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**VIA ELECTRONIC FILING**

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**Re: Docket U-161024—Pacific Power & Light Company’s Comments**

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). Pacific Power has subsequently submitted comments on September 21, 2018, attended a workshop on October 2, 2018, and provided additional comments on October 26, 2018. On December 31, 2018, Staff issued a revised set of draft rules (Revised Rules) and requested comments on those rules. Pacific Power appreciates that Staff has incorporated many of the edits suggested by the company, and now provides comments on the revised rules that have been provided by Staff. In addition, to the comments below, Pacific Power has also attached a set of redlines to the revised rules.

Pacific Power looks forward to continuing to engage with Staff and other stakeholders to finalize draft rules that ensure transparency and adequate review without compromising the interests of customers.

**COMMENTS ON REVISED RULES**

Attached to this are redlines to the revised rules that have been recently provided by Staff. The comments below provide some explanation and additional information for Pacific Power’s edits:

**480-107-001 Purpose and Scope**

The Revised Rules define “Conservation and efficiency resources” in the same manner as “Conservation”, which is set forth in WAC 480-100-238(2), and therefore Pacific Power suggests that the Commission use the definition that is currently provided in the rules. The addition of “efficiency resources” could lead to inconsistency and confusion.

*Proposed Edits to subsection (1):*

*(1) The rules in this chapter require utilities to solicit bids, rank project proposals, and identify any bidders that meet the minimum selection criteria. The rules in this chapter do not establish the sole procedures utilities must use to acquire new resources. Utilities may construct electric resources, operate conservation ~~and efficiency resource~~ programs, purchase power through*

*negotiated contracts, or take other action to satisfy their public service obligations.*

#### **480-107-007 Definitions**

The Revised Rules provide a definition for “Resource Need” that is consistent with the definition from WAC 480-100-238(2). It appears that a definition for “Resource Need” has yet to be incorporated into that section of the Washington Administrative Code, and Pacific Power suggests that the Commission adopted a definition that defines a “Resource Need” as “any current or projected system deficit identified in the most recently filed integrated resource plan.”

*Proposed Edits:*

*"Resource need" means any current or projected system energy or capacity deficit identified in the most recently filed integrated resource plan. ~~has the same meaning as defined by WAC 480-100-238(2).~~*

#### **480-107-015 The Solicitation Process**

Pacific Power suggests a revision to subsection (1) that clarifies that the solicitation process does not need to be an all-source RFP. If the process required by these rules is an all-source RFP, then utilities will consistently be petitioning the Commission for a waiver and exemption to these rules. Pacific Power has a robust and comprehensive Integrated Resource Planning (IRP) process that would identify the nature of the resources that are required to best meet the obligations of the company to serve its customers.

*Proposed Edits:*

*(1) Except as set forth in Section (4) below, the utility must solicit bids for its resource needs identified during the IRP process. It must accept bids that are identified in the solicitation process for a variety of energy or capacity resources, consistent with the utility's most recent integrated resource plan, which ~~may have~~ has the potential to fill the identified needs including, but not limited to: electrical savings associated with conservation ~~and efficiency~~ resources; demand response; energy storage; electricity from qualifying facilities; electricity from independent power producers; and, at the utility's election, electricity from the utility, utility subsidiaries, and other electric utilities, whether or not such electricity includes ownership of property.*

Subsection 4(b) of this rule provides an exemption from the issuance of an RFP under these rules when the “utility’s identified resource need is for delivery system resources[.]” Pacific Power seeks clarification of what a delivery system resource is, in order to better understand the scope of this exemption.

Subsection 4(d) provides an exemption for when a utility is able to satisfy its resource need with short term market purchases. However, these draft rules require the utility to rely on the power supply adequacy assessment from the Northwest Power and Conservation Council (NWPCC) in determining whether there is sufficient adequacy to support market purchases. Such a reliance

does not create sufficient flexibility for Pacific Power that operates in multiple states beyond the scope of the NWPCC. While this assessment may provide value in understanding a regional outlook, the NWPCC should not be the governing authority on each utility's individual systems or the utility's ability to access markets, especially markets outside of the Northwest PowerPool. Pacific Power's IRP already includes a robust and transparent process to determine the market forecast information and resource adequacy with input from Staff. Therefore, Pacific Power requests that the Commission change this from requiring both an IRP and the NWPCC adequacy assessment to either one of the assessments.

*Proposed Edits:*

*(i) The utility, in its IRP, considered all available information on sufficient regional adequacy and expressly modeled and considered the risk of high market prices that can result from changes in existing capacity available in the markets from which the utility expects to purchase capacity to meet its capacity needs; ~~or~~ ~~and~~*

Subsection (5) requires the utilities to submit a proposed RFP no later than one hundred and thirty-five days after the IRP is submitted. However, by filing an RFP within 135 days, it is highly likely that the RFP will not be consistent with the "need" that is in the acknowledged IRP. As a result Pacific Power suggests that the RFP should be submitted 135 days after an acknowledged IRP.

