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VIA ELECTRONIC FILING

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**Re: Docket U-161024—Pacific Power & Light Company’s Comments
WAC 480-107—Competitive Procurement Rules**

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On August 24, 2018, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Opportunity to File Written Comments (Notice), requesting comments on draft rules related to electric competitive procurement (WAC 480-107). In response to the Notice, Pacific Power & Light Company (Pacific Power), a division of PacifiCorp, submits these comments.

WAC 480-107 sets forth guidelines related to the request for proposals (RFP) process to acquire resources identified in a utility’s integrated resource plan (IRP). Development of Pacific Power’s IRP involves a thorough and extensive process to select a preferred portfolio of resources to meet forecasted capacity and energy needs to serve its customers. The subsequent RFP process is intended to be a means to potentially acquire the major resources identified as part of the IRP preferred portfolio.

In the last several IRP cycles, however, the company has submitted requests for waiver of certain requirements contained in WAC 480-107 with respect to the acquisition of resources identified in its preferred portfolio. The requests were based on limitations in the prescribed solicitation processes, or existing company procurement processes in place that are tailored to efficiently and effectively acquire the specific resource identified in the IRP.

The company believes that a rigid requirement to issue an RFP every two years is not in the best interest of customers, and greatly appreciates the Commission’s intent to add more flexibility and clarify the requirements contained in WAC 480-107. It is the company’s view that RFPs, while an effective tool, must be designed to provide flexibility for utilities to act quickly in order to take advantage of market opportunities. In addition, a formal RFP process is not always the best procurement process for every circumstance, and is best used when there is an actual intent to acquire. Frequent RFPs (especially when used to test the market and not for actual resource acquisition) can lead to confusion for vendors and providers in the market and can be costly to both the utility and bidders. As a result, frequent RFPs do not provide clear benefits for customers.

Pacific Power looks forward to engaging with staff and other stakeholders to reach fair bidding processes that ensure transparency and adequate review without compromising the interests of customers. Pacific Power provides the following initial comments in response to the Notice; the

comments provide Pacific Power's proposed revisions to the draft rules, explain Pacific Power's additional proposed changes, and respond to the questions for consideration posed by the Commission.¹ Pacific Power will continue to evaluate the draft rules and looks forward to continued discussions and opportunities to provide additional comments and redlines as additional clarification is provided.

QUESTIONS FOR CONSIDERATION

1. LANGUAGE REQUEST

- a. Is the language in the draft rule at WAC 480-107-015 sufficient to require an all-source RFP for most resource needs, while allowing sufficient flexibility in the process to allow limited scope RFPs when they are most useful?**

The company has included redlines to this section that propose the following language: “(1) Except as set forth in Section (4) below, the utility must solicit bids for the identified resource needs. It must accept bids that are identified in the solicitation process for a variety of energy sources, consistent with the utility's most recent integrated resource plan and which may have the potential to fill the identified needs including...” Pacific Power's language reflects the outcome of a utility's integrated resource plan (IRP) into the RFP process. Based on an IRP, a utility may determine that only certain energy sources are appropriate for a particular solicitation. The current draft rules would require the utility to seek an exemption when the outcome of the IRP necessarily limits the scope of the RFP and should be updated to include the language proposed by Pacific Power. This proposal is consistent with the Commission's stated objective of increasing flexibility to reduce common exemptions to the rules.

- b. In WAC 480-107-035(3) the draft contains the term net benefits. Language around this concept has been evolving recently. Would using a different phrase, such as cost and benefits, or impacts, be clearer?**

The Commission suggests that alternatives to “net benefits” may include “costs and benefits” or “impacts” because such terms may be clearer than net benefits. The proposed rules uses the term “net benefits” as follows: “[t]he utility must consider the value of any additional net benefits that are not directly related to the specific need requested.” This is the only place in the draft rules where the term net benefits is used. Pacific Power proposes in its redline that this term be replaced with “costs and benefits.” Use of the term “costs and benefits” recognizes the different valuations that may be appropriate for different criteria considered by a utility whereas it is unclear how net benefits would be determined if the valuations for two criteria are different.

Pacific Power also requests clarification from the Commission regarding the additional costs and benefits it anticipates a utility to consider. The draft rules leave this additional consideration vague, especially in light of the detailed list of items that the Commission provides in WAC 480-107-035(2) as minimum ranking criteria. It is not clear what additional criteria the Commission

¹ The Notice also requests comments related to competitive procurement of natural gas resources from natural gas utilities. Pacific Power provides only electric utility service and therefore provides no response to draft rules or questions related to natural gas service.

has in mind for consideration under this section in light of the extensive list of criteria provides in Section WAC 480-107-035(2). Pacific Power also supports replacing “requested” after specific need with “solicited” to make clear that the definition is referring to the specific needs solicited through the RFP process.

