**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of the Petition of PACIFICORP, d.b.a. Pacific Power, Petitioner | DOCKET No. UE-091468PacifiCorp’s Petition for Waiver of Certain Requirements Related to Requests for Proposals Contained in WAC 480-107  |

1. Pursuant to WAC 480-107-002(3) and WAC 480-07-370(b), PacifiCorp, d.b.a Pacific Power (“Company”) petitions (“Petition”) the Washington Utilities and Transportation Commission (“Commission”) for a waiver of certain requirements related to requests for proposals (“RFP”) contained in WAC 480-107-015(3).

2. PacifiCorp’s name and address:

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| Washington DocketsPacifiCorp825 NE Multnomah Street, Suite 2000Portland, OR 97232washingtondockets@pacificorp.com | Michelle R. MishoeLegal CounselPacifiCorp825 NE Multnomah Street, Suite 1800Portland, OR 97232michelle.mishoe@pacificorp.com |

 **Background**

3. On May 29, 2009, the Company filed its 2008 Integrated Resource Plan (“2008 IRP”). The next integrated resource plan (“IRP”) is due to be filed no later than March 31, 2011. On September 14, 2009, PacifiCorp submitted a notice (“Notice”) indicating that the Company does not intend to file an RFP in 2009 because the Company’s 2008 IRP demonstrates additional resources will not be needed in the west control area until 2012.[[1]](#footnote-1) The Company filed this notice within 135 days after filing the 2008 IRP, consistent with WAC 480-107-015.

4. WAC 480-107-015(3)(b) requires that proposed request for proposals and accompanying documentation be submitted no later than 135 days after a utility’s IRP is filed with the Commission. WAC 480-107-015(3) does not apply when a utility’s IRP demonstrates that the utility does not need additional capacity within a three-year period. WAC 480-107-015(3)(a). The timing and quantity associated with the acquisition of resources in the 2008 IRP action plan is calendar years 2009 through 2018. The Company interprets WAC 480-107-015(3)(a) to mean that “within three years” reflects the first three years covered by an IRP. The resource needs assessment in the 2008 IRP demonstrates there is no need for capacity resources for the west control area in calendar years 2009, 2010 and 2011, consistent with the Company’s interpretation of WAC 480-107-015(3)(a). Therefore the Notice of September 14, 2009 was submitted to the Commission in compliance with WAC 480-107-015(3)(a).

5. Subsequent to the Company’s filing of the Notice, Commission Staff (“Staff”) and the Company held discussions regarding the interpretation of “within three years” as contained in WAC 480-107-015(3)(a). Staff interprets “within three years” as commencing the day the 2008 IRP was filed with the Commission. Given that the filing of the 2008 IRP occurred on May 29, 2009, Staff’s interpretation of “within three years” is from May 29, 2009 through May 28, 2012. Staff therefore requested supplemental information about the resource need of approximately 800 MW in the west control area in 2012. This supplemental information was conveyed by the Company’s director of origination during a telephone conference held with Staff on October 22, 2009 and is provided here in support of this Petition.

**West Control Area Resource Need in 2012**

6. The Company’s 2008 IRP preferred portfolio consists of a diverse mix of resources including demand-side management, construction of new generating resources, and front office transactions[[2]](#footnote-2) at liquid hubs from existing generation, i.e. firm market purchases.[[3]](#footnote-3) The mix of new construction and market purchases allows the Company to make long-term investments in new generating capacity along with procuring shorter-term energy products from existing generating resources that vary from year-to-year and fluctuate with the overall load requirements. This minimizes the risk of procuring more resources than what is required and minimizes costs. The purchase of shorter-term market energy purchases, which are shaped to load or used to replace existing energy contracts, allows the Company to purchase products consistent with the resource requirements and to optimize the timing of the required energy resources. These market energy purchases provide the Company with the ability to determine its resource requirements on a year-by-year basis instead of locking into new resource requirements for the life of the asset, which may exceed the system resource need.

7. Front office transactions, as proxy resources, represent a range of purchase transaction types. They are usually standard products, such as heavy load hour, light load hour, and/or daily heavy load hour call options (e.g., the right to buy or “call” energy at a “strike” price) and typically rely on standard enabling agreements as the underlying contracting vehicle. Front office transaction prices are determined at the time of the transaction; usually via a third party broker and/or based on the views of each respective party through a mini-request for proposal mechanism, which reflects the then-current forward market price for energy.

8. The Company’s resource needs assessment in the 2008 IRP reflects a resource need of approximately 800 MW of front office transactions, which vary in term, quantity and delivery point, to balance the west control area in 2012.[[4]](#footnote-4) As outlined in the 2008 IRP preferred portfolio, the west control area 2012 resource needs would be satisfied through front office transactions at the following market hubs[[5]](#footnote-5):

* California Oregon Border (COB), Flat Annual – 389 MW (delivered all hours between January 1, 2012 and December 31, 2012),
* Mid-Columbia, 3rd Quarter Heavy Load Hour – 400 MW (July through September),
* West Main, 3rd Quarter Heavy Load Hour – 50 MW (July through September).

