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STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF APPLICATIONS
FOR PERMIT NOS. 63-34403, 63-34652,
63-34897, AND 63-34900 IN THE NAME
OF CAT CREEK ENERGY, LLC

CAT CREEK'S REPLY BRIEF IN
SUPPORT OF MOTION FOR
PROTECTIVE ORDER

Cat Creek Energy, LLC ("Cat Creek") submits this reply brief in support of its *Motion for Protective Order* filed June 16, 2020 ("Cat Creek's Motion"), and in reply to *SBar Ranch, LLC, and The District at Parkcenter, LLC's Response to Motion for Protective Order and Renewed Motion for Rule 40.05.b Order for Applicant to Submit Complete Rule 40.05 Information* filed June 30, 2020 ("SBar Response"). SBar Ranch, LLC, and The District at Parkcenter, LLC are referred to herein collectively as "SBar."

SBar argues that Cat Creek has not complied with Water Appropriation Rule 40.05 with respect to its disclosure of both financial and non-financial information. As explained below, SBar misapprehends the scope of Idaho Code 42-203A(5) and Rule 40.05.

I. Financial Information.

a. Idaho Code 42-203(5)(d) does not require IDWR to analyze the economic competitiveness of the Cat Creek project.

SBar argues that evaluating whether there is a reasonable probability that financing will be available requires IDWR to analyze "the economic viability of the proposed project." (SBar Response, p. 3.) On this premise, SBar argues that Cat Creek must disclose "the full terms of its capital funding arrangements, including the amount and terms of debt commitments, the amount and terms of equity commitments, and the interest rates, amortization schedules, provisions for default, anticipated cash flows, prospective balance sheets, the cost and income relationships associated with CCE's wind, solar, pump-storage, irrigation, municipal water, and irrigation

district operations, *etc.*, for the life of the project.” (SBar Response, p. 3.) SBar’s argument must be rejected for at least two reasons.

First, SBar mistakenly assumes that Cat Creek has already secured financing to complete the project. It is the opinion of SBar’s expert that “significant project financing commitments should be in place and the key financing terms would be non-confidential.” *Id.* As previously explained, however, Cat Creek has not yet secured financing to construct the project. (Mot. for Protective Order, p. 3.) Should financing be secured prior to the hearing, Cat Creek will disclose additional financial information, to the extent necessary and permissible. Until then, Cat Creek’s existing disclosures comply with Water Appropriation Rule 40.05.f.i by demonstrating “that it is reasonably probable that financing *will be available* to appropriate the water and apply it to the beneficial use proposed.” (Emphasis added.)

Second, the detailed financial information that SBar requests mistakenly assumes that Idaho Code 42-203A(5)(d) requires IDWR to undertake a comparative market analysis of the economics of Cat Creek’s power project vis-à-vis other power projects under development in the Western Grid. While that may be a way for equity investors and lenders to evaluate the project for financing once all permits and other preliminary development requirements have been secured, it is certainly not the role of IDWR in permitting the water rights.

Were SBar’s approach followed, IDWR would be thrust into a rabbit hole of highly complex energy market analyses. SBar’s expert highlights some of the subjects that IDWR would be asked to analyze, such as the comparative generating capacity of the Cat Creek project versus other hydropower plants operated by Idaho Power, the proportion of Idaho Power’s firm load that Cat Creek could supply, market energy prices, the differential between peak and off-peak energy prices, Idaho Power’s Integrated Resource Plan, load shaping service, pumped storage technology, even patent applications. (Decl. of Anthony M. Jones, p. 3.) In fact, this is just a small glimpse of the types of analyses that the Department would be required to undertake to compare the market competitiveness of Cat Creek’s renewable energy project.

PacifiCorp recently published “PacifiCorp’s 2020 All-Source Request for Proposals,” available at <https://www.pacificorp.com/suppliers/rfps/all-source-rfp.html>, a copy of which is attached hereto as Appendix A (the “PacifiCorp RFP”). It invites developers of private energy project to submit proposals for up to 1,823 megawatts (MW) of solar, 595 MW of battery energy storage, and 1,920 MW of wind resources. *Id.* at 1. A review of the RFP highlights the numerous price and non-price factors upon which the competing projects will be evaluated. Hundreds of additional pages of detailed specifications are set forth in appendices to the RFP. The analysis is so complex that PacifiCorp has hired independent evaluators to evaluate and compare the numerous proposals that will be made. Were IDWR to take the same approach, this proceeding would become dominated by weeks and volumes of technical testimony and data IDWR staff are ill-equipped to decipher, let alone judge the reliability of.

To illustrate, SBar’s expert argues that pumped storage is patently unfeasible since Idaho Power’s 2019 Amended Integrated Resource Plan gives it a thumbs down, and since the levelized cost of pumped storage is higher than average market prices. (Decl. of Anthony M. Jones, p. 3.) Yet, the PacifiCorp RFP specifically solicits proposals for pumped storage hydropower resources. (Appendix A, p. 1.) These types of projects are becoming important new utility resources to store surplus solar and wind energy and meet demand when the sun does not

shine and the wind does not blow. In fact, SBar's expert notes that there are "at least 24 other pump-storage projects, many of similar size and configurations, all connected to the same Western Grid, all dedicated to serving the same daily mismatches in the supply and demand curves, [all] currently working through the application process." *Id.* So which is it? Does SBar's expert know something that PacifiCorp and the developers of 24 similar projects do not? Or is pumped storage actually economically viable?

The point here is not to pass judgment on the opinion of SBar's expert, but to demonstrate that the approach that SBar proposes would create an impossible task for IDWR. How is IDWR to compare the economic competitiveness of the Cat Creek project which has wind, solar, and battery storage components with dozens of other energy projects, few if any of which have all three generation components, particularly IDWR has no jurisdiction over other projects and no means of securing detailed, confidential project information from them? Even if IDWR could somehow obtain such information, is IDWR expected to evaluate current and future energy demand, market prices, interconnection costs, renewable energy credit valuation, regulatory constraints, and dozens of other factors that play into the competitiveness of a given energy project, rank Cat Creek's project against the others, then divine which projects will be economically viable over the 17 year development window allowed under Idaho Code 42-204? Of course not.

Fortunately, market competitiveness is not a required methodology for applying Idaho Code 42-203A(5)(d). The Idaho Supreme Court has sanctioned a much simpler and more practical approach that focuses on the actions of the applicant. In *Shokal v. Dunn*, 109 Idaho 330 (1985), the Court examined Idaho Code 42-203A(5)(d) and explained that the financial resources requirement was added in response to "unscrupulous promoters [who] were obtaining permits and lulling unsuspecting investors into purchasing worthless securities on worthless projects." *Id.* at 336. The financial resources requirement was added to weed out fraudulent scams, but this does not mean that only risk-free projects that are guaranteed to be financed may receive permits. The Court reasoned that Idaho must be "willing to take a risk by providing individuals with the opportunity to put water to beneficial use." *Id.* Indeed, it is not the role of IDWR to decide what level of business risk is acceptable to a water right developer. Rather, the Court instructed IDWR to evaluate whether the applicant's own actions demonstrate that the project is legitimate and not an unscrupulous scam, holding that "[t]he extent of the applicant's own investment is a strong factor to be considered." *Id.* Though the applicant in that case was seeking a water right for commercial use (aquaculture), the Court did not cite a need to evaluate its market competitiveness; it emphasized only that the applicant's own investment can tell IDWR whether the project has legitimate potential.

