

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2059

In the Matter of

PACIFICORP dba PACIFIC POWER,

Application for Approval of 2020 All-Source  
Request for Proposals.

Renewable Northwest's  
Initial Comments

**May 22, 2020**

**I. INTRODUCTION**

Renewable Northwest is grateful to the Oregon Public Utility Commission (“the Commission” or “PUC”) for the opportunity to submit these comments on PacifiCorp’s proposed 2020 All-Source Request for Proposals (“RFP”). As we did throughout the Integrated Resource Plan (“IRP”) acknowledgment process, we strongly support the RFP overall as a significant step in the transformation of PacifiCorp’s system to a more modern one that will meet customer needs not only at the least cost and least risk to customers but also with significant reductions in the greenhouse gas emissions that are driving our current climate emergency.<sup>1</sup>

In these comments, we first build on our prior IRP comments regarding decarbonization and the transformation of PacifiCorp’s system, pointing to Governor Brown’s executive order on climate change as an important policy backdrop for this procurement. We then discuss how PacifiCorp’s interconnection queue reform process affects the RFP, ultimately presenting a proposal by which additional resources that will not be eligible for PacifiCorp’s Transition Cluster study might still be able to participate in this RFP and meet PacifiCorp’s timelines, significantly expanding the pool of available resources and promoting additional competition. Next we suggest several minor changes to PacifiCorp’s RFP proposal to encourage fairness and competition, some (but not all) of which PacifiCorp has addressed in its running Q & A document but which we encourage the company to formally incorporate into the RFP itself. Finally, we recommend some changes to PacifiCorp’s form Power Purchase Agreements (“PPA”), again with an eye to encouraging more low-cost bids to the ultimate benefit of PacifiCorp’s customers.

Renewable Northwest appreciates the Commission’s thoughtful consideration of PacifiCorp’s action plan -- including in particular this RFP -- at its May 7, 2020 Public Meeting. We also

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<sup>1</sup> See, e.g., Oregon Public Utility Commission, Docket No. LC 70, Initial Comments of Renewable Northwest (Jan. 10, 2020).

appreciate the careful attention the Commission paid at its April 27, 2020 Special Public Meeting and Workshop to the kinds of details that will help ensure the RFP results in both the greatest possible customer benefits and significant greenhouse gas emission reductions to better align PacifiCorp’s system emissions with science-based targets. We hope these comments can further promote those exciting and deeply important outcomes.

## II. COMMENTS

### A. **The RFP Represents an Important Step in the Transformation of PacifiCorp’s System and Achievement of Oregon’s Greenhouse Gas Reduction Goals**

In Renewable Northwest’s Initial Comments on PacifiCorp’s IRP, we wrote:

PacifiCorp introduces its IRP on page one by stating that “[t]he 2019 IRP preferred portfolio advances PacifiCorp’s long-term vision ... for a future where energy is delivered affordably, reliably and without greenhouse gas emissions.” Later in its Executive Summary, PacifiCorp explains its intent to “invest[] in diverse new resources like[] renewables, storage and modern grid technology” as well as “new transmission infrastructure investments ... so the lowest-cost renewable resources can flow freely to customers across the west”; when paired with “the phased transition of [PacifiCorp’s] coal fleet,” the company notes that “by 2030, PacifiCorp will have reduced greenhouse gas emissions by nearly 60 percent from 2005 levels.” The transition PacifiCorp describes is precisely the transition that is necessary for the western grid, and Renewable Northwest appreciates some of the more innovative or forward-looking elements of PacifiCorp’s proposal.<sup>2</sup>

This RFP is a key step in facilitating the transformation that PacifiCorp described in its IRP, that Renewable Northwest strongly supports, and that science tells us is necessary to avoid the worst impacts of climate change.<sup>3</sup>

After Renewable Northwest filed our Final Comments in PacifiCorp’s IRP docket, on March 10, 2020, Governor Brown issued EO 20-04, establishing statewide greenhouse gas (“GHG”) emission reduction goals and directing agencies including the Commission to work within their existing statutory authority to achieve those goals.<sup>4</sup> The Commission issued a May 15 report to the Governor on implementation of EO 20-04 that draws a link between utility procurement and

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<sup>2</sup> *Id.* at 8.