2. RFP TIMING

Is there a way to ensure long-lead time technologies have an equal opportunity to meet resource needs anticipated ten years out without requiring RFPs at such an early stage?

The Commission proposes for consideration expanding the window of time in which a resource need triggers an RFP from three to ten years in order to accommodate long lead-time resources, such as non-wires alternatives. Pacific Power continues to support a three-year time period but with an option to file an RFP for resource needs that extend beyond the three-year period and up to ten years, if warranted. This flexibility would allow the company to pursue opportunities like the Energy Vision 2020 project that require longer lead-times without creating an unduly burdensome requirement (to extend the window to ten years) as a matter of course. Expanding the window of time that triggers the need for an RFP to ten years would increase RFP activity (by the utility) without clear benefits. For example, a ten-year mandate could create too much risk to bidders and thereby reduce the robust nature of the RFP process because the bids received would either not be firm or would include higher costs to reflect this increased risk and because fewer entities would be willing to participate. The flexibility to file an RFP for a resource need that is beyond the three-year period should be tied to a utility acquisition plan. This requirement to tie an RFP for a long-lead time resource to an acquisition plan would ensure that RFP activity is limited to situations where the company has already identified a resource and thereby provides assurances to bidders that the RFP does not present any greater risk than three-year RFPs (*i.e.*, this would provide bidders with some level of confidence that they would not provide a bid for a resource that is ultimately not needed by the utility).

Finally, if this window of time is expanded and results in a constant cycle of RFPs by the utilities, RFPs will cease being tied to the resource needs identified in the IRP. As a result, the RFP process will drive resource acquisition instead of the IRP and thereby render the IRP process moot.

3. THRESHOLDS FOR EXEMPTIONS

- a. Are the thresholds proposed appropriate?**
- b. Are there other circumstances appropriate to qualify for exemption from the rule?**
- c. Are there other types of thresholds that should be incorporated for these resource needs?**
- d. What other types of resources would benefit from a threshold.**

Pacific Power proposes to increase the capacity threshold to 100 MW because this capacity amount is more reasonable. A 100 MW capacity threshold is more in line with the thresholds established by other state commissions (*e.g.*, Utah has a threshold of 100 MW); a project threshold of 50 MW would be the lowest threshold on Pacific Power’s system. Projects of 50

MW would inappropriately require relatively small projects to go through a long and expensive RFP and regulatory process, which may be disproportionate to the cost of the resource. In addition, setting the threshold at 50 MW will create a volume of projects subject to the draft rules that may consume a significant amount of both utility and Commission resources. This result would be inapposite to the Commission's goal in this proceeding to limit the use of RFPs in order to reduce costs. Projects in the 50 MW range are small enough that multi-million dollar competitive bidding processes can be disproportionate to the overall resource cost. This RFP expense, along with the time required for the regulatory process, would unduly burden otherwise simple and relatively small resource acquisitions.

Pacific Power's other change to the threshold exemption proposal also reflects the practical realities of its system. Pacific Power proposes to rely on the market reliance risk assessment analysis included in its IRP because the IRP accounts for all of the company's service territories in all of the states it operates in and also already accounts for input from Staff and other stakeholders. Thus, the company's IRP provides a better determination of resource need for PacifiCorp than the needs identified by the Northwest Power and Conservation Council (NWPPCC). Specifically, Pacific Power's system reaches beyond the area considered by NWPPCC in its regional planning and resource assessments and thus NWPPCC's assessment of resource needs is incomplete with respect to PacifiCorp's system.

4. DELIVERY SYSTEM RFP

Pacific Power previously provided comments on May 17, 2018, regarding draft rules related to distribution system planning. The Commission now requests additional comments regarding the interconnection of the proposed distribution system planning rules with the proposed RFP rules.

The IRP and distribution planning process should remain separate. The company's IRP process is a system-wide planning effort while distribution system planning is state-specific. It would be problematic to combine the two efforts; instead, distribution system planning should continue to inform the IRP process.

a. Should the proposed definition of Resource Need include local transmission and distribution needs?