In that regard, the documents that Cat Creek has produced easily clear the bar. Cat Creek has complied by with Rule 40.05 by producing extensive engineering, planning, permitting and other work undertaken over several years; leases and an agreement to purchase the lands upon which the project will be constructed; conditional use permits and a development agreement with Elmore County authorizing development of the project; a FERC preliminary permit and order granting authority to Cat Creek to file a FERC license application; a Preliminary Lease of Power Privilege issued by the United States Bureau of Reclamation; a detailed project budget; a narrative explanation of Cat Creek's financing strategy; and an accounting of Cat Creek's

investment in the project of more than \$18 million to date. This is more than enough to demonstrate a legitimate project with a reasonable probability that financing will be available.

b. SBar's confidentiality argument ignores the Idaho Trade Secrets Act.

In addition to arguing that Cat Creek must disclose all of the details needed to evaluate its market competitiveness, SBar argues that “[t]he only potentially confidential items that may need redaction would be the identity of the parties committing to provide the capital.” (SBar Response, p. 2). SBar offers no legal support for its assertion that nothing is confidential besides names. Nor has SBar explained a legitimate need for the detailed financial information it seeks or how it intends to use it. It simply states that “IDWR is in the best position to determine whether certain information actually is proprietary and trade secret.” (SBar Response, p. 4.)

Cat Creek agrees that IDWR must determine what project information should be made public or maintained confidential. The key is in how IDWR makes that determination. As explained in Cat Creek's *Motion for Protect Order*, the Idaho Trade Secrets Act controls the analysis. Importantly, the Act gives deference to the party claiming the trade secret, requiring IDWR to “preserve the secrecy of an *alleged* trade secret by reasonable means.” Idaho Code 48-804 (emphases added). While some scrutiny of purported secrets may be appropriate, the bar is low for qualifying for protection under the Idaho Trade Secrets Act, and Cat Creek's proposed Protective Agreement is a reasonable means of preserving the secrecy of its trade secrets.

Cat Creek agrees that not all financing information is confidential, which is why Cat Creek has publicly disclosed a redacted project budget showing the total cost of each major component (attached to the *Second Declaration of James Carkulis*) and a spreadsheet showing the Cat Creek's anticipated financing structure (Bates #CCE-D-00024), among other things. Due to confidentiality, Cat Creek produced under seal only two documents: an unredacted budget and a narrative explanation of Cat Creek's financing strategy.

Cat Creek has demonstrated that this information meets the definition of a trade secret under Idaho Code 48-801(5), which defines “trade secret” as “information [that] (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Cat Creek has explained that “[t]he disclosure of any financial cost details, methods, opportunities, and means of the Project would provide competitors with economic value and advantage in developing competitive bids, diluting the Project's ability to be creative in negotiations; in the end severely prejudicing and threatening viability of the Project” (Carkulis Decl., ¶ 9). Cat Creek has also cited a real-world example where such information was misappropriated, *USA Power, LLC v. PacifiCorp*, 372 P.3d 629 (Utah 2016). SBar has not countered this nor put forth any explanation whatsoever why it desires this information nor how it would be used. Therefore, IDWR must accept that this information qualifies as a trade secret under the Idaho Trade Secrets Act.

SBar has attempted to allay Cat Creek's fear of misappropriation of its confidential information by stating that SBar's law firm “is not representing any other client *in connection with this matter*.” (SBar Response, p. 4; emphasis added.) This statement provides no assurance that the firm is not representing clients who are competing with Cat Creek in other forums.

In sum, SBar's Response does not prove that Cat Creek's detailed budget figures and financing strategy do not qualify as a trade secret. Therefore, IDWR "shall preserve the secrecy of [the] alleged trade secret by reasonable means." Idaho Code 48-804.

c. The Protective Agreement is reasonable.

SBar's Response contains an itemized list of objections to the Protective Agreement proposed by Cat Creek. Each item is addressed herein.

Items 1-3 raise concerns about the protection of information that may be needed to prove Cat Creek's case. These concerns are adequately addressed in Cat Creek's *Motion for Protective Order* and above in this reply brief.

Item 4 contends that paragraph #2 of the Protective Agreement "could preclude any law firms who have ever been involved with any energy project transactions in this State from participating in this proceeding, including, likely, CCE's own counsel." (SBar Response, p. 3.) Paragraph 2 of the Protective Agreement states:

Access to Confidential Information shall be limited to persons who (a) do not own, operate, work for, consult, represent, or otherwise have an interest in any entity that is directly or indirectly competitive with Applicant's energy project in Elmore County, Idaho; and (b) have executed and furnished the original of this Agreement to the Department with a signed copy to Applicant.

SBar's objection pertains to *past* representation of competitors of Cat Creek; however, Paragraph 2 applies only to *current* representation of competitors of Cat Creek. Only the latter group must be precluded from accessing Cat Creek's confidential information.

Item 5 states: "With only in camera review and no ability to copy protected information except upon specific request and IDWR order, discovery and other preparations for hearing would be severely impaired." As explained above, the information that Cat Creek has submitted under seal (itemized budget and financing strategy) is not essential to IDWR's application of Idaho Code 42-203A(5)(d); therefore, Cat Creek does not need to discover such information. Moreover, to the extent it is inconvenient for IDWR to protect Cat Creek's trade secrets, the inconvenience is warranted. The fact that discovery may be less convenient under a protective order is no reason to not protect trade secrets.

II. Non-Financial Information

SBar argues that Cat Creek still has not submitted information required under Rule 40.05. (SBar's Response 4-5.) Yet, the information that SBar claim is missing is information that (i) does not exist, (ii) is not relevant, (iii) pertains to apparent defenses of SBar that have not been articulated to Cat Creek, or (iv) has in fact been produced.

SBar acts as if Rule 40.05 requires CCE—*before* conducting discovery—to divine every defense that may be raised, to develop all information needed to rebut these unknown defenses, and to prove its case before the proceeding even starts. This impossible standard is not required by Rule 40.05. Rule 40.05 simply requires that CCE submit all of the information in its possession concerning each subject addressed in the rule. It is akin to the initial disclosure requirement under Federal Rules of Civil Procedure. With one exception, CCE has done this.

SBar does cite one document that should be included in Cat Creek's Rule 40.05 disclosures: authorization to use the lands of Big Sky Farms Limited. A Memorandum of Agreement (Bates #CCE-C-00013 - 00019) has been posted to the ShareFile portal to evidence this.


With that addition, SBar has in fact submitted all of the information in its possession that Cat Creek believes is relevant to Rule 40.05. If any protestant raises a defense that is not answered by the information that Cat Creek has disclosed then that can be fleshed out in discovery. As Cat Creek continues to develop the project the development and production of additional information will be an ongoing process up to the hearing. Until then, IDWR cannot deny Cat Creek's applications on the basis that Cat Creek has not disclosed information that does not yet exist, that pertains to defenses that have not been articulated, or that Cat Creek reasonably believes is not relevant to this case.