9. However, only a portion of the above transactions may be required prior to May 28, 2012. The front office transaction at the California Oregon Border of 389 MW is a flat annual product, which would cover the term of January 1, 2012 through December 31, 2012. Therefore, only a portion of the flat annual product may be required within the three years ending May 28, 2012. Also, the Mid-Columbia and West Main market energy purchases of 400 MW and 50 MW, respectively, are third quarter 2012 transactions, and are therefore required outside of the three years ending May 28, 2012.

**The Use of Mini-RFPs**

10. The Company solicits bids for front office transactions through mini-requests for proposals (“mini-RFPs”), broker markets, or over-the-counter purchases. Mini-RFPs are typically issued to the market every other month, and are utilized to potentially procure energy months, quarters or calendar years in advance. Annual transactions are available up to as much as three or more years in advance and can be procured within any given calendar year. Seasonal transactions are typically delivered during quarters and can be available from one to three years or more in advance within any given calendar year.

11. Mini-RFPs are typically two to three pages in length and are markedly simpler in nature and complexity to the RFPs that the Company issues for build-to-own plant resources or long-term power purchase agreements. The term, delivery months, quantity, delivery points, market hub, and type of product are variable components of each mini-RFP. Mini-RFPs typically require a response within two weeks of issuance to market, and the received bids are typically valid for two hours from the due date/time, and may or may not result in transaction(s) being executed. The timing of the mini-RFPs makes them incompatible with the RFP approval requirements. The proposed westside mini-RFP is provided as Attachment 1.

**Request for Acknowledgement or Waiver**

12. If the Company’s interpretation of “within three years” in WAC 480-107-015(3)(a), is accepted as being the first three years of the 2008 IRP (calendar years 2009, 2010 and 2011), the Company respectfully requests the Commission acknowledge that the Notice filed on September 14, 2009 complies with the rules and this Petition for a Waiver is not necessary.

13. If, however, Staff’s interpretation of “within three years” is accepted as commencing on May 29, 2009 and concluding on May 28, 2012, then a portion of the Company’s west control area resource need in 2012 could be deemed to be subject to WAC 480-107-015(3). WAC 480-107-015(3)(b) requires proposed RFPs and accompanying documentation to be filed within 135 days after an IRP is due to be filed, followed by a comment period of 60 days. The Commission then must make a determination of whether to accept or suspend the RFP within 30 days after the close of the comment period.

14. If Staff’s interpretation is accepted, the Company respectfully requests a waiver from the requirements of WAC 480-107-015(3) and, Commission authorization to instead issue a mini-RFP, the content, timing and administration of which is incompatible with the requirements for the standard request for proposal process. Consistent with the 2008 IRP preferred portfolio, the mini-RFP will be issued to solicit bids for the 2012 west control area resource needs to be met by front office transactions through May 28, 2012. If the Commission authorizes the Company to issue the mini-RFP, the Company’s proposed timeline would be as follows:

* Issue mini-RFP[[6]](#footnote-6) to market Within 10 days of Commission Order
* Bidders’ due date Due 14 days after mini-RFP issued to market
* Evaluation of bids and Within two hours of bidders’ due date

 determination of whether to

 execute transaction(s)

15. WAC 480-107-002(3) allows the Commission to grant waivers of the requirements of WAC Chapter 480, Section 107 “if consistent with the public interest, the purposes underlying regulation, and applicable statutes.”

16. The Company’s request is in the public interest, the purposes underlying regulation, and applicable statutes for several reasons. Front office transactions, procured through mini-RFPs, minimize the risk of over-procurement of resources while obtaining competitive pricing, and transaction transparency. Through mini-RFPs, the Company is able to structure products to meet its needs, such as shaping the product to meet load. Additionally, using mini-RFPs, the Company is able to ensure suppliers are able to meet credit requirements in advance. Requiring mini-RFPs to follow the RFP approval requirements could lead to lost opportunities to minimize procurement risks to the Company and its customers.

DATED: this 20th day of November 2009.

Respectfully submitted,

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Michelle R. Mishoe

Legal Counsel, Pacific Power

Counsel for PacifiCorp

1. Chapter 5 – Resource Needs Assessment, Table 5.18, section “West,” p. 91 (2008 IRP, Docket UE-080826). [↑](#footnote-ref-1)
2. Front office transactions are proxy resources for market energy purchases, made by the Company on a rolling-forward average cost basis to balance the Company’s energy position. [↑](#footnote-ref-2)
3. Chapter 1 – Executive Summary, incremental resource additions table, p. 6 (2008 IRP, Docket UE-080826). [↑](#footnote-ref-3)
4. Chapter 5 – Resource Needs Assessment, Table 5.18, section “West,” p. 91 (2008 IRP, Docket UE-080826). [↑](#footnote-ref-4)
5. Chapter 8 – Modeling and Portfolio Selection Results, Table 8.44, p. 245 (2008 IRP, Docket UE-080826). [↑](#footnote-ref-5)
6. Provided as Attachment 1 to this Petition. [↑](#footnote-ref-6)