The proposed definition of Resource Need should not include local transmission and distribution needs. As discussed above, the company's IRP process is a six-state process that should remain separate from the distribution planning process. As a result, local transmission and distribution needs should be excluded from the definition. Pacific Power has no edits to the proposed definition of Resource Need.

b. The proposed draft language in WAC 480-107-05(3)(3) identifies an automatic exemption from the rule for distribution system or local transmission projects that are projected to cost less than \$10 million. Should the term "project" be replaced with "Major distribution capital investment" as defined in the proposed drafts rules for WAC 480-100-238 to clearly connect the two rules? If not, what would be a reasonable definition of project in this case?

Pacific Power agrees that the term “project” should be replaced with “Major distribution capital investment” as defined in the proposed draft rules for WAC 480-100-238 for consistency purposes. Pacific Power incorporates by reference its comments regarding the definition proposed previously for inclusion in WAC 480-100-238.²

c. Is a \$10 million threshold appropriate? Would a threshold that is not cost-based be more appropriate for delivery system resources? If so, what should be the criteria of this threshold?

Pacific Power agrees that an automatic exemption is appropriate for major distribution system capital investments that are under \$10 million. Projects under \$10 million are generally standard projects where issuance of an RFP would provide little value to customers. Pacific Power also supports an exemption for major distribution system capital investment with a timeline of less than three years. These standard projects (projects with costs of less than \$10 million and timelines of less than three years) do not easily facilitate the use of a formal RFP process as envisioned under the rules and should also be subject to an automatic exemption. The costs and timeline necessary for a formal RFP process would be overly burdensome for routine delivery system resource acquisition. Finally, the company seeks clarification regarding whether the rules would apply to projects located only partially in Washington (*e.g.*, a project that will be sited in both Oregon and Washington or that will serve both Washington and Oregon) or projects that are under FERC jurisdiction as Bulk Electric System (BES) projects. Pacific Power supports an exemption for projects that are located only partially in Washington or projects that are under FERC jurisdiction as BES to the extent they are intended to be included under the proposed rules.

d. Are there other circumstances concerning the delivery system that are appropriate to qualify for exemption from the RFP rule?

Pacific Power has no other exemptions to propose related to the delivery system at this time, subject to additional clarification from the Commission as requested above.

e. Would a similar [utility-specific] framework be useful for delivery system RFPs? If so, what would the process of developing, approving, or renewing the framework entail?

As noted above, Pacific Power is seeking clarification from the Commission. The company’s determination of whether utility-specific criteria are appropriate will result from the clarification provided by the Commission at the upcoming workshop or through revised, draft rules. While there are differences between the delivery systems of Pacific Power and other utilities operating

² Pacific Power provided comments proposing that a dollar limit would be useful in defining “major distribution capital investment” and that the appropriate threshold of an estimated capital cost is over \$1 million to ensure that the projects are of a significant size. Pacific Power also proposed that the definition be limited to non-customer requested projects because customer driven load addition projects typically involve a critical construction timeline that might reduce or eliminate the ability to consider potential distributed energy resource solutions.

in Washington,³ it is unclear at this time as to whether these differences are impacted by the draft rules. Pacific Power reserves its right to provide additional comments regarding how such a utility-specific framework would operate following receipt of clarification.

5. RELIANCE ON THE MARKET

- a. Are there other third-party sources that would be more appropriate to reference [than the Northwest Power and Conservation Council's resource adequacy assessment]?**
- b. Are there other methods that are easier, more transparent, or more accurate than relying on third-party analysis?**

Pacific Power appreciates the Commission's acknowledgment that third-party determinations of regional resource adequacy should not replace the need for a utility to perform its own resource adequacy assessment within the IRP process. The Commission also acknowledges that third-party determinations have no bearing on the determination of market risk. However, the draft rules include a reference to the NWPCC's resource adequacy assessment as the basis for granting an exemption from the RFP requirements. This use of a third-party adequacy assessment as the basis for an exemption does not create adequate flexibility for entities like Pacific Power that operate in multiple states. Pacific Power already includes market forecast information and resource adequacy information in its IRPs, including input from Commission Staff. This information is more accurate and more transparent as a result of the robust stakeholder input process. Therefore, Pacific Power suggests that in lieu of limiting this exemption to those supported by a third-party assessment the exemption be expanded to also allow for exemptions supported by a utility's IRP. Pacific Power does not object to inclusion of the reference to a third-party assessment to the extent that this option may be appropriate for other utilities.