CONCLUSION

For the foregoing reasons and those set forth in Cat Creek's *Motion for Protective Order*, Cat Creek respectfully requests an order that (i) Cat Creek has satisfied the disclosure required under Rule 40.05.f.i of the Water Appropriation Rules, and (ii) protects from disclosure the confidential information redacted from the *Second Declaration of James Carkulis* and the *Declaration of John L. Faulkner*.


Dated this 13th day of July, 2020.

RACINE OLSON, PLLP

By: 
Randall C. Budge
Thomas J. Budge

CERTIFICATE OF MAILING

I certify that on this 13th day of July, 2020, the foregoing document was served on the following persons in the manner indicated.



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APPENDIX A

PacifiCorp RFP



2020 All-Source Request for Proposals

Resources

(2020AS RFP)

ISSUED: Tuesday July 7, 2020

DUE DATE: Monday August 10, 2020 5:00 PM PPT

2020AS RFP Responses:

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APPENDIX C-3 Energy Performance Report

APPENDIX D Bidder's Credit Information

APPENDIX E-1 PPA and BSA Instructions to Bidders

Appendix E-2 Power Purchase Agreement (PPA) Documents

Appendix E-3 Battery Storage Agreement (BSA) Documents

Appendix E-4 Pumped Storage Hydro (PSH) Documents

APPENDIX F-1 BTA Instructions to Bidders

APPENDIX F-2 Build Transfer Agreement (BTA) Documents

APPENDIX G-1 Confidentiality Agreement

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SECTION 1. OVERVIEW

A. PURPOSE AND SCOPE OF RFP

PacifiCorp established an action item out of PacifiCorp's 2019 Integrated Resource Plan (IRP) to conduct an all-source RFP in 2020 (2020AS RFP). The 2019 IRP preferred portfolio includes 1,823 megawatts (MW) of new proxy solar resources co-located with 595 MW of new proxy battery energy storage system (BESS) capacity and 1,920 MW of new proxy wind resources by the end of 2023.¹ The 2020AS RFP seeks to secure least-cost, least-risk resources consistent with the intent of the company's IRP.²

At the time the 2019 IRP was filed, PacifiCorp assumed new wind resources would need to achieve commercial operation by the end of 2023 to be eligible for the 40 percent production tax credit (PTC). Similarly, PacifiCorp assumed new solar resources collocated with BESS resources would need to achieve commercial operation by the end of 2023 to be eligible for the 30 percent investment tax credit (ITC). After the 2019 IRP was filed, federal legislation was passed extending the PTC to allow projects that secure safe-harbor equipment such as wind-turbine generators or begin construction in 2020 to receive a 60 percent PTC if placed into service by year-end 2024. Consequently, the 2020AS RFP will consider bids that can achieve commercial operation before or on December 31, 2024.³

In addition, PacifiCorp will accept bids from pumped storage hydro (PSH) resources requiring longer lead time to develop and construct that places the project completion within a reasonable period of time beyond the required 2020AS RFP December 31, 2024 commercial operation date (COD).⁴

Under the 2020AS RFP, PacifiCorp is seeking proposals for competitively priced new and existing resources capable of interconnecting with or delivering to PacifiCorp's transmission system in its

¹ The figures for solar and wind exclude resource capacity added to meet assumed customer preference targets that are included in the 2019 IRP preferred portfolio.

² While renewable resources have the possibility to provide renewable portfolio standard (RPS) compliance benefits, RPS-compliant resources are not an explicit goal of the RFP process and will not be prioritized.

³ It is recognized that at the time this RFP is released, the extension of PTC eligibility to 2024 will generally only benefit wind resources. The 30 percent ITC for solar and solar collocated with BESS capacity is expected under current legislation to sunset at the end of 2023 and bidders with these resource type should prepare their bid accordingly.

⁴ A review of PacifiCorp Transmission's interconnection queue on OASIS showed pumped storage and nuclear as the only long-lead time resources having accepted interconnection requests on or before January 31, 2020. Wind and solar or solar collocated with a BESS that have CODs beyond 2024 will not be accepted under this criteria as they have a shorter build cycle and the ability to bid into the next RFP issued by PacifiCorp.

east or west balancing authority areas (PACE and PACW, respectively), targeting the specific topology and resource mix as shown in **Appendix H – 2020AS RFP Locational Capacity Limits**.

PacifiCorp is not bound to accept any bids, and may cancel this solicitation at any time and at its own discretion.

B. RESOURCE AND TRANSACTION TYPE

Projects submitted into the 2020AS RFP must have a minimum net power production capacity greater than 20 MW(AC)⁵ with the exception of qualifying facilities (QFs) under the Public Utility Regulatory Policies Act (PURPA). Per OAR 860-089-250(4), QFs are allowed to participate in the 2020AS RFP if the project's nameplate capacity is greater than the state standard avoided cost schedule threshold as shown below.

State	Standard Avoided Cost MW Threshold (MW)
California	Solar - 3.0 MW / All other resource types - 10.0 MW
Idaho	Wind and solar – 0.10 MW / All other resource types – 10.0 aMW
Oregon	Solar - 3.0 MW / All other resource types - 10.0 MW
Utah	Renewable – 3.0 MW / Non-renewable 1.0 MW
Washington	All resource types – 5 MW
Wyoming	Hydro – 5.0 MW / All other resource types – 1.0 MW

PacifiCorp is accepting qualified proposals for new or existing resources from bidders who currently own or have legally binding rights to develop new green-field resources or operate existing resources, are discrete generating assets, are not located behind any load served by a utility or net-metered, and can be individually metered and remotely monitored.

PacifiCorp will consider proposals for the following transaction structures:

1. Build-transfer transaction whereby the bidder develops the project, assumes responsibility for construction and ultimately transfers the asset to PacifiCorp in accordance with the terms of a build-transfer agreement (BTA). Under this transaction structure, the bidder will be responsible for all development, design, equipment supply, construction, commissioning, and performance testing, and will be required to design and construct the resource in conformance with PacifiCorp's specifications. PacifiCorp will be acquiring a project's assets only under the BTA and will not accommodate BTAs that involve the ultimate transfer of a project company to PacifiCorp.
2. Power-purchase agreement (PPA) with exclusive ownership by PacifiCorp of any and all capacity and environmental attributes associated with all energy generated with terms from a minimum of 15 years up to 30 years. PacifiCorp provides two forms of PPA; resource only and BESS collocated with a renewable resource. Collocated resource with a BESS must have agreements that are the same term length.

⁵ All project size in the 2020AS RFP will be referenced in MW AC unless specifically noted.

3. Control of the output of a BESS as a standalone BESS through a Battery Storage Agreement (BSA up to a term of 30 years).
4. Pumped storage hydro (PSH) will be transacted through an individually negotiated tolling agreement up to a term of 30 years.