<sup>3</sup> *See, e.g.*, Intergovernmental Panel on Climate Change, Special Report on Global Warming of 1.5°C, Summary for Policymakers, SPM-21 & SPM-24 (Oct. 8, 2018), available at [http://report.ipcc.ch/sr15/pdf/sr15\\_spm\\_final.pdf](http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf).

<sup>4</sup> EO 20-04 §§ 1, 2 & 5.

the EO’s GHG goals. Specifically, the Commission’s report proposes to “[c]onsider[] utilities’ resource procurement activities to determine if non-price scoring criteria appropriately capture the risk of each potential resource’s impact on the utility’s progress toward meeting the state’s GHG reduction goals.”<sup>5</sup>

This RFP has the potential to help avoid the risks identified by the Commission and instead to make significant progress toward meeting the EO’s GHG goals. It offers the Commission an opportunity to take action consistent with the EO’s policy statement that “[i]t is in the interest of utility customers and the public generally for the utility sector to take actions that result in rapid reductions of GHG emissions, at reasonable costs, to levels consistent with the GHG emissions reduction goals set forth in ... this Executive Order, including transitioning to clean energy resources.”<sup>6</sup>

## **B. Changes to the RFP Will Allow More Resources To Participate Following PacifiCorp’s Successful Queue Reform Effort**

### *1. Overview of PAC Proposal and FERC Order*

On January 31, 2020, following a several-month-long stakeholder process, PacifiCorp filed an interconnection queue reform proposal with the Federal Energy Regulatory Commission (“FERC”).<sup>7</sup> At a high level, PacifiCorp proposed to replace its traditional approach of serial queue processing with a new “first ready, first served” cluster-study approach. Renewable Northwest engaged with PacifiCorp’s filing at FERC, among other things filing comments on February 21, 2020 and April 10, 2020.<sup>8</sup>

While Renewable Northwest supported PacifiCorp’s move from serial queue processing to a cluster-study approach, in both sets of comments we pointed to certain elements of PacifiCorp’s proposal that did not appear to be just and reasonable. Among those elements was PacifiCorp’s proposal to limit eligibility for the initial Transition Cluster to only those projects that had already submitted interconnection requests as of January 31, 2020.<sup>9</sup> As we pointed out in our comments, potential interconnection customers had no prior notice of this date and therefore no opportunity to initiate interconnection requests in order to enter the Transition Cluster with the

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<sup>5</sup> Public Utility Commission, *Report on Executive Order 20-04* at 5-6 (May 15, 2020).

<sup>6</sup> EO 20-04 § 5(A).

<sup>7</sup> See Federal Energy Regulatory Commission, Docket No. ER20-924, *PacifiCorp Revisions to Generator Interconnection Procedures* (Jan. 31, 2020).

<sup>8</sup> Renewable Northwest’s February 21, 2020 comments are available at [https://elibrary.ferc.gov/idmws/file\\_list.asp?document\\_id=14836936](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14836936); our April 10, 2020 comments are available at [https://elibrary.ferc.gov/idmws/file\\_list.asp?document\\_id=14850763](https://elibrary.ferc.gov/idmws/file_list.asp?document_id=14850763).

<sup>9</sup> See Renewable Northwest’s February 21 comments at 4-5; April 10 comments at 2-5.

cutoff date in mind.<sup>10</sup> It is our understanding that some developers were waiting to better understand PacifiCorp's proposed interconnection changes before submitting new interconnection requests. Those details did not come until PacifiCorp's filing with FERC on January 31, 2020. The primary reason that developers with projects not already in the queue would want to enter the Transition Cluster is because PacifiCorp proposes at the OPUC to limit eligibility for this RFP to projects that have completed interconnection requests as of January 31, 2020 as those are the projects that will be studied in the Transition Cluster.<sup>11</sup> Renewable Northwest advocated at FERC for a prospective cutoff date to allow more projects to be eligible for the Transition Cluster and therefore for the RFP, in the hope that more projects would mean more robust competition to help ensure the selection of least-cost resources for customers and speed the transition of PacifiCorp's system.<sup>12</sup>

