Opportunity to Submit Written Comments on Proposed Rules, PacifiCorp dba Pacific Power & Light Company ("PacifiCorp") hereby submits written comments on the Commission's proposed changes to Chapter 480-107, the current competitive bidding rules ("Proposed Rules").

PacifiCorp has participated throughout the informal rulemaking process in this proceeding. This process has attracted considerable participation by a large number of interested parties, including spirited and open exchanges during the workshops. PacifiCorp greatly appreciates the work and input from Commissioners, Commission Staff and all of the parties in this proceeding and believes that the proposed rules generally reflect a thoughtful evolution and sustainable approach to the competitive bidding process in Washington.

These comments, however, highlight one issue regarding the parties' interpretation for the Commission's consideration in adopting the Proposed Rules.

Utility Benchmark

Proposed WAC 480-107-015(2) states that the utility may participate in the competitive bidding process as a "power supplier". This provision also deals with utility affiliate and subsidiary participation in competitive bidding processes. If the utility intends to participate as a "power supplier", it triggers additional responsibilities and restrictions on the utility. Specifically, the utility must issue a notice of its intent to "submit a bid" in its RFP and must protect against an "unfair advantage" by avoiding utility disclosure of the "contents of an RFP . . . to its own personnel involved in developing the utility's bid". Proposed WAC 480-107-135(2), (3).

Participants in this rulemaking discussed these proposed sections during the November 30, 2005 workshop. Specifically, PacifiCorp indicated that it is inappropriate to view the utility as a bidder. PacifiCorp indicated that, rather than submitting a "bid" in a competitive solicitation

process, where appropriate and available, PacifiCorp has previously included a utility benchmark option. The benchmark option is a cost-based alternative provided by the utility to assure it can meet its load service obligation, for the protection of ratepayers, and pursuant to the current regulatory compact.

PacifiCorp indicated that it interpreted the provisions of Proposed WAC 480-107-015(2) and 480-107-135(2) discussing utility participation as a “power supplier” that “submit[s] a bid” to not apply to the situation in which the utility intended to utilize a cost-based alternative as a comparison benchmark. In addition, PacifiCorp commented that it is difficult to envision a circumstance, given the current regulatory compact, where a utility could practically submit a “bid”. Such a bid would appear to provide the utility with an opportunity to earn above its authorized rate of return.

The parties in attendance at the November 30, 2005 workshop specifically discussed these issues and it was confirmed that Staff was in agreement with PacifiCorp’s interpretation. Certain other parties clarified their interpretation to be that a utility would only be a “bidder” in a very narrow circumstance where the utility may have an unregulated department that is considered to be “below the line” (as distinguished from an affiliated company) that would want to participate. No parties disagreed with this interpretation of the Proposed Rules during the workshop.¹ Further, since the January 23, 2006 notice was issued by this Commission, PacifiCorp has conferred with Staff, who has also reiterated that it does not interpret the Proposed Rules to deem or consider a utility benchmark option to be a bid (except in the narrow circumstance referenced above).

Conclusion

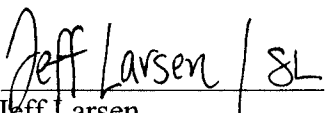
PacifiCorp appreciates the opportunity to submit these written comments. As noted above, PacifiCorp believes that the Proposed Rules establish a workable and sustainable approach to competitive bidding. The parties have interpreted these rules to mean that utility alternatives (unless supplied by a “below the line” utility department) shall not be deemed or considered to be a participating “bid”.

¹ If, however, the Proposed Rules are intended to change how utility provided alternatives are utilized in the competitive bidding process, *i.e.* the benchmark option is no longer available and a utility must formally submit a bid, then the Proposed Rules adopt an approach to utility participation in competitive bidding that: (1) fundamentally changes the regulatory landscape in which PacifiCorp and other utilities operate, (2) eliminates the ratepayer protections inherent with utility cost-based alternatives, and (3) results in a situation wherein the Proposed Rules, as drafted, do not provide adequate guidance in terms of how to administer (and subsequently seek cost recovery associated with) a competitive bidding process that results in the utility alternative being pursued. PacifiCorp submits that the Commission should consider such a fundamental change, if so intended, only after it has provided an opportunity for additional written comments and an additional workshop(s) at which it can hear directly from all parties on such a significant regulatory issue.

Please direct any questions regarding these comments to Shayleah LaBray at (503) 813- 6176 or Mark Tallman at (503) 813-5376.

Very truly yours,

PacifiCorp

By  SL
Jeff Larsen

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