C. ACCEPTABLE RFP TYPES BY RESOURCE CATEGORY AND BID STRUCTURE

PacifiCorp is seeking the following bid types and categories of resources through the identified bid structures, able to deliver to PacifiCorp's transmission system in PACE and PACW as summarized in Table 1 and outlined in more detail in Sections 4.C and 4.D.

Table 1 – 2020AS RFP Bid Types by Category of Resource

Resource Type	Bid Structure Accepted		
	PPA	BSA	BTA
Renewable	X		X
Renewable Plus Battery Storage	X		X
Non-Renewable	X		X
Standalone Battery Storage		X	X
Pumped Storage Hydro		TOLL	X

PacifiCorp will accept bids in the 2020AS RFP from existing operating facilities subject to the following conditions:

- Bidder cannot terminate an existing contract to bid into the 2020AS RFP
- The existing contract must expire before the required on-line date as proposed in a bidder's bid but no later than December 31, 2024.
- Bid must meet all other requirements in the 2020AS RFP

D. OPERATING CAPABILITIES OF THE RESOURCE

Resources and BESS identified in Table 1 that are bid as a BTA must meet both the common technical specifications and the resource specific technical specifications defined in **Appendix A – Technical Specifications**. All bids should comply with technical and operating specifications for Automated Generation Control (AGC) for automated signal operation and Automatic Voltage Regulation functionality. Bidders should review and understand the North America Electric Reliability Corporation (NERC) guidelines regarding technical requirements and modeling for renewables.⁶ A more detailed description of operating requirements and specifications is included in **Appendix A - Technical Specification** by resource type.

⁶ Please refer to NERC, Improvements to Interconnection Requirements for BPS-Connected Inverter-Based Resources, September 2019.

E. ENERGY STORAGE SYSTEMS

PacifiCorp is seeking energy storage systems in two categories; BESS and non-battery energy storage systems (i.e., pumped storage, compressed air, etc.). While the 2019 IRP chose only BESS in its preferred portfolio, PacifiCorp is including other types of storage systems in its 2020AS RFP. All bids that are standalone storage or that incorporates a BESS with a proposed renewable resource must provide a description of the plant communications and control plan. The plan shall include a description and diagrams (as applicable) that demonstrate how bidder will provide BESS systems data, including state of charge, power charge/discharge status, and asset health indicators (temperature, HVAC alerts, emergency status, etc.) as well as BESS system control, including limitation of charging only from renewable energy production, if applicable, charge/discharge scheduling, and station service load.

BESS bidders will also be required to provide an emergency response plan and a remediation plan in the event of battery accidents.

1. Battery Energy Storage System.

PacifiCorp is requesting bids from a BESS collocated with a renewable resource or as a standalone system. The BESS can be DC or AC grid connected. A collocated BESS bid as a BTA must conform to the both the resource specifications and BESS specifications in **Appendix A - Technical Specification** and be operational on or before December 31, 2024. PacifiCorp is battery chemistry and technology agnostic. Bids should ensure the BESS complies with Table 1 and bids provide all the information required in **Appendix C-2 - Summary and Pricing Input Sheet**. BESS bids must identify the collocated renewable energy resource if applicable, and provide a detailed description of any shared facilities and/or equipment with the associated renewable resource. The bid description of the BESS should, at a minimum, include the following items (see **Appendix C-2 - tab 4** for more details regarding information requested specific to BESS). PacifiCorp reserves the right to request any additional information from Appendix C-2 not listed below:

- Type of storage facility
- Manufacture, model, and chemistry of battery
- Manufacture and model of control system for battery
- Manufacture and model of energy management system
- Manufacture and model of inverters
- DC or AC grid connected
- Discharge capacity at point of delivery (MW)
- Storage capacity at point of delivery (MWh)
- Cycling capability and limitations
- Depth of charge capabilities and limitations
- Round trip efficiency (%)
- Annual degradation by contract year (%)
- Expected capacity augmentation by contract year (%) (if applicable)
- Guaranteed storage annual availability (%)
- Option for battery charging from grid

Table 2 summarizes PacifiCorp's 2020AS RFP guidelines regarding battery installed capacity and storage duration. These guidelines should be used by bidders in preparing their bid and bid alternatives as described in Section 3.F.

Table 2. RFP Capacity and Storage Duration Guidelines for BESS bids

Battery Type	Minimum Installed Capacity (% of Collocated Renewable Resource)	Storage Duration (hours) at Guaranteed Capacity	
		Minimum	Maximum
Lithium-Ion	25%	2	6
Flow batteries	25%	2	12
All other types	25%	2	N/A

PacifiCorp is requiring full dispatch control of the collocated or standalone battery (charge and discharge) as addressed in contractual terms in the applicable appendices to this 2020AS RFP.

2. Pumped Storage Hydro Systems.

PacifiCorp is accepting PSH bids in its 2020AS RFP due to the long-lead time for development and construction of PSH projects. While a PSH is considered a long-lead time bid with a on-line date beyond December 31, 2024, PacifiCorp suggests that a reasonable on-line date for PSH is five years from execution of a contract with the PSH which puts the expected on-line date by December 31, 2026. PSH opportunities are emerging within the footprint of PacifiCorp's system and may offer unique capacity and operating flexibility. To facilitate the participation of PSH bids, PacifiCorp will assess the merits of PSH bids consistent with the 2020AS RFP scoring and modeling process and include them in the Phase I process to determine eligibility for selection to the initial shortlist. Due to the unique operating characteristics of a PSH, it is recognized that the PSH will be an individually negotiated agreement. For the purpose of this RFP, PacifiCorp has included a pro-forma termsheet that contains the major terms and conditions expected under a tolling arrangement, however PSH bids will also be allowed to submit their own form of a tolling agreement in lieu of a redline of the pro-forma.

F. BENCHMARK RESOURCES AND AFFILIATE TRANSACTIONS

PacifiCorp is not submitting any self-build ownership proposals (benchmark resources) in the 2020AS RFP and is not accepting any bids from any PacifiCorp affiliate.⁷

⁷ Unless directed by the Commission otherwise, a PacifiCorp "affiliate" shall be limited to Berkshire Hathaway Energy Company and its subsidiaries.

SECTION 2. PROCEDURAL ITEMS

PacifiCorp will evaluate proposals conforming to the RFP minimum eligibility requirements based on the following:

- Customer cost defined as the revenue requirement associated with the bid,
- Deliverability of the resource, including site control, development maturity and status, developer's experience, and demonstration that the project's commercial operation date will be achieved by December 31, 2024,
- Transmission access and interconnection status in conformance with the 2020AS RFP requirements,
- Compliance with and verification of major equipment availability defined in **Appendix A - Technical Specification**.
- Ability to provide acceptable credit security as determined per **Appendix D – Bidder's Credit Information**.
- Conformance with the terms attached in **Appendix E-2 - PPA Documents, Appendix E-3 – BSA, or Appendix F-2 – BTA Term Sheet**, as applicable for the individual bid.

Bidder is responsible for all bidder fees and all costs and expenses of any response to PacifiCorp in connection with its proposal for the 2020AS RFP, including providing additional information, the success fee, if project is selected to the final shortlist, and bidder's own expenses in negotiating and reviewing any documentation. PacifiCorp will have no liability arising out of or relating to PacifiCorp's rejection of any proposal, or bidder's reliance upon any communication received from PacifiCorp, for any reason.

