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March 19, 2018

***via* Electronic Filing & U.S. Mail**

Public Utility Commission of Oregon
Attn: Filing Center
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Re: UM 1845 – Staff's Comments on the Independent Evaluator's Closing Report

Commission Staff hereby submits for filing the redacted version of the Comments on the Independent Evaluator's Closing Report.

The confidential portion of Staff's comments is being handled in accordance with Order No. 17-218 and will follow *via* U.S. Mail.

Thank you for your assistance.

Sincerely,

Johanna M. Riemenschneider
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Enclosure

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1845

In the Matter of PACIFICORP, dba PACIFIC POWER, Application for Approval of 2017R Request for Proposals	Staff Comments on the Independent Evaluator's Closing Report

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1. PROCEDURAL HISTORY

The following are Staff's Comments concerning the Independent Evaluator's (IE's) Closing Report on PacifiCorp's (PAC or Company) proposed shortlist in its 2017R Request for Proposals. Staff is appreciative of the work done by PAC, the IE and the other stakeholders involved in this RFP.

On April 4, 2017, PacifiCorp filed its 2017 Integrated Resource Plan (IRP) with the Commission. In the IRP, PacifiCorp identified an economic opportunity to procure up to 1,100 MW (nameplate) of wind resources interconnecting to its Wyoming transmission system, coupled with a new, 140 mile, 500 kV transmission line between the Aeolis substation and the Jim Bridger power plant in Wyoming (Aeolis or D2).[1] In PacifiCorp's RFP pre-issuance bidders' conference, PacifiCorp indicated it would seek up to 1,270 MW of wind resources capable of interconnecting with the Company's Wyoming transmission system inclusive of D2 or able to deliver energy and capacity into PacifiCorp's Wyoming transmission system in the 2017R RFP.[2]

On June 1, 2017, PacifiCorp filed an application requesting the Commission (1) open a docket for approval of PacifiCorp's 2017R RFP, which it described as "a solicitation process for up to approximately 1,270 MW of new wind resources capable of interconnecting to, and/or delivering energy and capacity across, PacifiCorp's transmission system in Wyoming", and (2) appoint an IE to oversee the process. The Company anticipated that the RFP would be issued prior to acknowledgement of PacifiCorp's 2017 Integrated Resource Plan (IRP), which was still under review with the Commission in Docket No. LC 67. PacifiCorp proposed in its petition to conduct the solicitation process concurrently with the Commission's review of the Company's IRP.

The Commission adopted Staff's recommendation to select Bates White to serve as the Independent Evaluator of PacifiCorp's RFP on July 20, 2017, per Commission Order No. 17-279.

An initial draft of the RFP was shared with the IE on close of business Friday July 21, 2017. IE comments on the draft were supplied to PacifiCorp the following Wednesday, July 26, 2017. The final draft was filed on Friday August 4, 2017. To meet the Company's proposed RFP schedule the IE filed its comments on the final RFP less than one week later on August 10, 2017. Regardless, the IE proposed several modifications, ratepayer protections, and several stakeholders were still able to file comments.

The Commission approved, with some conditions, PacifiCorp's RFP at the public meeting on August 29, 2017. The Commission issued Order No. 17-345 on September 14, 2017, approving PacifiCorp's RFP subject to subsequent IRP acknowledgement.

The Commission issued Order No. 17-367 to amend Order No. 17-345, on September 27, 2017, to align with the Utah Public Service Commission to include the following:

- Allow bids by non-Wyoming wind resources that can deliver to PacifiCorp;
- Add an additional PPA bid option;

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[1] PacifiCorp 2017 IRP, Docket LC 67, Volume 1 pp. 2 (April 04, 2017).
[2] See http://www.pacificorp.com/content/dam/pacificorp/doc/Suppliers/RFPs/2017R_RFP/2017R_RFP_Pre-Issuance_Bidders_Conference_May_31_2017.pdf, slide 4 and 9.

- Clarify that bidders may provide comments on the pro forma agreements; and
- Clarify that the litigation clause excludes state commission complaints.

The Commission voted to acknowledge, with conditions, PacifiCorp's 2017 IRP, at a public meeting on December 11, 2017. An order memorializing that decision has not yet been issued.