In its last Response filed with FERC on April 24, 2020, PacifiCorp continued to defend the January 31, 2020 date but offered to move the date forward to April 1, 2020 if FERC agreed that the January 31, 2020 date was not just and reasonable. This change would have opened the Transition Cluster to an additional 1,974 MW of projects that filed interconnection requests between January 31 and April 1, 2020.<sup>13</sup>

On May 12, 2020, FERC issued an order approving PacifiCorp's proposal including, explicitly, the January 31, 2020 Transition Cluster cutoff date. As approximately 50 days have passed since the April 1, 2020 date discussed above, the January 31, 2020 cutoff now prevents 5,947 MW currently in the interconnection queue from participating in this RFP.<sup>14</sup> There may be even more potential resources that have not yet filed interconnection requests as developers were waiting for a prospective date in this process.

## *2. A Possible Path Forward*

In order both to honor FERC's order and to foster more robust competition in this RFP, Renewable Northwest has considered possible means by which projects that did not submit interconnection requests on or before January 31, 2020 might be able to participate. We offer the following suggestion for consideration:

- Allow projects that submit(ted) interconnection requests after January 31, 2020 to bid into the RFP;

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<sup>10</sup> *See id.*

<sup>11</sup> *See* PacifiCorp 2020 All-Source Request for Proposals ("RFP") at 16 § 3(I)(30), 21 § 5(C) & 26 § 6(A)(1) (Apr. 8, 2020).

<sup>12</sup> *See supra* n.3.

<sup>13</sup> Interconnection queue data accessed on OASIS at 11:44AM on May 21, 2020.

<sup>14</sup> Interconnection queue data accessed on OASIS at 11:44AM on May 21, 2020.

- Apply PacifiCorp’s proposed principle that “the cost for any direct assigned and transmission network upgrades associated with the interconnection of a proposed project to PacifiCorp’s transmission system will not be included in the initial shortlist price evaluation” to all projects for purposes of IRP modeling and Initial Shortlist development<sup>15</sup>;
- Allow all projects on the Initial Shortlist to proceed through the non-interconnection-related elements of Phase II, including Resource Capacity Factor Verification and Storage Performance, Contract Development, and Bid Update;
- For purposes of Contract Development, allow bidders who have not gone through the interconnection study process either: (a) to negotiate an agreement contingent on upgrade costs coming in below a certain threshold<sup>16</sup>; or (b) to negotiate an agreement whereby the bidder assumes the risks related to upgrade costs;
- For purposes of the Bid Update, allow bidders who have not gone through the study process to submit a reasonable estimate of expected upgrade costs to be used in development of the Final Shortlist. This update may be based in part on information these bidders have been able to obtain through PacifiCorp’s non-binding Informational Interconnection Study process.

To the extent that projects are able to negotiate contingent agreements, the approach outlined above may introduce some risk to the RFP process. That risk, however, may well be outweighed by the increased pool of resources available to compete and drive cost savings for PacifiCorp’s customers. Additionally, to the extent third-party developers are willing to bear the risk associated with interconnection upgrade costs, there should be no significant downside to expanding the process (outside of the admitted burden on PacifiCorp’s analytical team).

It is also worth noting that projects not in the Transition Cluster could still establish eligibility and be studied in PacifiCorp’s 2021 cluster, in which case their study process would proceed in parallel with the final phases of the RFP. Participation in the 2021 cluster study should still allow projects to achieve PacifiCorp’s target commercial operation date of year-end 2024.

### **C. Additional RFP Changes Can Offer Clarity and Promote Competition**

As noted above, while Renewable Northwest strongly supports this RFP overall, we have identified some changes that can offer more clarity to bidders and ultimately promote competition that will drive least-cost, least-risk outcomes. Specifically, we recommend that PacifiCorp:

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<sup>15</sup> RFP at 27.

<sup>16</sup> If upgrade costs come in above the threshold identified in the contingent contracts, PacifiCorp would be able to renegotiate or cancel the agreement.