A. INDEPENDENT EVALUATOR

PacifiCorp is conducting the 2020AS RFP under the oversight of two independent evaluators (IE). An IE has been retained by PacifiCorp on behalf of the Public Utility Commission of Oregon (Oregon Commission) as required by Oregon Administrative Rules § 860-89-200⁸. The Utah Public Service Commission (Utah Commission) has also retained their own IE consistent with Utah guidelines in Utah Admin. Code R746-420. Both IEs will be involved in development of the RFP and provide oversight to ensure the RFP process is conducted in a fair and reasonable manner. Potential bidders are invited and encouraged to contact the Oregon or the Utah IE with questions or concerns. More information concerning the role of the IE is provided in **Appendix M - Role of the Independent Evaluator** for both Oregon and Utah.

Contact information for each IE is as follows:

⁸ Oregon's competitive bidding rules were adopted in Public Utility Commission of Oregon Docket AR 600, *In the Matter of Rulemaking Regarding Allowances for Diverse Ownership of Renewable Energy Resources*, Order 18-324 (August 30, 2018).

Independent Evaluators:
OREGON – PA Consulting 2020AS_IE@PAConsulting.com Charles Janecek - 303.250.5060
UTAH – Merrimack Energy MerrimackIE@merrimackenergy.com Wayne Oliver – (781) 856-0007

B. PACIFICORP RFP ORGANIZATION AND ROLES

The RFP organization and roles were established by PacifiCorp before issuance of this RFP. The RFP organization is described for their primary roles and responsibilities in **Appendix N – PacifiCorp’s Organization for RFP**.

C. FERC’S STANDARDS OF CONDUCT

Each bidder responding to this RFP must conduct its communications and activities in recognition of PacifiCorp’s obligation to comply with the Federal Energy Regulatory Commission (FERC)’s Standards of Conduct for Transmission Providers (see **Appendix I - FERC’s Standards of Conduct**), which require the functional separation of PacifiCorp’s transmission and merchant functions. Interconnection with or transmission service on PacifiCorp’s system is arranged through PacifiCorp’s transmission function, and not PacifiCorp’s merchant function that administers this RFP. Similarly, with respect to any necessary interconnection and transmission arrangements on a third-party transmission system, the bidder must coordinate with and refer to the requirements of the third-party transmission provider. Accordingly, as part of a bid submittal, bidders will be requested to execute a customer consent form provided in **Appendix J - PacifiCorp Transmission Waiver** that enables PacifiCorp’s merchant function to discuss the bidder’s interconnection and/or transmission service application(s) with the applicable interconnection or transmission service provider.

D. CONFIDENTIALITY

As described in Section 3.B. below, before bid submittal, bidders will be required to execute a confidentiality agreement in the form provided in **Appendix G-1 - Confidentiality Agreement**. As provided in the form of confidentiality agreement, PacifiCorp will attempt to maintain the confidentiality of all bids submitted, to the extent consistent with law or regulatory order, as long as such confidential treatment does not adversely impact a regulatory proceeding. It is the bidder’s responsibility to clearly indicate in its proposal what information it deems to be confidential and subject to the terms of the executed confidentiality agreement. Bidders may not mark an entire proposal as confidential, but must mark specific information on individual pages to be confidential in order to receive confidential treatment for that information under the terms of the executed confidentiality agreement.

All information supplied to PacifiCorp or generated internally by PacifiCorp is and will remain the property of PacifiCorp. To the extent bidder receives information from PacifiCorp, bidder must maintain the confidentiality of such information and such information may not be provided to any third party before, during or after this RFP process unless required by law or regulatory order.

PacifiCorp uses its internal, proprietary models in its bid evaluation process. These models, the assumptions used in these models, and the bid evaluation results will not be shared with entities external to PacifiCorp or its consultants, including bidders, unless required to support regulatory proceedings, required by law, or required by applicable regulatory order.

E. PACIFICORP'S RESERVATION OF RIGHTS AND DISCLAIMERS

PacifiCorp reserves the right, without limitation or qualification and in its sole discretion, to reject any or all bids, and to terminate or suspend this RFP in whole or in part at any time. Without limiting the foregoing, PacifiCorp reserves the right to reject as non-responsive any or all bid proposals received for failure to meet any requirement of this RFP. PacifiCorp further reserves the right without qualification and in its sole discretion to decline to enter into any agreement with any bidder for any reason, including, but not limited to, change in regulations or regulatory requirements that impact PacifiCorp, and any evidence of collusive bidding or other anticompetitive behavior or conduct of bidders.

Bidders who submit bid proposals do so without recourse against PacifiCorp, its parent company, its affiliates and its subsidiaries, against any director, officer, employee, agent or representative of any of them, or against the Independent Evaluators, for any modification or withdrawal of this RFP, rejection of any bid proposal, failure to enter into an agreement, or for any other reason relating to or arising out of this RFP.

SECTION 3. GENERAL INFORMATION AND LOGISTICS

A. SCHEDULE

The proposed 2020AS RFP schedule is shown below.

Milestone	Date	Day
RFP Issued to market	07/07/2020	Tuesday
Bidder workshop	07/09/2020	Thursday
IE joint discussion on models and assumptions	07/10/2020	Friday
Notice of Intent to Bid due	07/20/2020	Monday
Last day for RFP questions to IEs for Q&A	08/03/2020	Monday
RFP bids due	08/10/2020	Monday
Bid eligibility screening completed	08/17/2020	Monday
Initial Shortlist (ISL) scoring/ranking completed	09/04/2020	Friday
IRP modeling generates ISL	10/05/2020	Monday
IEs' review of ISL completed	10/09/2020	Friday
PacifiCorp notifies bidders selected to ISL	10/14/2020	Wednesday
ISL bidders notify Pac Trans to enter cluster study	10/15/2020	Thursday
Capacity factor and BESS evaluation on ISL started	10/19/2020	Monday
Begin contract review and negotiations with ISL (subject to Oregon waiver)	10/19/2020	Monday
Capacity factor and BESS evaluation on ISL completed	01/31/2021	Sunday
Complete contract negotiations on near final draft with bidders	03/31/2021	Wednesday
Cluster study results posted to OASIS / bidders notified by Pac Trans	04/15/2021	Thursday
Bidders provide ISL price update including cluster study results	04/22/2021	Thursday
Submit updated bids to IRP modeling	04/27/2021	Tuesday

Milestone	Date	Day
IRP modeling generates Final Shortlist (FSL)	05/20/2021	Thursday
Final Shortlist (FSL) selected	05/25/2021	Tuesday
IEs' review of FSL Completed	06/01/2021	Tuesday
Complete negotiation of T&Cs for resource agreements	10/15/2021	Friday
Execute Agreements	11/08/2021	Monday
Winning Bid Guaranteed COD	12/31/2024	Tuesday

The schedule above is subject to change. Actual dates may vary for reasons that include, but are not limited to, negotiation time, availability of key personnel, due diligence, the evaluation or negotiation of any issues unique to any bid, bidder, or project, bidder's responsiveness in contract negotiations, PacifiCorp's evaluation of bidder's creditworthiness, and actions required by any third parties. PacifiCorp is not responsible for any costs or damages to bidders alleged to be attributable to changes in the RFP schedule stated above. PacifiCorp is not obligated to develop a shortlist of bidders, to make a final selection, or to initiate or complete negotiations on any transaction.