6. INDEPENDENT EVALUATOR

- a. Does [WAC – 480-107-AAA] identify the proper circumstances or are there other circumstances under which an independent evaluator should be required?**
- b. Is there value in requiring an independent evaluator for large projects when a utility will not be bidding? If so, is a 50 megawatt resource need an appropriate threshold?**
- c. Does this subsection provide enough specificity concerning the independent evaluator's role, or is additional rule language needed?**
- d. Should the Commission require that the independent evaluator be certified or accredited? If yes, provide specific qualifications the independent evaluator should possess.**

Pacific Power supports the requirement to use an independent evaluator (IE) under certain circumstances to increase transparency and ensure that RFPs are not biased. Based on its experience, use of an IE increases bidder confidence, which in turn promotes the broadest participation in the solicitation process. Bidder confidence promotes robust participation in all

³ For example, Pacific Power has a six-state footprint that includes distribution and local transmission facilities that operate in both Washington and Oregon. As a result, Pacific Power must engage in a multi-state planning process.

RFPs, not just in RFPs where utility ownership is an option. In fact, using an IE only for RFPs where there is the possibility for utility ownership could result in harm to customers by causing market confusion, reducing participation, and generally diminishing competition with the RFP because it would discourage a utility from issuing an RFP that allows for utility ownership. This would reduce the pool of potential bid options and bidders, putting downward pressure on creative bids that could benefit customers. Customers benefit from robust competition, as it will most likely result in the selection of the least-cost, least-risk resource.

Moreover, an IE can provide critical technical support to the Commission during its review of the RFP and throughout the bidding process, often regarding matters that are completely unrelated to ownership structure or any alleged utility bias. For example, the Commission can seek input from the IE as an impartial technical advisor with respect to any disputed issue in the RFP. For these reasons, an IE should participate in all RFPs (including PPA-only RFPs) for projects over a 100 MW threshold (see below). Further, based on these benefits to the Commission and customers it is appropriate to revise the language in WAC 480-107-AAA(3) such that a utility can request recovery of fees and expenses associated with engaging the IE through customer rates (*see* the company's proposed redlines below).

While the company supports the requirement to use an IE, two refinements are necessary to the draft rules. First, the project size threshold should be increased to 100 MW. Setting the threshold at 50 MW will not be effective and will add unnecessary costs and process. As noted above, Pacific Power has also suggested that projects of less than 100 MW should be eligible for an automatic exemption under the draft rules.

Second, greater detail regarding the IE's role is needed in the draft rules; this detail should include both obligations and limitations (*e.g.*, it should be made clear that a determination of utility prudence remains with the Commission and is not appropriate for an IE to opine on) associated with this role. The proposed rules state the IE will provide an initial report to the Commission at the conclusion of the process; however, it is unclear when the process would conclude or what the specific process will be. Additional clarification on the IE's role will allow for increased transparency and also ensure that all parties are on the same page throughout the process. The Public Utility Commission of Oregon has recently passed new regulations regarding its RFP process, including rules governing the engagement of an IE and the duties of an IE.⁴ These rules are based on input from stakeholders, including prior utility RFP experience and represent a good starting point for refining the draft rules in this proceeding in order to provide some level of consistency for resource solicitations that may cross state lines. The company has proposed redlines below that outline a more detailed description of the IE's role. The company also looks forward to continued discussions regarding what additional clarification can be included in the draft rules.

It is not necessary to require that the IE be certified or somehow accredited. The draft rules already include a requirement that the IE be selected after consultations by the utility with Commission staff and other stakeholders; the selected IE is also subject to Commission approval. There is therefore no reason to add the additional layer of requiring certification or accreditation.

⁴ Public Utility Commission of Oregon Order No. 18-324, Appendix A (August 30, 2018).

Any certification or accreditation that an IE may possess could still be taken into account during the selection and approval process.

7. IE REPORT

Could the Commission require the [report] reconciliation process to occur prior to the issuance of a single final report and still ensure that the evaluator's work is free from outside influence?

The draft rules require an initial and final report from the IE. The Commission proposed this two-step process to ensure that the IE's work is free from outside influence while also allowing for consideration of stakeholder input. However, the Commission asked for comments regarding whether these objectives could be met with only one report; the Commission states it recognizes that a two-step process will increase the cost and length of review time. Therefore, it seems more efficient for the IE to provide a draft report to the utility for discussion and reconciliation. For example, the company would be provided an opportunity to submit corrections or remove non-compliant bids prior to finalization of the report. This draft report would replace the initial report currently referenced in the draft rules and eliminate a level of review by the Commission. To alleviate the Commission's concerns regarding outside influence, the IE could include a filing letter explaining any substantial changes made from its draft report and the impetus for making these changes. This would ensure transparency in the report process while also ensuring that the utility has both a meaningful opportunity to provide feedback and that the ranking reconciliation process is streamlined. An opportunity for comments to the Commission regarding the final report should be maintained to allow the utility, staff and other stakeholders to provide additional responses to the final report. In the event that the IE and utility do not agree on any aspect of the final report, the utility could use this opportunity to provide additional comments. This final opportunity for utility comments further ensures that the IE's report is not subject to outside influence.