1. *Update RFP Language To Clarify that Greenfield Projects Include Expansions (Section 1(B))*

PacifiCorp proposes that the RFP will accept bids for “new green-field resources that are discrete generating assets.”<sup>17</sup> As part of its Q & A document, PacifiCorp clarified that expansions of existing projects may qualify as new green-field resources.<sup>18</sup> Renewable Northwest recommends either that the language of the RFP be updated or that the Commission’s order be crafted to reflect PacifiCorp’s clarification from the Q & A document in order to ensure that the pool of projects eligible for the RFP is as robust and competitive as possible.

2. *Provide Additional Clarity Regarding Pumped Hydro Storage (Section 1(E)(2))*

Renewable Northwest recommends that PacifiCorp provide a form tolling agreement for pumped hydro storage projects, or in the alternative provide more guidance as to what terms PacifiCorp might expect in such an agreement. PacifiCorp has explained that “[d]ue to the unique operating characteristics of a PSH [pumped storage hydro resource], PacifiCorp has not included a pro-forma PSH agreement; rather the PSH will be an individually negotiated agreement.”<sup>19</sup> However, the lack of a form agreement could put pumped hydro at a disadvantage relative to other resources, especially given that conformance to form agreements will count toward other bids’ non-price scores.

Additionally, pumped hydro developers could benefit from greater understanding of what term of years PacifiCorp might be willing to accept. PacifiCorp has clarified that power purchase agreements (“PPAs”) will be limited to 25-year terms but has not specified a maximum term for tolling agreements. It is Renewable Northwest’s understanding that a significantly longer term of years -- on the order of 50-60 -- may be appropriate for pumped hydro projects.

3. *Modify Bid Fees for Greater Flexibility Regarding Contract Structure (Section 3(G))*

PacifiCorp proposes that a developer bidding in a single project with alternative contract structures be required to pay a separate \$10,000 “base bid” fee for each contract structure, as opposed to one \$10,000 base bid fee and additional \$3,000 bid alternative fees. Renewable Northwest recommends instead that a single project with alternative contract structures be subject only to one base bid fee and subsequently to reduced bid alternative fees.

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<sup>17</sup> RFP at 2.

<sup>18</sup> PacifiCorp 2020 All Source RFP - Questions and Answers # 82 (hereinafter “Q & A”).

<sup>19</sup> RFP at 5.

This RFP is open to many resource types, some still fairly novel -- including hybrid projects where renewable resources are co-located with storage resources. With hybrid projects in particular, different permutations of a single project are possible. For example, a solar-plus-storage project could be bid as a solar PPA and battery BSA, a solar-plus-storage PPA, a solar BTA and battery BSA, a solar-plus-storage BTA, or standalone solar PPA or BTA without the storage component. Allowing different contract structures to be alternatives of the same base bid (rather than separate base bids) will allow greater participation by more bidders, primarily by significantly reducing the cost to bid. Greater participation is more likely to result in a least-cost, least-risk Final Shortlist than a procurement where bid fees may pose a barrier to entry.

This potential for increased competition appears to outweigh any justification for the current bid fee proposal. PacifiCorp reports that “[t]he Bid Fees will be used to cover the costs incurred by PacifiCorp in analyzing the proposals, including the costs of the IEs, technical consultants, and legal advisors.”<sup>20</sup> It is unclear why proposals involving different contract structures should cost \$7,000 more to analyze on these terms than the “proposals of different sizes, terms, and in-service dates” that PacifiCorp suggests should be eligible for the reduced alternative fees.

*4. Provide Additional Clarity Regarding Site Control Requirements (Section 3(I)(29))*

PacifiCorp’s “Minimum Eligibility Requirements for Bidders” include the requirement that bidders “provide documentation of site control for the project excluding right-of-way or easements for transmission, roads, or access to the site.”<sup>21</sup> It is unclear, however, what evidence PacifiCorp might accept to demonstrate site control. Given that “PacifiCorp has the option to deem [a] proposal non-conforming and eliminate it from further evaluation” if it determines there is inadequate documentation, additional clarity regarding what evidence PacifiCorp will accept would be helpful.<sup>22</sup>

PacifiCorp has provided some guidance on this point in its Q & A document:

Documentation demonstrating reasonable evidence of site control includes real property leases, easements or binding option agreements. The terms of a letter of intent will be reviewed to determine whether it demonstrates a clear, unconditioned right to acquire the property associated with a bid resource, consistent with the

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<sup>20</sup> RFP at 13.