Bidders should note the condensed schedule and be available for calls and meetings with PacifiCorp and the IE regarding bid submittals and be responsive to questions in a timely manner. PacifiCorp and the IE will attempt to complete the bid review and screening as efficiently as possible.

BIDDERS WILL BE REQUIRED TO RESPOND TO BID QUESTIONS AND CURE ANY BID DOCUMENT DEFICIENCIES WITHIN TWO (2) BUSINESS DAYS OF BID REVIEW AND REQUESTS.

B. 2020AS RFP BIDDER CONFERENCE

A bidder conference will be held on **Thursday July 09, 2020**. The bidder conference will be broken up into two sessions; the morning session from 9:30 to noon will cover the 2020AS RFP structure, deliverables, schedule, requirements and energy performance analysis and the afternoon session will run from 1:00 to 4:00 PM and cover bid preparation forms and instructions and interconnection and transmission service matters including transition interconnection cluster study process. The bidder conference is scheduled as a webinar for remote attendance as described below. Additional details on the bidder conference will be posted to the PacifiCorp website.

Day: Thursday
Date: July 09, 2020

Time and Agenda:

9:30 AM to Noon Pacific (10:30 AM – 1:00 PM Mountain)	General RFP Structure, deliverables, schedule, requirements and energy performance analysis
1:00 PM to 2:30 PM Pacific (2:00 PM – 3:30 PM Mountain)	RFP forms and bid preparation

3:00 PM to 4:30 PM Pacific
(4:00 PM – 5:30 PM Mountain)

Interconnection queue reform and transition
interconnection cluster study relative to the RFP
process

Location: Skype Meeting (Details provided on PacifiCorp RFP webpage)

C. INTENT TO BID FORMS

Parties that intend to submit bids for consideration in this RFP process must return the following completed documents⁹ in an electronic copy to the following PacifiCorp and IE's email addresses, no later than **5:00 p.m. Pacific Prevailing Time on Monday July 20, 2020**, to be accepted as a bidder in the 2020AS RFP:

1. **Appendix B-1 – Notice of Intent to Bid Form**
2. **Appendix D - Bidder's Credit Information**
3. **Appendix G-1 - Confidentiality Agreement**

Email: RFPAllSource@PacifiCorp.com
2020AS_IE@PAConsulting.com
MerrimackIE@merrimackenergy.com

After PacifiCorp receives the Intent to Bid form, an acknowledgment of receipt and directions for bid submittal fees will be provided.

D. SUBMISSION OF QUESTIONS

Interested parties and bidders may submit questions related to this solicitation, and PacifiCorp will respond in a timely fashion. All information, including pre-bid materials, questions, and PacifiCorp's response to questions, will be posted on the PacifiCorp website at <https://www.pacifiCorp.com/suppliers/rfps/all-source-rfp.html>.

Email - Communications with the IE or PacifiCorp can also be emailed directly at the following email addresses:

Oregon IE: PA Consulting: 2020AS_IE@PAConsulting.com

Utah IE: Merrimack Energy: MerrimackIE@merrimackenergy.com

PacifiCorp: RFPAllSource@PacifiCorp.com

IE Website – Merrimack Energy, the Utah IE, will host a website dedicated to information exchange and archiving information, questions and answers between the bidder, IE, and PacifiCorp. The IE site, separate from PacifiCorp's RFP website, will be used for bidder's specific

⁹ Documents not completed may be grounds for disqualification of a bid.

questions related to their bid or the RFP. Any question submitted through the IE form will be blinded and provided to PacifiCorp for a response. The website link is shown below and will also be accessible as a link on PacifiCorp's RFP website.

<https://www.merrimackenergy.com/>

E. SUBMISSION OF BIDS

Proposals must be submitted with a cover letter that includes all signatures necessary to approve and submit bidder's proposal by one or more representatives having necessary corporate or other organizational authority.¹⁰ Additionally, the cover letter must also include the following declaration:

"[Insert legal name of Bidder] (the "Bidder") acknowledges receipt of PacifiCorp's 2020AS All Source Request for Proposals on or about July 6, 2020. Bidder makes the following representations to PacifiCorp:

1. All of the statements and representations made in this proposal are true to the best of Bidder's knowledge and belief;
2. Bidder possesses a legally binding agreement(s) or option(s) to possess all necessary land rights for sufficient site control to undertake development of the project as set forth in the proposal, including ingress and egress to and from the site;
3. Bidder possesses or will possess all necessary water rights for construction and ongoing maintenance of the project through the term of the agreement;
4. Bidder has obtained, or can demonstrate how it will obtain, all necessary authorizations and approvals that will enable Bidder to commit to the terms provided in this proposal;
5. Bidder has reviewed the entirety of this RFP including all relevant appendices, acknowledges its terms, and agrees to comply with the processes stated within;
6. Bid pricing is based on the terms of the transactions documents in **[Appendix E-2 - PPA Documents] [Appendix E-3 - BSA] [Appendix F-2 - BTA Termsheet]**,¹¹ as reviewed and, if applicable, revised by bidder; and
7. This proposal is a firm and binding offer through April 22, 2021

Three forms of bid submittal are required: 1) a single hard copy with cover letter signed by an officer of the bidding company; 2) electronic copy via USB flash drives; and 3) an electronic copy

¹⁰ If the proposal is being bid under a partnership, the partnership must be fully established, including a legally binding agreement among the partners (not a letter of intent), before submission of a proposal under this RFP. Each partner must be bound to comply with the terms of this RFP and the proposal. The signature of each partner must be included on the cover letter, along with their contact information (i.e., company name, phone number, email address, etc.). The proposal must include evidence documenting the legal and binding partnership.

¹¹ Bidder to select appropriate reference appendix for its submitted bid.

via email. The hard copy as well as the USB flash drives should be delivered by express, certified or registered mail, or hand delivery to the following address:

PacifiCorp 2020AS RFP

Attention: Resource & Commercial Strategy
825 NE Multnomah, Suite 600
Portland, Oregon 97232

The electronic copy via email should be sent to:

PacifiCorp at: RFPAllSource@PacifiCorp.com

Oregon IE at: 2020AS_IE@PAConsulting.com

Utah IE at: MerrimackIE@merrimackenergy.com

Bidders should be aware of file size when delivering the electronic copy of their bid. PacifiCorp suggests limiting the size of each email with attached files to no more than 20 MB to ensure acceptance. Bidders are allowed to submit multiple emails for their bid and should label them accordingly.

PacifiCorp will respond with receipt email(s).

Bids will be accepted until 5:00 p.m. Pacific Prevailing Time on Monday August 10, 2020. PacifiCorp will not accept any late proposals. Any bids received after this time will be returned to the bidder unopened.