8. CONSERVATION RFP

- a. Does the proposed rule language in WAC 480-107-015(3)(d) and WAC 480-107-065 adequately encourage competitive procurement of conservation resources without negatively affecting current program planning and implementation?**

The draft rules are likely to have a negative impact on the conservation RFP process and appear unnecessary. The conservation RFP process is designed to ensure least cost and best value for conservation delivery with multiple, established providers who have demonstrated capabilities in smaller and more rural markets like Pacific Power's Washington service area. In many cases, the best value may be realized from a provider who contracts with the company for conservation delivery in multiple states. Major delivery contract procurement schedules, strategies, and outcomes are shared with the DSM Advisory Group within the confines of the company's established procurement policies. The additional requirements set forth in the proposed rules are not likely to provide benefits that will outweigh the additional time and resources they will require.

- b. The proposed language describes a role for the advisory group that is not currently explicit in rule, approving a framework for issuing conservation RFPs. Does this advisory group role fit with the current function of the conservation advisory group? The proposed rule specifies the competitive procurement framework must receive support of the advisory group. Is this a reasonable condition?**

The proposed role for the DSM Advisory Group fits within its current function. Pacific Power regularly reviews key elements of its conservation RFP process with the DSM Advisory Group. While not necessary, adding the requirement to receive support from the advisory group is not unreasonable or overly burdensome, if that support does not abridge or supplant established company procurement processes.

- c. Do the minimum procurement percentages provide reasonable guidance in the development of a competitive procurement framework for conservation?**

Pacific Power seeks clarification regarding how the minimum procurement percentages were established and how the percentages would be applied (*i.e.*, to overall programs or to overall savings). It is also not clear from the proposed rules whether the RFP requirements will be extended to special conservation efforts including low-income weatherization, pilots, Northwest Energy Efficiency Alliance, and production efficiency / distribution. Pacific Power reserves the right to provide additional comments and proposed edits based on the upcoming workshop discussions.

9. PROCUREMENT OUTSIDE OF AN RFP

How can the Commission ensure that utilities are pursuing these low cost opportunities available outside of an RFP? How can this idea be incorporated in rule?

The Commission notes that utilities have opportunities to procure low-cost resources that are not typically bid into the RFP process. Pacific Power has an extensive and robust procurement policy and procedure in place that applies to situations such as these, *i.e.*, situations where an RFP is not practical or appropriate. These policies and procedures are managed by the company's Procurement Department and include company thresholds for use of competitive bidding unless there is an approved non-compete justification. Where a non-compete justification is used, the company has detailed approval procedures in place that require approval based on the monetary threshold for the procurement amount. For example, before a contract or purchase order can be issued for a purchase of \$100,000 or greater procured outside of a competitive bid process approval must be provided by the procurement director. In addition to approval by the Procurement Department, the company department that is recommending the purchase must also provide support and approval of the contract decision. This multi-layered procedure ensures that procurement processes outside of the RFP process result in the least-costs for customers. Further, as a regulated utility whose costs are subject to a prudency review during rate cases, Pacific Power is already incentivized to pursue low-cost opportunities. Thus, additional rules to encourage these transactions are not necessary; however, the Commission should be aware of the practical implications of requiring RFPs for these situations where a formal RFP process may not be feasible or appropriate when promulgating the final rules. For

example, the current version of the proposed rules sets a threshold of 50 MW to trigger the RFP requirements. This is an example of where a formal RFP process may not yield sufficient benefits to justify the costs. As set forth in the company's proposed redlines, a threshold of 100 MW is more appropriate because competitive procurement of projects of this size (*i.e.*, utility scale projects) are likely to result in benefits that exceed the costs associated with a formal RFP. By increasing the threshold that triggers the RFP process, the Commission will create greater flexibility to allow utilities to engage in procurement of low-cost opportunities outside of the RFP process.

10. EVALUATION TRANSPARENCY

Proposed draft rule 480-107-025(4) requires RFPs to “include a sample evaluation rubric that quantifies the weight each criterion will be given during the project ranking procedure.” What are the implications of this language?