A challenge was made by Intervenor Caithness Beaver Creek, LLC, on December 22, 2017, requesting the Commission modify its conditional approval in Order 17-345. The Commission will consider this request when it considers the request for acknowledgement of the shortlist, and has requested that PacifiCorp and the IE provide more information on the Beaver Creek Wind I, LLC and Beaver Creek IV, LLC bids to more fully consider the implication of granting or denying Caithness' request.

On February 16, 2018, PacifiCorp made three filings with the Commission: a request to acknowledge the final shortlist; the IE closing report; and, a modified protective order limiting access to the IE closing report so as to protect confidential information.

The ALJ issued order 18-057, on February 20, 2018, partially supporting the Company's request for a modified protective order. Several challenges to the order ensued and the Commission issued Order No. 18-080, on March 8, 2018, rescinding the previous order and revising the protective order to allow stakeholders better access to the IE closing report for the purpose of filing comments.

In terms of the final shortlist, the Company had to reissue its request for acknowledgement on February 23, 2018. PacifiCorp had inadvertently double-counted the wind integration costs in its analysis of the final shortlist. The corrected analysis improved the final shortlist's overall benefits by $24 million over the life of the project.

The remaining schedule has been changed several times in the past few weeks. The current docket schedule is captured below.

EVENT	**DATE**
PacifiCorp's Reply Comments	March 29, 2018
Staff's Public Meeting Memo Posted	April 9, 2018
All Parties' Comments on Staff's Memo	April 19, 2018
Commission to Deliberate Acknowledgement of the Shortlist *(Special Public Meeting)*	April 30, 2018
Commission to Deliberate Draft Order on Shortlist Acknowledgement *(Regular Public Meeting)*	May 22, 2018

2. Final Shortlist of Projects

By mid-October, PacifiCorp had received bids offering 18 projects, covering 13 different sites, and that include 59 different bid options. They are as follows:

Location	Type	Bidders	Project/Sites	Bid Options
Wyoming	Benchmark	3	4 *	4
Wyoming	PPA / BTA	13	14	50
Non-Wyoming	PPA	3	4	9

** Wyoming benchmark projects and other Wyoming projects were not mutually exclusive. All benchmark sites were included as options in various proposals.*

To be considered in this RFP, bidders paid a base fee of $10,000 per project with two additional bid options and then $3,000 to cover each additional bid option (capped at six per project).[3] The table below details PacifiCorp's final shortlist selected from all bidders' projects.[4]

Project Name (Bidder)	Capacity (MW)	Type	Location
TB Flats I & II (PacifiCorp)	500	Benchmark	Carbon & Albany Counties, WY
Cedar Springs (NextEra Energy)	400	PPA & BTA	Converse County, WY
Ekola Flats (PacifiCorp)	250	Benchmark	Carbon County, WY
Uinta (Invenergy Wind)	161	BTA	Uinta County, WY

The Uinta bid was received when the RFP process was opened up to proposals from outside the transmission constrained area in Wyoming that required the installation of the Aeolus-to-Bridger/Anticline transmission segment (D2). The D2 high voltage segment remains necessary to bring the wind energy into PacifiCorp's system for the first three projects. Despite the Company's 2017 Oregon IRP not calling for the building of wind outside of the grid-constrained area that would be served by D2, this option was added in late September by PacifiCorp at the request of the Utah Public Service Commission and agreed to by the OPUC with normal caveats.

3. Shortlist Comments from Staff

Staff agrees with many of Bates White's observations in its final report. However, Staff arrives at an entirely different conclusion regarding the acknowledgement of the shortlist. This is based on three overarching observations:

1. The RFP process did not result in the selection of the best resources for ratepayers.
2. Key decisions, especially near the end of the process, challenge the fairness and transparency necessary for a competitive RFP.

[3] Staff estimates the total cost to all bidders to compete in this RFP was between $160,000 to $175,000.
[4] *See* UM 1845, PacifiCorp's 2017R RFP Final Shortlist Projects, Corrected Request for Acknowledgement of Final Shortlist of Bidders, pg. 19, February 23, 2018.

3. The size of the portfolio and the types of projects in the portfolio do not best reflect the IRP analysis that led to releasing the RFP in the first place.

#1. The RFP process did not result in the selection of the best resources for ratepayers.