All bid proposals shall have a bid validity date through 5:00 pm PPT, Thursday April 22, 2021.

Bids selected to the initial shortlist will be asked to update their bid prices as part of Phase II at the conclusion of PacifiCorp Transmission's transition interconnection cluster study expected in April 2021.

Bidders must submit complete proposals that include the following items:

1. Via mail, one (1) signed original hard copy of each bid with all required forms including all exhibit sheets.
 - a. The hard copy must include the required cover letter with an original signature of an officer of the bidding company
 - b. The bid must be submitted prepared on standard 8 1/2 inch by 11 inch recycled paper, duplex printed (2 sided).
2. Via mail, two (2) USB flash drive(s) with all required forms including all appendices and exhibit sheets saved onto each USB flash drive.
 - a. The electronic submittal should include any required forms in PDF format and Microsoft Excel format, as required, including all appendices and exhibit sheets.

3. Via email, one (1) electronic copy of the bid,¹² sent to the RFP mailbox address provided, which should include any required forms in PDF format and Microsoft Excel format, as required, including all appendices and exhibit sheets.
4. Appendix sheets in the bid submission should include the requirements listed in Section 4 of this RFP document and **Appendix B-2 - Instructions and Information Required in Bid Proposals**, including:
 - a. Technical submittal requirements from **Appendix A - Technical Specifications**,
 - b. The main bid document as organized in **Appendix B-2 - Instructions and Information Required in Bid Proposals**,
 - c. An excel version and also PDF print outs of the required tabs from **Appendix C-2 – Bid Summary and Pricing Input Sheet**,
 - d. Redlines or comments to the contract documents reflecting the resource type and structure contained in the bid:
 - i. **Appendix E-2 – PPA Documents**
 - ii. **Appendix E-3 – BSA Documents**
 - iii. **Appendix E-4 – PSH Documents**
 - iv. **Appendix F-2 – BTA Term Sheet**

F. PACIFICORP'S POSTING OF SECURITY

PacifiCorp will not post security to support its obligations under any definitive agreement. Bidders who will require such security from PacifiCorp should not submit a proposal under this RFP.

G. BID EVALUATION FEES

Bidders must pay a fee (Bid Fee) of \$10,000 for each base proposal plus two (2) alternatives submitted. Bidders will also be allowed to offer up to three (3) additional alternatives to the base proposal at a fee of \$3,000 per alternative. Alternatives will be limited to different contract terms, in-service dates, and/or pricing structures. A bidder may submit more than one base proposal. PacifiCorp's objective in offering bidders the opportunity to propose multiple alternatives to any base proposal is to allow PacifiCorp to optimize the benefits from the solicitation by combining proposals of different sizes, terms and in-service dates. Table 3 provides bid fee guidance specific to resource type and structure and will be covered in detail in the bidder workshop on July 9, 2020 from 1:00 to 2:30 PM Pacific time regarding RFP forms and bid preparation.

Table 3. Bid Fee Guidelines

Resource	Base Bid	Bid Alternatives
Wind	PPA, BTA, or PPA/BTA combinations are separate base bids. BTA bids only accepted for projects directly interconnecting with PacifiCorp's system.	Limited to different contract terms, in-service dates, and/or pricing.

¹² Large bid submittals may require being sent in multiple emails due to 25 MB size limitation of email transmittals.

Solar	PPA or BTA are separate base bids. BTA bids only accepted for projects directly interconnecting with PacifiCorp's system.	Limited to different contract terms, in-service dates, and/or pricing
Collocated BESS	PPA or BTA collocated with BESS. PPA or BTA would be separate bid.	Collocated bids that include a BESS must submit a base bid that includes battery augmentation and non-augmentation. Non-augmentation does not constitute a bid alternative. Other alternatives limited to different contract terms, in-service dates, and/or pricing.
Standalone BESS	BSA or BTA would be separate bid.	Standalone BESS bids must submit a base bid that includes battery augmentation and non-augmentation. Non-augmentation does not constitute a bid alternative. Other alternatives limited to different contract terms, in-service dates, and/or pricing.
Other renewables	PPA or BTA would be separate bid.	Limited to different contract terms, in-service dates, and/or pricing
Non-renewables	PPA or BTA would be separate bid.	Limited to different contract terms, in-service dates, and/or pricing

The 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. A success fee may be charged to successful winning bid(s) to cover any incremental costs of the IE and other external subject matter experts, PacifiCorp used in its bid evaluations or contract development, provided that in no event may the success fee exceed \$250,000 dollars per successful bid. Documentation of the calculation of the success fee will be computed in cooperation with the IE and provided to the bidder at the time the bid is selected to the final shortlist.

Payment of Bid Fees. Bid Fees must be paid by wire transfer to PacifiCorp. PacifiCorp will email wire transfer instructions to bidders who have submitted a notice of intent to bid five (5) business days before August 10, 2020. No cashier's checks will be accepted. When the bid is submitted, Bidder must provide documentation of submitted Bid Fees, such as a receipt of the wire transfer or wire transfer confirmation number. **The bid fee is non-refundable. After submission of bidder's proposal, the bid fee will not be refunded unless the proposal is withdrawn before the submittal due date, the proposal does not meet the minimum eligibility requirements and that deficiency cannot be cured, or the proposal is rejected for any other non-conformance before commencement of the shortlisting analyses.**

H. BID NUMBERING AND FILE NAMING CONVENTION

Bid numbers will be self-assigned by bidder in accordance with the directives below. There is no limit to the number of base proposals and proposal alternatives that may be submitted, subject to the Bid Fee requirements stated in Section 3.F.

Bid numbers must be expressed as a whole number followed by one decimal place, beginning with the number 1.0. Each subsequent base proposal will have a separate sequential bid number (i.e., 2.0, 3.0, etc.). The decimal place will be used to indicate pricing options or other base proposal alternatives, necessary to support pricing in **Appendix C-2 - Bid Summary and Pricing Input Sheet**. For example, the initial base proposal will be identified as "1.0" and the second pricing option alternative to the base proposal would be "1.1." Bidder's next base proposal, if any,

would be “2.0” with “2.1” used for any second pricing option or other alternative to the base proposal.