The purported reason for inclusion of this language is to increase transparency. However, as the Commission states in its Notice, this requirement also creates the potential for bidders to game the RFP process. This requirement would reduce the competitive nature of the RFP process and release of its weighting system should not be required.

Transparency in the process is important but must be balanced against the potential harm to customers. Requiring disclosure of the utility's weighted percentage ranking for bid criterion will have a detrimental impact on ratepayers because it will allow bidders to game the bid process, resulting in higher costs for customers. This requirement will also hinder Pacific Power's ability to protect the confidential information submitted by bidders. Without the ability to protect this commercially sensitive information, the company will receive fewer bids in response to its RFPs and ultimately higher prices to customers will result. Pacific Power recommends that the weighting of the criteria remain confidential. The Public Utility Commission of Oregon (OPUC) recently addressed this issue and struck a balance that could serve as a model here. Specifically, the Oregon rules regarding RFPs require that utilities provide proposed and final scoring criteria and metrics in their draft and final RFPs filed with the OPUC. However, the Oregon RFP rules do not require the utilities to include the weight each criterion will be given and also contain a provision that explicitly allows utilities to seek a protective order that would apply to information filed in support of the RFP process including detailed bid scoring and evaluation results. Under this protected information provision, confidential information would only be provided to the Commission, the IE and non-bidding parties.⁵ The Commission should seek to achieve a similar balance in the draft rules (*see* the company's proposed redlines below for suggested language).

Further, the transparency and accountability associated with the RFP process that the Commission seeks to increase are already achieved through use of the IE. It is unnecessary to add an additional layer (by requiring the utilities to provide the weighting of ranking criteria) in light of the new IE requirements whereby an independent third-party has been inserted in the ranking process. Use of the IE is more appropriate because it ensures that the project ranking is

⁵ Public Utility Commission of Oregon Order No. 18-324, Appendix A at 9 (August 30, 2018).

fair while also allowing an opportunity to protect confidential and commercially sensitive information for the benefit of ratepayers.

11. TWO STAGE BIDDING

Please discuss the advantage and disadvantages of [a two stage bidding] approach including whether the bidding structure proposed creates asymmetrical bidding opportunities between IPPs that offer power purchase agreements and those offering to sell their generation. How should the sequence of bid offers be designed if the IPP is offering two differently structured offers for the same project, one that is a PPA and one that is a contract with transfer of ownership?

For the same reasons that the Commission should not adopt a requirement that utilities provide the weighted percentage for each criterion used on the evaluation process, the Commission should not adopt the two-stage bidding process proposed by the Northwest and Intermountain Power Producers (NIPPC). This two-stage bidding process would allow independent power producers (IPP) to game the RFP process and similarly ignores the protections provided to the RFP process by the requirement to use an IE. NIPPC suggests use of a two-stage bidding process to address the “inherent utility preference to own a generation asset.” This two-stage bidding process would require all utility-owned generation bids to be made during the first phase of bidding, followed by an opportunity for power purchase agreement bids to be submitted with an explicit opportunity to beat the pricing offered during the first phase.

This proposed two stage bidding process fails to level the playing field, but instead puts utility-owned generation bids at a disadvantage because the pricing will be made public prior to receipt of any other bids. While this may encourage IPPs to offer lower pricing in their bids, it could tip the selection process too far towards pricing without adequate consideration of other equally important factors (*i.e.*, ability to perform). In addition, this two-stage bidding proposal creates a situation where the RFP will not result in the best price but will result in an artificial threshold (the utility-owned generation pricing). IPPs will not necessarily provide their lowest bids under this scenario because they will know that as long as their bid is lower than the utility-owned generation, it will be ranked more favorably. Further, with inclusion of these stringent IE requirements there is no need to also implement a two-stage bidding process.

Pacific Power suggests that the rules require a utility-owned generation bid to be submitted first but to remain sealed until all bids are received. This practice is consistent with the company’s RFP procedures in Oregon (where a proposal for two-stage bidding was recently rejected) and Utah, and ensures that there can be no assertion that the utility-owned generation bid is influenced by other bids while also ensuring that all bidders are treated equally and that the lowest cost pricing options are submitted for evaluation.

12. REDLINED EDITS AND COMMENTS TO PROPOSED RULES

Should the proposed definition of Resource Need [in the Notice] include specific resource needs that should be subject to competitive bidding? If so, what should be included in that list?

In addition to the comments above, Pacific Power is attaching redline edits to the draft rules. Below, are more detailed explanations for the key redline edits being proposed by the company and requests for additional clarification regarding certain proposed changes.