*Proposed Edits:*

*(5) A utility must submit to the commission a proposed RFP ~~and accompanying documentation~~ no later than one hundred thirty-five days after the utility's integrated resource plan is ~~acknowledged by~~ ~~submitted to~~ the commission. Interested persons will have ~~up to~~ sixty days from the RFP's filing date to submit written comments to the commission on the RFP. The commission will approve, approve with conditions, or suspend the RFP within thirty days after the close of the comment period.*

Subsection (7) requires a utility to solicit bids within thirty days of a commission order approving the RFP. It is essential that the RFP process proceed quickly. However, Pacific Power suggests that this timeline be extended to sixty days to allow for more time to work with an Independent Evaluator and properly structure the bid solicitation process.

*Proposed Edits:*

*(7) A utility must solicit bids for resource needs within ~~sixty~~ ~~thirty~~ days of a commission order approving the RFP, with or without conditions, as applicable. To solicit bids, a utility must post a copy of the RFP on the utility's public web site. The utility must maintain a list of potential vendors and industry trade associations and agencies and communicate to those vendors, associations and agencies when an RFP is issued.*

Subsection (8) requires that all bids remained sealed until the expiration of the solicitation period specified in the RFP. To the extent that the Commission does not adopt Pacific Power's

suggested edits with regard to subsection 4(d), Pacific Power would still frequently need to apply for waiver under these rules to the extent that it must seek an RFP for short term market purchases. Market RFP bids are typically faxed or emailed to the company and may be evaluated in a timeframe as short as two hours. These bids are not sealed to ensure that prices are aligned with ever-changing market conditions, and this benefits customers by allowing the company to capture attractive market pricing and opportunities.

#### **480-107-025 Contents of the Solicitation**

Pacific Power recommends the elimination of language that requires “avoided cost information identified in the integrated resource plan” in subsection (1). It is unclear how avoided cost information would be helpful to the bidder, when they should be offering their best bids possible based on the financial and operational requirements. Bids should not be influenced by an avoided cost calculation.

*Proposed Edits:*

*(1) The RFP must precisely define the resource need, including any specific attributes or characteristics the utility is soliciting, such as the amount and duration of power, any time and locational attributes, operational attributes, the type of technology ~~necessary to meet a compliance requirement or combination of technologies~~, and any additional information necessary for potential bidders to make a complete bid, ~~including the avoided cost identified in the integrated resource plan.~~*

Subsection (8) requires that a utility identify their owned transmission assets to be made available to bidders. This section should be removed. Access to a utility’s transmission assets is governed by federal regulation, specifically the Federal Energy Regulatory Commission’s open access transmission policies implemented by a utility’s transmission function. Utilities do not have excess transmission assets or rights that can be made available for bids outside of that federal process. RFPs, therefore, always require bidders to separately request the necessary transmission system access (e.g., interconnection service) from the utility’s transmission function and provide resulting transmission function study report information as part of the bid. Therefore, this language should be eliminated from the draft rule.

*Proposed Edits:*

*~~(8) The RFP must identify utility owned transmission assets that are made available by the utility to be used by bidders to assist in meeting the resource need, and allow the use of such assets to be included in bids.~~*

#### **480-107-035 Project Ranking Procedure**

Pacific Power suggests edits to subsection (5) and the removal of subsection (9) requiring that information on all proposals or bids be made available to the public. By making this information public, it will be a means for competitors to discover prices for all bidders and will significantly bias bid results for future RFPs. This will reduce the competitive nature of the RFP process. Such a provision would also discourage bidders from participating if they know their bids will

become public. The cost of making bid information available to the public greatly outweighs any perceived benefits. Notably, the most relevant costs, which are the costs of the winning bid, are already contemplated in the draft rules as being subject to Commission review in the utility's relevant general rate case or other cost recovery proceeding.

*Proposed Edits to subsection (5):*

*(5) Within thirty days after the sealed project proposals have been opened for ranking, the utility must make available ~~for public inspection on the utility's website~~ a summary of each project proposal subject to a protective order consistent with WAC 480-107-BBB.*

*Proposed Edits to subsection (9):*

~~*(9) Within five days after executing an agreement for acquisition of a resource or determining that all proposals or bids will be rejected, the utility must make available for public inspection on the utility's website a final detailed ranking of results for all proposals and the details of the winning bid pricing and scores.*~~

#### **480-107-AAA Independent Evaluator for Significant Resource Needs or Utility or Affiliate Bid**

Pacific Power recommends deleting the word "need" from subsection (1)(a) to clarify that it is the size of the resource, and not the total resource need indicated in the IRP that determines whether an RFP is necessary. Without this clarification, the rule could be interpreted to mean that if the IRP indicates a total need over 80 MW, which is a very low threshold, that even a 5 MW project to fill that total need would require an RFP.

*Proposed Edits to subsection (1)(a):*

*(a) The resource ~~need~~ is greater than 80 megawatts;*

#### **480-107-BBB**

Pacific Power has added a section at the end of these rules to allow for the utility to request a protective order in order to protect the confidentiality of the information throughout the RFP process. Ensuring that information is kept confidential while allowing for appropriate Commission review is essential to ensuring that the process garners the best bids and is able to provide the best resources for customers. The ability of the Commission to issue a protective order outside the confines of an adjudicative proceeding will allow for the appropriate treatment of confidential information.

*Proposed Edits:*

*WAC 480-107-BBB Protected Information. The utility may request a protective order be issued prior to making available protected information required to be shared under the rules in this chapter. Protected information may include, but is not limited to, RFP-related and bidding information, such as a company's modeling, cost support for any resource and detailed bid scoring and evaluation results. Protected information may then be provided to the Commission, the*