In the end the RFP resulted in very limited competition.
As was stated previously, there were several submittals to this RFP. However, Staff believes that this RFP cannot be characterized as competitive. The primary reason is that in late January, PacifiCorp released a revised transmission study that reframed the competition. This study had the impact of eliminating 74 percent (14 of 18) of the competition for the Wyoming wind projects. Ultimately, only two bidders outside of PacifiCorp would now be capable of participating in this RFP because of the new interconnection issue. It is worth quoting the IE's report at length on this issue:

> *"The net result of these adjustments calls for consideration of the overall context of the RFP. Recall that in its RFP as originally drafted, PacifiCorp proposed to select only projects from the constrained area and offered three benchmark projects. Based on the final [transmission] analysis... only one other third party bid on the shortlist (the [CONF] project) could even compete with these offers. In fact, only one other Wyoming wind offer – the [CONF] wind proposal – had a high enough queue position to be viable. So this entire RFP really boiled down to two viable benchmarks and two third-party offers, meaning a lot of the analysis presented here was of questionable value.*
>
> *To be clear, the remaining viable offers were competitive offers, but were not the best the market could provide based on cost or risk, but [the best] for the [new] transmission constraint issue."*[5]

The introduction of the interconnection queue as a threshold condition was not identified to bidders at all, and was not disclosed to the IE until over three months after the close of bid receipts and four months after the opening of the solicitation. Projects were effectively disqualified by the nature of their queue position not their "costs or risk." And the elimination was not done at the outset of the process but rather at the very end in communications between the IE and the Company.

Staff assumes that the time, effort, and expense incurred by the third-party bidders was based on the belief that their bids could conceivably compete and be selected. Staff also believes that it is highly likely that bidders most likely would have challenged the RFP, had they known of the extent of the determinative nature of queue position in the RFP competitive process at the beginning.

In Staff's opinion, shrinking a large pool of RFP bidders down to two and the utility with bid offers that the IE characterizes as, "not the best the market could provide based on cost or risk," due to a previously unknown and undisclosed threshold criterion lacks fairness, transparency, subverts the RFP as a competitive process. This calls into question if this portfolio is truly the best resource for ratepayers.

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[5] *See* UM 1845, IE's Final Report on PacifiCorp's RFP, February 16, 2018, revised February 20, 2018, with protected information re-designated on March 9, 2018, pgs. 34 and 35.

<u>*Benchmark bid benefits may have been overstated due to PAC's analytic approach.*</u>
The IE called into question PAC's approach to cost benefit analysis. Specifically, all costs and benefits for bids were levelized in the Company's analysis except for the PTC benefits. The IE felt this analytic practice could, "force a choice of a suboptimal offer," namely a Company-owned asset over a PPA.[6]

By not levelizing PTC benefits, their full value appears upfront in the net present value analysis used for bid selection. In contrast, this is not the case for project costs or for PPA contracts that retain the PTC for their own use. These cost and benefit values are either attenuated over the time period of the NPV analysis or buried within the contracted price of energy delivered, despite being incurred early in the project also. To quote the IE, "This means that any offers earning PTCs would look more attractive than a levelized cost model would otherwise indicate."[7]

The non-levelizing of PTC benefits was raised as an issue by the IE prior to the revised D2 interconnection study in January. The IE noted their surprise that PacifiCorp's analysis selected in its optimal portfolio, "...projects that had lower net levelized net benefits than other resources."[8] The IE determined that the main driver for this was the different treatment of PTC credits in PAC's analysis. PacifiCorp agreed to re-run their bid analysis to test if levelizing the PTC benefits impacted their project selection; it did. The results were more in line with the IE's models and PPAs were selected over company owned projects.[9] The IE's observation was that:

> *While the PPA portfolio is more expensive in the early years as we might assume since the value of the PTC in a PPA is spread out over a longer period of time, by 2034 it has greater cumulative benefits than PacifiCorp's selected portfolio. Even over the entire lifetime of all projects, the PPA portfolio produced more net benefits. Note also that the only reason the PacifiCorp portfolio was even close in net benefits over the entire time period was due to a large terminal value applied to company-owned bids totaling about $374 million in 2050. Without the terminal value the PPA portfolio produced a net cumulative benefit of $219 million versus $185 million for PacifiCorp's chosen portfolio.*[10]

The IE felt so strongly about this issue that it included in its Conclusion and Recommendation section the following recommendation:

> *Finally from a bid analysis standpoint any future modeling should at least consider the effect of unleveling of tax credit benefits. As demonstrated in our requested sensitivities if the production cost modeling does not consider the entire life of an asset then leveled benefits can force a choice of a suboptimal offer.*[11]

Aside from a selection bias, this analytic skew also has the potential to lead to an unfair burden on future ratepayers. Specifically, the IE notes that in 2031, in the first year after the PTCs

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[6] *Ibid,* pg. 40.
[7] *Ibid,* pg. 29.
[8] *Ibid, pg. 29.*
[9] *Ibid,* pg. 30.
[10] *Ibid,* pg. 32.
[11] *Ibid,* pg. 40.

sunset, PAC's future customers will face increased costs of $125 million.[12] The IE was concerned enough about these rate impacts to suggest that the Commission consider future rate mitigation efforts to offset the negative impact on future ratepayers, should the shortlist be acknowledged.[13]

Several important risks should have been more fully explored.
The IE raises several important risks to consider prior to acknowledgement, as they may not have been fully vetted in the IE's report or PAC's analysis. In fact, the IE seems to make its shortlist acknowledgement recommendation contingent upon adopting specific risk mitigation efforts to compensate for risks not fully explored or covered through the resulting RFP process.[14] These risks are also well detailed in the Commission's most recent order on the OPUC's competitive bidding guidelines, No. 14-149. They include: construction schedule, wind and transmission; general project cost-overruns; increased O&M; further changes to the tax credits; reduced benefits from lower market prices. Specific risks to this shortlist:

Project Cost Overruns

Staff believes the resulting lack of competition at the end of the RFP process undercuts one of the main risk mitigation features of an RFP: controlling cost overruns. PacifiCorp stated early in the RFP process that, "the risk of cost overruns is adequately addressed through the competitive bidding process."[15] But as the IE noted, PacifiCorp's RFP was marked by a distinct lack of competition by the end of the process.[16] This leaves Staff concerned that despite the benefits claimed by the final shortlist, the lack of competition, as PAC itself notes, leaves ratepayers exposed to the risk of cost overruns.

D2 Segment Cost Overruns and Construction Delays

The IE notes that the risk of cost overruns for the D2 Segment was not analyzed or incorporated into the risk analysis for these projects. "Because there is no real competition for this service it is more likely that cost overruns would occur here…If actual costs are higher it may turn out that a better solution would have been to select more supply from outside the constrained area in Wyoming. Therefore, PacifiCorp should also be held to its cost projection for the D2 segment."[17] Further, "Developers can promise to deliver PTC compliant equipment and install by a certain time, but, several of these projects are dependent on PacifiCorp's transmission arm completing the D2 Segment in order to achieve deliverability."[18]

Securing the Full PTC

According to the IE, the risk involved in securing the full amount of projected PTC benefits from PAC's final shortlist of projects is exceptionally important.[19] The IE insists that, "…ratepayers will be credited the full PTC values projected here as well regardless of whether or not PacifiCorp has the taxable income to utilize the credits." In addition, the IE said, "To be clear these should be "hard" guarantees as would be found in a

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[12] *Ibid,* pg. 6.
[13] Described is Section 5 of these comments.
[14] *See* UM 1845, PacifiCorp Reply Comments to Staff, August 28, 2017, pg. 39.
[15] *Ibid,* pg. 10.
[16] UM 1845, IE's Final Report on PacifiCorp's RFP*, various quotes noting how few bids could actually compete, pgs. 34, 35, 36.*
[17] *Ibid,* pg. 39.
[18] *Ibid,* pg. 38.
[19] *Ibid,* pg. 38.

commercial contract. PacifiCorp should not be permitted to recover additional costs or not credit full value of the PTC due to force majeure or change in law events."[20]

Carbon Policy Risk

Since the RFP was issued, Staff has been evaluating Idaho Power's 2017 IRP, which includes consideration of acknowledgement for an $800M - $1.2B transmission investment, Boardman-to-Hemmingway (B2H). This action plan item is dependent upon co-owner commitment to the project, which currently includes PacifiCorp as a 55 percent owner. Although consideration of B2H was not included in PacifiCorp's 2017 IRP, Staff is now concerned that PacifiCorp's omission of B2H in their underlying analysis justifying these Wyoming wind investments did not contemplate 55 percent of the cost of B2H needed to deliver these Wyoming wind resources to Oregon. Due to the uncertainty in future resource allocations through PacifiCorp's MSP process and individual states' greenhouse gas policies, Staff sees the ability to deliver these resources to Oregon as an important consideration in their evaluation as least cost and least risk to Oregon ratepayers.