The comments below are intended to address key proposed changes or areas of confusion but do not include all redlines proposed by the company. Please refer to the attached redline version of the proposed rules for all of Pacific Power's proposed redlines and comments.

480-107-001-Purpose and Scope

Pacific Power seeks clarification on the proposed inclusion of the term "efficiency resources" in Section 1 of the Purpose and Scope. The proposed rules define "Conservation and efficiency resources" in nearly the same manner as "Conservation" set forth in WAC 480-100-238(2) and therefore it is not clear what the Commission intends to accomplish by including the term "efficiency resources." Instead, Pacific Power recommends that the definition of Conservation remain unchanged and "efficiency resources" not be included. Pacific Power also disagrees with the addition of the term "transmission" in the proposed definition because this would include all aspects of the utility system creating unnecessary complexity to the conservation RFP process. This added complexity arises from additional potential studies that will be necessary for transmission resources, the need for a definition of cost-effectiveness that will be applied to these resources, etc.

480-107-007-Definitions

The proposed definition of "Resource Need" contemplated in the Notice as part of Question 13 would greatly expand the requirements for the RFP process. Pacific Power proposes that the definition of Resource Need be limited to "any current or projected system deficit identified in the most recently acknowledged IRP. The additional language contained in the proposed rules creates an overly broad "catch-all" that could include any and all resources and would require utilities to engage in a constant cycle of analysis. However, if this definition is adopted or continues to be considered by the Commission, Pacific Power requests clarification for how front-office transactions would be impacted by the expanded definition.

The definition of "Resource supplier" should be revised to include a provision for utility ownership. This would be consistent with the proposed language contained in Section WAC 480-107-015 allowing for utility ownership.

480-107-015—The Solicitation Process

Pacific Power proposes to revise subsection (1) to make clear that the solicitation need not be an

all-source RFP. The requirement that all solicitations be all-source RFPs would not aid the Commission goal of reducing exemption requests; in order to achieve this objective, the rules should permit solicitations to be limited to resources that have been identified as able to meet the resource need through the company's IRP process.

Pacific Power requests clarification regarding the proposed language contained in subsection (4)(b) that states that a utility is exempt if the utility plans to satisfy the remainder of its identified resource need for capacity... It is not clear from the proposed rules what is meant by the term "remainder" in this context. To provide clarity, Pacific Power suggests revising this subsection to state "[t]he utility plans to satisfy its identified resource need for capacity..."

Pacific Power seeks clarification regarding the language contained in subsection (5) requiring submission of a proposed RFP and accompanying documentation no later than 135 days after the utility's IRP is due to be filed. As an initial matter, "accompanying documentation" should be clearly defined or removed to avoid confusion and streamline the filing process. The proposed timing should also be reconsidered to account for the possibility that an IRP may not be acknowledged within 135 days of the filing date. If the IRP has not been approved, it could be premature to develop and file the RFP with the Commission. Pacific Power proposes that a range be incorporated that would allow utilities to develop and file an RFP before IRP acknowledgment, when circumstances necessitate, but otherwise allow the utility to wait for IRP acknowledgment. This range approach would allow a utility to develop an RFP early when dictated by external circumstances while also allowing the utility to wait for IRP acknowledgment to ensure that the RFP reflects the most accurate information.

Pacific Power suggests that the requirement for notices of RFPs to be placed in relevant industry publications be removed. This is a new requirement that could be very costly and is not likely to provide a corresponding value. The company already posts its major RFPs on its website and contacts potential bidders; as a result of these efforts Pacific Power already receives thousands of responses to these major RFPs. It is not likely that providing notice through industry publications would provide a meaningful benefit to justify the additional costs. Instead, the company suggests including industry trade associations and agencies in the communications sent to potential bidders regarding the RFPs.

480-107-025—Contents of the Solicitation

Pacific Powers recommends removing the requirement to include the "avoided cost identified in the IRP" contained in subsection (1). It is not clear that avoided costs would be set by the IRP under these rules; furthermore, it is not clear how avoided cost information would be helpful to RFP bidders.

Pacific Power also seeks clarification regarding the proposed language in subsection (1) that states that the RFP is required to include the type of technology necessary to meet a compliance requirement. As stated above, the company is proposing that subsection (1) of Section 480-107-015 be revised to make clear that all RFPs need not be all resource RFPs because there may be specific types of needs identified through the company's IRP process. As a result, the company would typically limit the solicitation process to only those resources that would meet these

specific needs. These needs may not be directly tied to compliance, but may be supported by a reliability or diversity of resource need. As currently drafted, subsection (1) appears to be too limited and should be revised to provide greater flexibility.

