

May 19, 2020

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-3398

Attn: Filing Center

Re: **Docket UM 2059 Application for Approval of 2020 All-Source Request for Proposal and Selection of Independent Evaluator**

On February 24, 2020, PacifiCorp d/b/a Pacific Power (PacifiCorp or the Company) submitted an application requesting the Commission open a docket for approval of a solicitation process for new resources, the 2020 All-Source Request for Proposals (2020 AS RFP), and to appoint an independent evaluator. On April 22, 2020, PacifiCorp filed its final draft of the 2020 AS RFP that included a pro forma power purchase agreement (PPA). The Company's filing unintentionally omitted the performance guarantee for the PPA. The Company hereby supplements its filing to include Exhibit F (Resource Only) to RFP_App E-2_Form of PPA_Resource Only and Exhibit F (Resource plus BESS) to RFP_App E-2_Form of PPA_Resource plus BESS.

Please direct informal inquiries related to the filing to Cathie Allen at (503) 813-5934.

Sincerely,



Mike Wilding
Director of Net Power Costs and Regulation

Enclosure

EXHIBIT F
PERFORMANCE GUARANTEE
(RESOURCE ONLY)

A. Definitions.

“Excluded Amount” has the meaning set forth in the definition of “Guaranteed Amount” in Section A of this Exhibit F.

“Expected Energy” means, for any Contract Year, the Expected Net Output for such Contract Year as determined in accordance with Exhibit A of this Agreement. If at Final Completion the Facility’s Nameplate Capacity Rating is less than the Expected Nameplate Capacity Rating (but at least equal to or greater than the Required Percentage of the Expected Nameplate Capacity Rating), then the Expected Net Output and the Expected Energy in each Contract Year shall be reduced proportionally for each full MW of Nameplate Capacity Rating below the Expected Nameplate Capacity Rating. Seller acknowledges that PacifiCorp will include the Expected Energy in PacifiCorp’s resource planning.

“Expected Energy Amount” has the meaning set forth in the definition of “Guaranteed Amount” in Section A of this Exhibit F.

“Guaranteed Amount” means, for any Contract Year, (i) [ninety percent (90%)] of the Expected Energy of the Facility for such Contract Year (in MWh) (the “Expected Energy Amount”), less (ii) the sum of: (x) the Compensable Curtailment Energy during such Contract Year; (y) the Non-Compensable Curtailment Energy during such Contract Year; and, without duplication, (z) any quantities of Output that were not delivered to the Point of Delivery (or accepted by PacifiCorp at the Point of Delivery) in such Contract Year during periods of Uncontrollable Circumstances (such quantities to be calculated on the basis of the Net Output capable of being delivered in an hour at an average rate equivalent to the actual Nameplate Capacity Rating) (the sum of (x), (y) and (z), each measured in MWh, the “Excluded Amount”).

“Output Shortfall” has the meaning set forth in Section B(2)(b) of this Exhibit F.

“Performance Guarantee” has the meaning set forth in Section B(1) of this Exhibit F.

“Performance Damages” has the meaning set forth in Section B(2)(c) of this Exhibit F.

“Uncontrollable Circumstances” means, in respect of any Contract Year, any periods during which the Generating Facility was unable to deliver Net Output to PacifiCorp (or during which PacifiCorp failed to accept such delivery) due to one or more of the following events or circumstances, each as recorded by Seller’s SCADA and indicated by Seller’s electronic fault log and not caused by Seller’s acts or omissions: (a) an emergency or event of Force Majeure; (b) the System operating outside the voltage or frequency limits defined in the applicable operating manual for the Generating Facility; (c) Planned Outages or Maintenance Outages, but in no event exceeding [_____] ([]) hours per Contract Year; (d) a Weather Event; and (e) a material default by PacifiCorp under this Agreement; provided, however, that if any of the events or

circumstances described above in (a) through (e) occur simultaneously, then the relevant period of time shall only be counted once in order to prevent double counting.