Staff believes the IE or PAC should conduct an analysis to demonstrate how Wyoming wind could be claimed in Oregon under a first jurisdictional approach under a "Cap-and-Trade" model for a CO2 market. In addition, if this cannot be demonstrated, each should explain how the cost of new transmission into Oregon, such as B2H, would influence the results of the current analysis.

Extent of the D2 Segment Interconnection Risk

Another risk Staff feels is not fully explored is the nature and impact of the interconnection queue issue. Specifically, the risks associated with the interconnection queue must be better understood and appropriately characterized. The Company's OATT demonstrates that only a percentage of proposed projects in the transmission queue actually move forward. Staff would like to better understand the risks associated with queue positions and industry best practices for assessing this risk, as it appears most queue positions are released by the holder or expire. To this end, Staff notes that PacifiCorp has provided no evidence that all projects at the top of the interconnection queue will be developed, and if so that the developer of the proposed PPA projects and not PacifiCorp will be responsible be for the cost of transmission upgrades.

Specifically, since these lower-cost higher queue position projects were PPA projects, we must explore which party – the PPA provider or PacifiCorp – bears the risk of an interconnection delay, and what the nature of that risk is. Staff and stakeholders need to better understand issues such as: which projects need to drop out to make the lower-cost, lower-risk PPA projects viable, or how many MWs of wind would need to drop out of the queue to make the lower-cost, lower-risk PPA projects viable.

The essential supposition upon which the shortlist rests is this transmission queue issue. Without this issue, lower-cost, lower-risk PPA projects should be selected and would save Oregon ratepayers substantially and result in lower risks to customers.

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[20] *Ibid*, pg. 38.

Staff's Quantification of Some Key Risks

The table of sensitivities represent a quantification of some, though not all of the risk to ratepayers of having the utility-owned resource in the final shortlist. The risks below were not explicitly evaluated in PacifiCorp's analysis.

Sensitivity	**Change** *(Amount of Sensitivity)*	**Impact to NPV of Selected Portfolio** [21] *Reduction in benefit*
Capacity Factor Shortfall (PTC Risk)	2% reduction in production *(41.5% -> 39.5%)*	($99 million)
Construction Cost Overrun	5% increase	($54 million)
O&M Cost Overrun	5% increase	($20 million)

The capacity factor shortfall above includes the impact to net power costs and to reduced PTCs, which is the biggest risk between a PPA and a utility owned resource. If the wind forecast for benchmark resources is slightly off, the value of the projects changes considerably. Staff notes that the OPUC has seen other utility-owned wind resources fall short of their assumed capacity factor once installed; it is not an unlikely event.

#2. Key decisions by PAC undercut the fairness and transparency of the RFP.

<u>Entire evaluation criteria changed at the end of process.</u>

The Company implemented a major revision to its transmission study in January 2018. The result: the RFP was reduced to, "…only about four potential offers," out of eighteen initially submitted in October 2017.[22] Staff believes this undercut the fairness of the RFP process. Below are a few quotes directly from the IE's final report relating to the timing and impact of this important change that utterly reshaped the RFP:

> *One troubling aspect of this RFP was that the initial system impact studies provided to bidders did not incorporate the early completion of the D2 segment. After revisions to account for the earlier in-service date of the D2 Segment were incorporated it was determined that only projects with early queue positions could be deliverable to load without the completion of the entire Gateway South project in 2024. These evaluations by PacifiCorp's transmission group essentially left us with only about four potential offers in the transmission-constrained area served by the D2 segment.*[23]

> *The net result of these adjustments calls for consideration of the overall context of the RFP. Recall that in its RFP, as originally drafted, PacifiCorp proposed to select only projects from the constrained area and offered three Benchmark projects. Based on the final [transmission] analysis…only one third party bid on the shortlist (the [CONF] project) could even compete with these [benchmark] offers. In fact, only one other Wyoming wind offer – the [CONF] wind proposal – had a high enough queue position to be viable. So this entire RFP really boiled down to two viable benchmarks and two third-*

[21] The NPV is the benefit when accounting for the time value of money. Things that occur closer in the future than things farther in the future have a greater effect on the benefit for today. (Getting $100 tomorrow is better than getting $100 in 10 years). For example, PTCs which benefit customers between 2020 and 2030 are more valuable in terms of NPV than the terminal value, which benefits customers in 2050.