<sup>21</sup> RFP at 16.

<sup>22</sup> RFP at 14.

terms of the bid. If a submitted LOI is deemed too conditional in nature, it will be rejected, in PacifiCorp's reasonable determination.<sup>23</sup>

While that answer is helpful, further clarification as to what minimum terms PacifiCorp might deem necessary in an LOI would do more to help bidders craft their bids in a manner satisfactory to the company. Additionally, incorporating that information into the formal RFP, as opposed to the Q & A document, would be appropriate.

*5. Establish Standards for Consistency between Bid and Interconnection Request (Section 3(I)(31))*

PacifiCorp's "Minimum Eligibility Requirements for Bidders" include the requirement that bidders' "interconnection description and capacity" must be "consistent with the interconnection request with PacifiCorp Transmission."<sup>24</sup> Similar to the discussion above regarding site control, it would be helpful for PacifiCorp to provide additional detail regarding how it will determine "consisten[cy]." There are many reasons a project bid may not be one hundred percent consistent with a bidder's associated interconnection request -- for example, the possibility that a bidder could be planning either to take advantage of the opportunities for project modification as part of the interconnection process or to use some of the capacity associated with a project to serve another off-taker.

Accordingly, Renewable Northwest requests either that PacifiCorp establish clear standards for what constitutes consistency as part of the formal RFP or that the Commission include such standards in its order on the RFP. Ideally, such standards would both (a) address how PacifiCorp will assess differences between an interconnection request and an RFP bid and (b) afford an opportunity to cure discrepancies that result from a good-faith interpretation of any such standards (rather than outright bid rejection). Again, the more projects that can craft their bids up-front to avoid outright rejection by PacifiCorp, the more competitive the RFP will be and the greater the potential for cost savings for PacifiCorp customers.

*6. Modify Resource Data Requirements (Section 5(B))*

Section 5(B) of the RFP sets forth PacifiCorp's proposed requirements regarding data-based resource performance estimates and points to Appendix C-3 for additional detail; Appendix C-3 clarifies that:

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<sup>23</sup> Q & A # 88.

<sup>24</sup> RFP at 16; *see also* Q & A # 43, 60, 99.



- All BTA bid submittals must include a minimum of two years of on-site meteorological tower data, converted to an estimated MWh of production on an hourly time scale.
- PPA bid submittals must include a minimum of one year of on-site meteorological tower data, converted to an estimated MWh production on an hourly time scale.<sup>25</sup>

By these terms, PacifiCorp proposes to require on-site data regarding solar irradiance for solar-project bids. It is Renewable Northwest's understanding that satellite data may be a more reliable indicator of a site's solar energy potential, and we recommend the RFP be amended to allow more flexibility regarding the types of data that PacifiCorp will accept -- provided those data can still demonstrate a scientifically valid estimate of a site's resource potential.

Notably, PacifiCorp appears to have moved in this direction in its Q & A, which provides in a May 12, 2020 response that supplants previous responses:

PacifiCorp will accept two years of solar irradiance satellite data provided from Solargis or SolarAnywhere in lieu of on-site solar panel met data for all solar PPA and BTA bids. However, should a solar BTA bidder be selected to the initial shortlist, to remain on the initial shortlist, bidder must commit to install at least one solar monitoring station on the proposed solar site by November 15, 2020 with the ability to capture solar irradiance data for at least eight months and prior to being considered for the final shortlist. If a solar BTA bidder is selected to the final shortlist, bidder will commit to maintaining at least one on-site solar monitoring station through the entire construction period and provide the solar monitoring station and all collected solar irradiance data to PacifiCorp at BTA closing.<sup>26</sup>

Again, Renewable Northwest recommends clarifying in the RFP itself or the Commission's order that satellite data regarding solar irradiance will be accepted.