480-107-AAA—Independent Evaluator for Large Resource Need or Utility or Affiliate Bid

Pacific Power recommends including language to allow a utility to issue an RFP for an independent evaluator in subsection (2). Pacific Power also recommends including language that would allow a utility to request recovery of fees and expenses associated with engaging an IE through customer rates. As detailed above, the benefits of using an IE accrue to the Commission and customers. Therefore it is appropriate to allow requests for recovery of costs. This is also consistent with the recently adopted RFP rules in Oregon.

In subsection (5), Pacific Power finds that use of the term “conclusion of the process” is unclear. Instead, Pacific Power has included more detailed language regarding the IE’s role in its proposed redlines of the draft rules. Providing additional detail regarding the IE’s role will increase transparency and ensure that the IE provides the greatest value to the RFP process. In addition, Pacific Power strongly supports the intent of subsection (5)(a), but requests that the language be refined to allow for normal processes during the evaluation such as corrections or removal of non-compliant bids.

480-107-035—Project ranking procedure

Pacific Power has two requests for clarification and several significant concerns regarding confidentiality associated with the proposed rules for project ranking procedures.

It is unclear as to what is meant by “resiliency attributes” in subsection (2). Pacific Power requests clarification; based on this clarification it may be appropriate to include resiliency attributes in the Definitions section. The second request for clarification is with respect to subsection (3). Pacific Power requests an example of how the value of any “additional net benefits that are not directly related to a specific need requested would be considered by a utility” as proposed in subsection (3). It is unclear what this requirement means or what factors should be considered (*e.g.*, could risk factors be considered?). Finally, Pacific Power requests clarification regarding use of the term “lowest reasonable cost portfolio” as used in subsection (3).

With respect to the proposals to disclose summaries of all project proposals on the company’s website, provide confidential scoring information to bidders, and provide a detailed ranking on the company’s website, there are serious confidentiality concerns that should be discussed. These three pieces of information would be very difficult to disclose to the public without simultaneously disclosing commercially-sensitive and proprietary information submitted by bidders. This is information not typically disclosed to the public and would likely have a chilling effect on the RFP process. It would be very difficult for Pacific Power (and other utilities) to solicit robust bids if it becomes known that commercially sensitive information will be disclosed to the public as a matter of course. A reduction in the number of bids received will reduce the competitive nature of the process and ultimately result in higher costs for customers. Pacific

Power looks forward to discussing these sensitive issues with stakeholders at the upcoming workshop to determine how transparency can be increased while ensuring that the company is able to continue to provide protective treatment to the confidential information submitted by its vendors.

Pacific Power also proposes clarifying language to more specifically list the circumstances in which a utility may reject project proposals that do not meet the needs identified in the RFP or otherwise serve customer interests.

480-107-135-Conditions for purchase of resources from a utility, a utility's subsidiary or affiliate

Pacific Power suggests revising subsection (3) to limit disclosure of the RFP results (not the RFP contents) to a utility's own personnel involved in developing the utility's bid. It is often necessary for certain utility personnel that may work in several different capacities to participate in the development of an RFP. It is more appropriate, and is Pacific Power's standard practice, to isolate its bid and evaluation teams once the RFP is issued. Only the evaluation team would review the results of the RFP; the bid team would be precluded from seeing these results to maintain the confidentiality of the process and also to ensure that the utility cannot game its own RFP.

480-107-145-Filings-Investigations

Pacific Power agrees that the Commission should retain the right to examine project proposals as originally submitted by project developers, as stated in subsection (1). However, the submission to the Commission should be subject to a protective order or other confidential protection. For the reasons discussed throughout these comments, protection of commercially sensitive information submitted in response to RFPs is necessary for the benefit of customers. As a result, the proposed rules should make clear that a protective order will be issued for RFP proceedings. Pacific Power proposes that the summary report required by subsection (2) would also be subject to a protective order with respect to requirement (a) (to provide reasons for the project ranking) because this information cannot be summarized without implicating confidential data.

13. CONCLUSION

The draft rules present an important opportunity to streamline the RFP process and reduce the need for waivers or exemptions. The comments provided above together with the company's proposed redline edits are intended to further these goals. Pacific Power appreciates the opportunity to provide these comments in response to the proposed rules and looks forward to further discussions at the workshop scheduled for October 2, 2018.

Please contact Ariel Son at (503) 813-5410 if you have any questions.

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Sincerely,

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