[22] UM 1845, IE's Final Report on PacifiCorp's RFP, pg. 5.

[23] *Ibid.*

> *party offers [one outside of the constrained area], meaning a lot of the analysis presented here was of questionable value.*[24]

The determining factor in this RFP is not cost, but as discussed above, is ultimately transmission queue position. Essentially, the shortlist reflects those highest in the interconnection queue with a positive NPVRR. The lowest cost resource options were not selected in this RFP.[25]

<u>*Limited ability of Stakeholders to comment throughout process*</u>
This has been a fast moving RFP, particularly when the draft RFP was filed for approval and now, when the shortlist is before the Commission for acknowledgement. Moreover, while Staff is not opposed to the pace per se, it does believe that it is important for all parties to have adequate time to provide timely and meaningful input, including the Company. Yet, the RFP's fast pace undercut even PacifiCorp's own staff from providing timely and crucial information. Per the IE:

> *The real issue here is that PacifiCorp's procurement (in the form of this RFP) got out ahead of its resource and transmission planning. If PacifiCorp had identified this plan earlier, then all aspects of this work (IRP, transmission planning and resource acquisition) could have worked together in a more coherent fashion.*[26]

What is unclear to Staff is the extent to which bidders were made aware of the change from the revised transmission study in January. Regardless, "the process was rushed and ultimately very few bids could be called viable."[27]

Another example of limited ability to comment was the filing of the motion for a modified protective order the same date as the IE's final report on February 16, 2018.[28] To Staff's understanding, none of the parties in the docket were aware that PAC planned to seek a much more restrictive, modified protective order *with* the IE's final report.

Staff strongly believes PAC could have handled this confidentiality issue much earlier, not at the very end of the process. As a result, stakeholders spent their limited time wrangling over who gets to see what and where, rather than on developing comments for the Commission. In the end, the issue was resolved and the stakeholders were able to either receive or view the report around March 9, 2018. Based on the extension of time Staff requested, this allowed parties about 10 calendar days to review and develop comments on the IE's final report on the shortlist.

#3. Composition of Shortlist's portfolio needs to be reconsidered

The size of the overall portfolio is greater than what the OPUC was willing to commit ratepayers to at the outset of the RFP process.

> Earlier transmission studies used for the IRP and for the launch of the RFP assumed about 1,050 MW of new supply could be added because of the limitations of the D2 Segment. After the revised interconnection study report in January 2018, PacifiCorp increased the amount of possible new supply on the D2 Segment to 1,270 MW.

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[24] *Ibid,* pgs. 34 and 35.
[25] *Ibid*, pg. 2.
[26] *Ibid*, pg. 35.
[27] *Ibid*, pg. 39.
[28] Staff Response in Support of NIPPC's Motion for Reconsideration of Modified Protective Order, February 28, 2018.

While PacifiCorp's shortlist only includes 1,150 MW connected to the D2 Segment, the overall portfolio exceeds 1,300 MW. This is above what the IRP called for and a greater resource than was acknowledged by the Commission at the December 11, 2017 public meeting on the IRP.

Wind from outside the constrained area served by D2 is not best deal for Oregon ratepayers.

One way PacifiCorp could have remedied this issue above would have been to not select the Uinta project (161 MW) because it will not interconnect to the new transmission line and provides extremely marginal net benefits. Without this project, the total shortlist capacity is 1,150 MW.

Although physically located in Wyoming, this project will not interconnect to the new D2 transmission line. This project was the top response for the non-Wyoming RFP which PAC ran concurrently with the Wyoming resource RFP and the only bid in that RFP to result in some net benefit. As described previously, the Commission acknowledged PacifiCorp's action plan item for Energy Vision 2020, which included new transmission, and up to 1,200 MW of new Wyoming wind that would interconnect to that new line. The Uinta project does not align with the acknowledged IRP.

The final assessment of net benefits for this project is extremely marginal, so much so that any cost overrun or over-estimation of project performance could result in negative net benefits.