“Weather Event” means extreme weather conditions which prevent the Generating Facility from operating in accordance with applicable equipment operating manuals and Prudent Electrical Practices; provided that (a) such Weather Event is not attributable to the fault or negligence on Seller, (b) such Weather Event is caused by factors beyond Seller’s reasonable control, and (c) despite taking all reasonable technical and commercial precautions and measures to prevent, avoid, mitigate or overcome such Weather Event and the consequences thereof, Seller has been unable to prevent, avoid, mitigate or overcome such event or consequences.¹

B. Performance Guarantee; Performance Damages.

1. Performance Guarantee. Seller agrees to deliver to PacifiCorp no less than the Guaranteed Amount of Net Output during each Contract Year² (the “Performance Guarantee”).

2. Performance Damages.

(a) If the aggregate amount of Net Output delivered to PacifiCorp during any Contract Year is equal to or greater than the Guaranteed Amount for such Contract Year, then Seller shall not be liable to PacifiCorp for any Performance Damages in respect of such Contract Year.

(b) If the aggregate amount of Net Output delivered to PacifiCorp during any Contract Year is less than the Guaranteed Amount for such Contract Year, then Seller shall determine the shortfall amount (the “Output Shortfall”) for such Contract Year (in MWh) in accordance with the following formula (each component determined for such Contract Year):

$$\text{Output Shortfall} = \text{Expected Energy Amount} - \text{Excluded Amount} - \text{Net Output}$$

(c) If the Output Shortfall is a positive number, then Seller shall pay PacifiCorp liquidated damages (“Performance Damages”) in respect of such Contract Year equal to the product of (i) the Output Shortfall for such Contract Year, multiplied by (ii) PacifiCorp’s Cost to Cover for such Contract Year. If the Output Shortfall is a negative number, then Seller shall not be obligated to pay PacifiCorp any Performance Damages in respect of such Contract Year.

3. Invoicing. On the thirtieth (30th) day following the end of each Contract Year, Seller shall deliver to PacifiCorp a report (and reasonable supporting documentation regarding all data and calculations) detailing whether Seller satisfied the Performance Guarantee for such Contract Year. If Seller failed to satisfy the Performance Guarantee for such Contract Year, then

¹ Note to Bidders: Weather Event to be further defined by the Parties based on the applicable resource of the Generating Facility.

² Not to Bidders: Applicable period for Performance Guarantee subject to discussion by the Parties depending upon the resource of the Generating Facility.

Seller shall include in the report the Output Shortfall for such Contract Year, together with reasonable supporting documentation regarding all data and calculations. If there is an Output Shortfall, then thirty (30) days after PacifiCorp receives the report and all reasonable supporting documentation regarding all data and calculations provided for above, then PacifiCorp shall deliver to Seller an invoice showing PacifiCorp's computation of the Performance Damages calculated pursuant to Section B(2)(c) of this Exhibit F. In preparing such invoice, PacifiCorp shall utilize the meter data provided to PacifiCorp for the relevant Contract Year in question, but may also rely on historical averages and such other information as may be available to PacifiCorp at the time of invoice preparation, if the meter data for such Contract Year is then incomplete or otherwise not available. Within twenty (20) days of receipt of the invoice, Seller shall pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice. Any Performance Damages not paid by Seller when due under this Section B(3) will bear interest at the Contract Interest Rate from the date due until but not including the date paid. PacifiCorp reserves its right under Section 10.2 to set off any amounts owed by Seller hereunder against any amounts owed by PacifiCorp to Seller under this Agreement. The provisions of Section 10.5 shall apply with respect to any dispute Seller may have with respect to PacifiCorp's invoice of Performance Damages.

EXHIBIT F
PERFORMANCE GUARANTEE
(RESOURCE PLUS BESS)

A. Definitions.

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“Expected Energy” means, for any Contract Year, the Expected Net Output for such Contract Year as determined in accordance with Exhibit A of this Agreement. If at Final Completion the Facility’s Nameplate Capacity Rating is less than the Expected Nameplate Capacity Rating (but at least equal to or greater than the Required Percentage of the Expected Nameplate Capacity Rating), then the Expected Net Output and the Expected Energy in each Contract Year shall be reduced proportionally for each full MW of Nameplate Capacity Rating below the Expected Nameplate Capacity Rating. Seller acknowledges that PacifiCorp will include the Expected Energy in PacifiCorp’s resource planning.

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