Additionally, PacifiCorp proposes that "[b]idders are required to provide a resource performance estimate prepared by a third party expert."<sup>27</sup> In PacifiCorp's Q & A document, the company specifies that it will accept in-house (rather than third-party) reports provided those reports are based on transparent methodology acceptable to and replicable by the company.<sup>28</sup> Renewable

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<sup>25</sup> RFP, Appendix C-3 at 1.

<sup>26</sup> Q & A # 114.

<sup>27</sup> RFP at 20.

<sup>28</sup> Q & A # 110.

Northwest recommends either that the language of the RFP be updated or that the Commission's order be crafted to reflect PacifiCorp's clarification from the Q & A document.

*7. Clarify Requirements re: Third-Party Transmission (Section 5(D))*

PacifiCorp's RFP will accept PPA bids for projects "capable of interconnecting with a third-party transmission system and using third-party firm transmission service to deliver to PacifiCorp's transmission system," contingent on "documentation of the availability of, and request for, long-term, firm third-party transmission service from the resource's point of interconnection with the third party's system to a point of delivery on PacifiCorp's system that is acceptable to PacifiCorp, achievable by December 31, 2024."<sup>29</sup> Bidders wishing to take advantage of third-party transmission service could benefit from additional clarity as to what evidence would be acceptable to PacifiCorp regarding the availability of transmission service.

*8. Consider Allowing Bids Using PacifiCorp's Colstrip Transmission System ("CTS") Rights (Q & A)*

In its Q & A document, PacifiCorp was asked whether it would consider "bids for resources connecting to the Colstrip Transmission System ... assuming the use of PAC's existing transmission rights on CTS to deliver facility output to PAC's system."<sup>30</sup> PacifiCorp responded that it would not. While Renewable Northwest understands that the Commission generally has not required a utility to make its transmission rights available to bidders, at the same time the Commission recently stated: "We believe that the use of utility owned resources by third parties to develop additional or better, more efficient bids will help facilitate the objective of more and better proposal options."<sup>31</sup> Renewable Northwest recommends that the Commission encourage PacifiCorp to make its existing CTS rights available to bidders to the extent feasible.

While Renewable Northwest understands that there is still some uncertainty about the timing of PacifiCorp's exit from Colstrip,<sup>32</sup> that exit -- as well as associated decisions regarding how related CTS transmission rights will be used -- provides a significant opportunity to repurpose an existing utility asset from coal to renewable energy. If PacifiCorp were to make its existing CTS rights available to bidders, then it is possible that additional low-cost renewable resources could

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<sup>29</sup> RFP at 22; *see also* Q & A # 61.

<sup>30</sup> Q & A #99.

<sup>31</sup> Order 18-324 at 11. While this observation related to benchmark bids versus third-party bids, use of utility-owned transmission rights may "help facilitate the objective of more and better proposal options" even in circumstances such as this RFP where there are no benchmarks.

<sup>32</sup> The preferred portfolio in PacifiCorp's 2019 Integrated Resource Plan includes exit from Colstrip 3 & 4 in 2027, but as part of the IRP process PacifiCorp studied potential earlier exits as well. *See* PacifiCorp 2019 Integrated Resource Plan at 98-99 Table 5.3 (showing Colstrip 3 & 4 retirement in 2027) & 198 Table 7.9 (case P-28 modeled Colstrip 3 & 4 retirement in 2025).

bid into the RFP, advancing Oregon’s climate goals and benefiting ratepayers. On the other hand, if PacifiCorp believes making CTS transmission rights available to bidders is not feasible, then Renewable Northwest encourages the company to provide the reasons for this conclusion and to work with the Commission and stakeholders to explore potential solutions.

#### **D. Changes to the Form PPAs May Help Limit Risks for Bidders and Promote Competition (Appendix E-2)**

Similarly, Renewable Northwest has identified several changes to PacifiCorp’s form PPAs that could help to limit risks and offer more flexibility for bidders, encouraging more bids, more competition, and lower overall costs.<sup>33</sup> Specifically, we recommend that PacifiCorp:

##### *1. Update the Definitions of Qualifying Institution & Storage Price (Section 1.1)*

Renewable Northwest has two recommendations for changes to the definitions in the form contracts:

- In both the resource-only and resource-plus-battery-storage form PPAs, PacifiCorp proposes to define Qualifying Institution as a “United States commercial bank or trust company organized under the laws of the United States of America or a political subdivision thereof having assets of at least Ten Billion Dollars (\$10,000,000,000) (net of reserves) and who satisfies the Credit Requirements”; Renewable Northwest recommends that Qualifying Institutions not be limited to United States banks in order to allow for more financing options;
- In the resource-plus-battery-storage form PPA, PacifiCorp proposes to define Storage Price as “the applicable price, expressed in \$/MW, for Storage Product”; Renewable Northwest notes that the price for battery storage is represented in different units elsewhere (e.g. \$/MW-month in Appendix C-2, Tab 4, Column G) and recommends that PacifiCorp either update the RFP to apply consistent units throughout the RFP or clarify the company’s reason for using different units.

##### *2. Clarify Upgrade Responsibilities for Network Resources (Section 4.2.2)*

Section 4.2.2 of both form PPAs provides PacifiCorp the right to terminate if upgrade costs associated with designation as a Network Resource exceed a certain threshold. Renewable Northwest’s understanding is that PacifiCorp would be responsible for any such upgrade costs, in which case this termination right is reasonable. Assuming this understanding is correct, we recommend that PacifiCorp clarify in the form PPA its sole responsibility for such upgrade costs,

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<sup>33</sup> Section references in subheadings below refer to the documents filed as Exhibit E-2 to the RFP.

lest bidders perceive risk where there is none. Clarifying information about risks for bidders may encourage more bids, more competition, and eventually a truly least-cost portfolio of resources on PacifiCorp's Final Shortlist.

3. *Allow Security To Serve as a Temporary Limit on Liability (Section 8.7)*

Section 8.7 of both form PPAs provides that a bidder's posted security does not serve as a limitation of liability. Renewable Northwest recommends that PacifiCorp and the Commission consider adding a temporal element to this contract provision, under which posted security would serve as a limitation of liability until some designated point in time such as the Commercial Operation Date. This change would help to limit risks for bidders and encourage more competition in the RFP.

4. *Amend the Definition of Force Majeure To Include Epidemic (Section 14.1)*

Section 14.1 of both form PPAs defines Force Majeure and lists some examples "includ[ing] the following types of events and circumstances . . . : environmental disasters; civil disturbance; sabotage; strikes; lockouts; work stoppages; and action or restraint by Governmental Authority." For reasons that likely require no further elucidation, Renewable Northwest requests the addition of "epidemic" or some similar term to the list of examples of Force Majeure events.

5. *Expand Allowed Successors and Assigns To Include Qualified Transferee (Section 21)*

Section 20.1 of both form PPAs generally prohibits assignment of the PPA without PacifiCorp's prior written consent; Section 20.2 provides an exception for bidders' affiliates, provided that any affiliate taking on the PPA has adequate experience and creditworthiness. Renewable Northwest recommends that assignment also be permitted to a "Qualified Transferee", to be defined as a party meeting similar or higher standards regarding experience and creditworthiness. Again, greater flexibility for bidders may allow more bids at lower cost to PacifiCorp's customers.

6. *Modify Battery Storage Availability from 98% to 95% (Exhibit K)*

The resource-plus-battery-storage PPA contains a number of provisions regarding Storage Availability, including potentially steep penalties should the availability of a battery storage facility fall below a designated Guaranteed Storage Availability on an annual basis. Exhibit P proposes a Guaranteed Storage Availability figure of 98%. This figure may be high enough to discourage some developers from bidding some of the resources that performed best in PacifiCorp's Integrated Resource Plan -- solar-plus-storage facilities -- given the possibility of

unforeseeable circumstances affecting availability. That said, Renewable Northwest recognizes that much of the benefit of battery storage lies in its availability; accordingly, we recommend a still-robust figure of 95% instead of 98%.

### III. CONCLUSION

Again, Renewable Northwest appreciates both the Commission's careful attention to this RFP, which due to its scale and scope has the potential to be a uniquely powerful driver of system change and GHG emissions reductions throughout the western United States, and the opportunity to provide these comments. We look forward to further engagement throughout the RFP process.

Respectfully submitted this 22nd day of May, 2020,

/s/ Max Greene

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