Cedar Springs – PPA Option

Of the 1,311 MW selected, 1,111 MW, or 85 percent of the capacity, will be owned by PAC. This creates a lack of diversity of ownership and therefore a lack of diversification of risk for customers. As noted by the IE, one of the four final projects, Cedar Springs, is included in the final shortlist as a 50 percent PPA and 50 percent BTA. However, this project [redacted][29] The benefits of diversification and lower risks from PPA ownership would be of greater value to ratepayers. The IE indicated in its closing report that if there is to be an acknowledgement of PacifiCorp's Final Shortlist, it should incorporate protections similar to PPA projects and that "the PPA option would also be a reasonable choice given its superior risk protections and additional portfolio flexibility."

With the PPA option, PAC would still own [redacted] percent of the total shortlist capacity but the diversification of project risks would better serve ratepayers overall.

Net benefit argument is a slippery slope.

Staff anticipates that PAC will assert that despite its shortlist projects not being best on cost or risk, they are still a net benefit to ratepayers. Nevertheless, as PAC's own sensitivity analysis shows, this is a low threshold and could be applied to many other procurement scenarios. To this end, PAC re-ran its analysis to include the hypothetical procurement of 1,000 MW of solar through PPAs. Combining 1,000 MW of new solar with the shortlisted bids provided a revised benefit of $647 million.[30]

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[29] *Ibid*, pg. 6, *Confidential*.
[30] *Ibid,* pg. 36.

4. Ratepayer Protections

Bates White posits four key questions for evaluating an RFP process as the best deal for ratepayers:

- Is the process fair and transparent?
- Does the process properly measure and assign risk?
- Will the process likely lead to a positive result?
- Is the process compliant with the Commission's regulatory rules and Bidding Guidelines?[31]

In its Final Report, Bates White recommended acknowledgement of the Final Shortlist but with robust protections for ratepayers to ensure they do not bear undue risk. The IE had articulated several of these ratepayer protections at the beginning of the RFP process. While Staff has discussed many of these suggested ratepayer protections above, we think it is worthwhile listing all of Bates White recommendations in addition to its recommendation in favor of acknowledgement:

- All selected resources owned by the Company be held to their capital, operations, and maintenance cost projections, as provided with the bid.
- PacifiCorp should provide an unconditional guarantee that ratepayers will receive the full projected value of the PTCs.
- PacifiCorp should be held to their cost projections for the D2 Segment.
- Enact some form of rate protection to mitigate customer rate impacts from the expiring of the PTC in ten years.

Staff interprets the conditions to be an integral part of Bates White recommendation to acknowledge the RFP. However, the Commission indicated in its September 2017 order that it would not commit to holding PacifiCorp accountable for benchmark bids' cost and performance assumptions, except during a future prudence review.[32] Therefore, if the Commission does not accept the Bates White conditions, it calls their ultimate recommendation for acknowledgement into question.

Nevertheless, Staff anticipates the IE's observations can help to establish essential information for parties to review and consider as part of any overall ratemaking proceeding in the future, if PacifiCorp were to seek cost recovery. Therefore, while the Commission will most likely not adopt all of the IE's recommendations for ratepayer protections, Staff finds that they could be very helpful as insights to inform future ratemaking decisions and possibly answer Bates White's key questions as to whether the process results in the best deal for ratepayers.

5. Purpose of Shortlist Acknowledgement

The Commission just adopted the process of RFP shortlist acknowledgement in April 2014. The Commission stated:

> *...[R]equiring utilities to file a shortlist acknowledgement application will promote transparency in the utility procurement process by providing established, upfront*

[31] *See* UM 1845, IE's Assessment of PacifiCorp's Final Draft 2017R Request for Proposals, August 10, 2017, pg. 5.
[32] *See* UM 1845, Commission Order No. 17-345, Sept. 14, 2017, pg. 4.

opportunity for parties and bidders to voice concerns with the bidding process. This will allow the Commission to timely review the IE's closing report and address any issues the IE raises with the bidding process or the shortlist. We expect this additional oversight of the shortlist will address the impact of the bias throughout the RFP process, ultimately benefiting ratepayers by helping ensure the utility selects the most competitive bids.[33]

PAC's filing of their restrictive modified protective order with the IE report undercuts some of the purpose and intent behind the Commission's 2014 adoption of the shortlist acknowledgement process. The Company could have worked with stakeholders much earlier in the RFP process to figure out the concerns articulated in their modified protective order. This move somewhat undercut the Commission's hope for transparency in the RFP process.

6. Conclusion

Several actions have created concerns about the fairness & transparency of the RFP.

Staff and parties' ability to conduct a comprehensive and meaningful evaluation of PacifiCorp's Final Shortlist has fallen short of the fairness and transparency expected in Commission proceedings. The Company made decisions to allow last minute bids from outside the transmission constrained area in Wyoming (despite it not being called for in the Oregon IRP), introduced an RFP defining issue with the transmission queue at the very end of the bid evaluations, provided analysis of PTCs that skewed in favor of benchmark bids, and submitted a modified protective order to limit review of the IE's final report at the last minute. These actions have created a perception that the RFP process may not have been as fair and as transparent as was hoped for when the RFP was released.

IE's recommended process improvements should be considered for future RFPs.

Better alignment of processes

Bates White finds that issues in PacifiCorp's RFP were mainly caused by the order and the timing of acquiring resources versus resource planning, and planning for transmission. First, the IE recommended that parties should make more effort in the future to align the RFP process with the IRP process.

Second, transmission planning should better align with IRP planning. The initial system impact studies supplied in September 2017 to bidders did not assume the early completion of the D2 segment.

Equal treatment of levelized costs

The Company's production cost modeling should examine, as a sensitivity, the resource choice with levelized benefits as well as costs. While the issue ultimately had no impact on winning projects selected in this RFP due to the transmission issues, the Company's modeling method, which levelized cost but not the benefits of PTC acquisition, could have biased the bid selection to less favorable offers.

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[33] *See* Docket UM 1182, Order 14-149, page 14.

Staff's Closing Remarks on the IE's Final Shortlist Report.

The IE pairs its recommendation on acknowledgement of the shortlist with a list of recommended ratepayer protections. While the ratepayer protections proposed by the IE validate Staff's concerns, they most likely cannot be incorporated into or condition a decision on short list acknowledgement by the Commission.

Accordingly, Staff believes acknowledgement of the shortlist cannot be conditioned with modifications and caveats, but rather must be based on the merits of the RFP process itself. Understanding this, Staff believes that the D2 Segment constraint that surfaced in January was one of a few problems that effectively rendered the RFP uncompetitive and unfair. This interconnection queue problem, along with other substantive issues in the RFP, stripped the RFP of its overall competitive nature. Staff finds the RFP fell very short of the Company's promise of capturing "...an unprecedented low-cost opportunity for customers."[34]

In summary, least-cost, least-risk resources were not selected by this RFP. Ultimately, the RFP was not competitive due to the revised transmission study eliminating the most competitive proposals and the failure to levelize PTC benefits, which turns the financial analysis in favor of benchmark bids. The rush to review the draft RFP and the Company's last-minute filing to limit stakeholder's access to the documents that would allow them to craft meaningful insight further underscores the fundamental dysfunction that has been central to this RFP.

At this stage, Staff believes it may be worth weighing the costs associated with the loss of some PTC value versus the value of a more competitive and better designed RFP. The process to make a massive commitment of financial resources that will last 30 years or more should be robustly competitive and fair. Ideally, it should have as many bidders participating with an active chance to win the contract and understanding what the parameters are for a winning or losing bid. A new RFP could be better designed to address PacifiCorp's stated IRP goals while being fair and transparent.

Finally, Staff understands the acknowledgement of an RFP or an IRP to be an assessment of reasonableness of the requested action or item at the time of acknowledgement, based on information available at the time. With this in mind, the IE's final report leads Staff to believe that PacifiCorp's 2017R RFP did not demonstrate that the final shortlist selection was reasonable nor that the process was concluded in a fair and transparent fashion.

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[34] *See* UM 1845, PacifiCorp's Reply Comments to Staff, August 28, 2017, pg. 4.

This concludes Staff's Final Comments.

Dated at Salem, Oregon, this 19th of March, 2018.

Lisa Gorsuch

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CERTIFICATE OF SERVICE

UM 1845

I hereby certify that I have, this date, served the confidential portion of **Staff's Comments on the Independent Evaluator's Closing Report** in Docket **UM 1845** upon the parties listed below via First Class U.S. Mail.

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DATED this 19th day of March 2018.

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