File names should be kept short by using abbreviations wherever possible. All required documents must use the following naming convention:

[Abbreviated Bidder name]_[Bid number]_[Abbreviated_File_Descriptor]

I. MINIMUM ELIGIBILITY REQUIREMENTS FOR BIDDERS

Bidders may be disqualified for failure to comply with the RFP if any of the requirements outlined in this RFP are not met to the satisfaction of PacifiCorp, as determined in its sole discretion. If proposals do not comply with these requirements, PacifiCorp has the option to deem the proposal non-conforming and eliminate it from further evaluation. Reasons for rejection of a bidder or its proposal include, but are not limited to:

1. Receipt of any proposal after the bid submittal deadline.
2. Failure to meet the requirements described in this RFP and provide all information requested in **Appendix C-2 - Bid Summary and Pricing Input Sheet** of this RFP.
3. Failure to adequately demonstrate the viability of a commercial operation date on or before December 31, 2024 with the exception of pumped storage hydro as described in Section 1.C.
4. Failure to permit disclosure of information contained in the proposal to PacifiCorp’s agents, contractors, regulators, or non-bidding parties to regulatory proceedings consistent with terms of executed confidentiality agreement.
5. Any attempt to influence PacifiCorp in the evaluation of the proposals outside the solicitation process.
6. Failure to provide a firm offer through the bid validity date outlined in Section 3.E of this RFP.
7. Failure to disclose the real parties of interest in any submitted proposal.
8. Deleted
9. Failure to clearly specify all pricing terms for each base proposal and alternative(s).
10. Failure to offer unit contingent (as generated) or system firm capacity and energy to Company’s network transmission system in either its PACE and PACW balancing areas.
11. For any bid that is proposing to interconnect to a third-party transmission system and secure transmission service to deliver the output of the resource to PacifiCorp at PACE or

- PACW, failure to provide satisfactory evidence¹³ that the interconnection to the third-party transmission provider or firm transmission rights are already secured in bidder or project owner's name or readily obtainable by bidder to deliver the full output of the resource to PacifiCorp on or before December 31, 2024, detailing all actual or estimated transmission costs.
12. Failure to materially comply with technical specification requirements in **Appendix A - Technical Specifications** for BTA proposals involving potential PacifiCorp ownership or operational control.
 13. Failure to demonstrate a process to adequately acquire or purchase major equipment (i.e., wind turbines, solar photovoltaic panels, inverters, tracking system, generator step-up transformers, batteries) and other critical long lead time equipment.
 14. Failure to demonstrate that it can meet the credit security requirements for the resource proposed.
 15. Failure to submit information required by PacifiCorp to evaluate the price and non-price factors described herein.
 16. Failure or inability to abide by the applicable safety standards.
 17. Failure to submit an acceptable contract structure.
 18. A determination by PacifiCorp that collusive bidding or any other anticompetitive behavior has occurred.
 19. Bidder or proposed project being bid is involved in bankruptcy proceedings.
 20. Failure of the bidder's authorized officer to sign the proposal cover letter.
 21. Misrepresentation or failure to abide by Federal Trade Commission Green guidelines for renewable projects, if applicable.
 22. Any change in law or regulatory requirements that make the bidder's proposal non-conforming.
 23. Any matter impairing the bidder, the specified resource, or the generation of power or, if applicable, environmental attributes from the specified resource.
 24. Failure to provide the minimum resource performance estimate information as described in Section 5.B. of the RFP.

¹³ Transmission service documentation to PacifiCorp's system is two-fold; firm capacity is available on third-party transmission provider and bidder has made a request to the third-party transmission provider to acquire firm point-to-point transmission service to PacifiCorp's system. Documentation should include copies of direct, dated correspondence from transmission service provider to bidder, showing evidence a request for transmission service was in fact made, and transmission provider is indicating to bidder that firm, uninterruptible transmission service will be available for bidder to procure, for a specified OATT service, and identified MW capacity, POR, POD, and term. Dated correspondence should be at least within 6 months of bid submittal.

25. Failure to provide a performance model output including hourly output values as identified in **Appendix C-3 - Energy Performance Report**.
26. Failure to provide **Appendix D - Bidder's Credit Information**.
27. Any bid that includes a requirement that PacifiCorp provide credit assurances.
28. In the case of a BTA bid, failure to submit an operations and maintenance proposal materially compliant with **Appendix K - General Services Contract - Operations & Maintenance Services for Project**.
29. Failure to provide documentation of site control for the project including the facility but excluding right-of-way or easements for interconnection or transmission, roads, or access to the site.¹⁴
30. Failure to provide documentation that an interconnection request with PacifiCorp Transmission was received and pending on or before January 31, 2020¹⁵, consistent with PacifiCorp Transmission's interconnection queue reform transition process.
31. Failure of the bid interconnection description and capacity to be consistent with the interconnection request with PacifiCorp Transmission.

SECTION 4. RFP CONTENT AND SUBMITTAL INSTRUCTIONS

A. ALL PROPOSALS

This section outlines the content and format requirements for all proposal structures. Proposals that do not include the information requested and in a form described in this section may be deemed ineligible for further evaluation if the bidder does not provide information within 24-hours of a request by PacifiCorp in its sole discretion. PacifiCorp may deem information not relevant as determined by PacifiCorp in its sole discretion. All sections must be complete and in compliance with the RFP in order for the bid to be accepted.

B. GENERAL ORGANIZATION OF THE BID SUBMITTAL

All bids must contain the following information and, to facilitate timely evaluation, must be organized as indicated below. The sections of each bid proposal must be as follows and are further described in this Section 4 and **Appendix B-2 - Instructions and Information Required in Bid Proposals**:

- Section 1 - Executive Summary of Proposal
 - Section 2 - Resource Description
-

¹⁴ Site control for the 2020AS RFP is defined in PacifiCorp Transmission's OATT.

¹⁵ In the event that FERC issues an order on reconsideration in Docket ER20-924-000 before August 10, 2020 that changes the current transition interconnection cluster study cut-off date of January 31, 2020, PacifiCorp will modify the eligibility cut-off date in the 2020AS RFP to align with the new date.

Section 3 - Bidder's Qualifications
Section 4 - Financial Information
Section 5 - Pricing Proposal and Pro Forma Project Financing
Section 6 - Interconnection & Transmission Service
Section 7 - Environmental and Siting
Section 8 - Contract Terms
Section 9 - O&M Services Contract Terms (BTA Bid Only)

C. POWER PURCHASE AGREEMENT (PPA) AND ENERGY STORAGE PROPOSALS

For new resources, PacifiCorp will consider PPA, PPA with BESS or standalone energy storage transactions whereby the bidder develops the resource, assumes responsibility for construction and sells the power (and non-power attributes) to PacifiCorp on a long term basis, all pursuant to the terms of a PPA, BSA or PSH Toll, which will include certain performance guarantees. The bidder will be responsible for all aspects of the development and construction of the facility, including, but not limited to, permitting, engineering, procurement, construction, interconnection and long term asset management and operational costs. If the proposed resource is interconnecting to a third-party transmission system, the bidder will also be responsible under the PPA to arrange transmission service to a designated point of delivery on PacifiCorp's transmission system acceptable to PacifiCorp. Without limiting the foregoing, the bidder will be responsible for obtaining all permits, rights and resources required to construct and operate the generation resource consistent with the bidder's proposal.

For existing resources, PacifiCorp will consider PPA transactions whereby the bidder sells the power (and non-power attributes) to PacifiCorp on a long term basis, all pursuant to the terms of a PPA, which will include certain performance guarantees. The bidder will be responsible for all aspects of the project's interconnection and the long term asset management and operational costs. If the existing resource is interconnecting to a third-party transmission system, the bidder will also be responsible under the PPA to arrange transmission service to a designated point of delivery on PacifiCorp's transmission system acceptable to PacifiCorp. Without limiting the foregoing, the bidder will be responsible for obtaining all permits, rights and resources required to operate the generation resource consistent with the bidder's proposal.

In the 2020AS RFP, PacifiCorp is seeking PPAs for the following resource categories as previously summarized in Table 1:

1. Renewable
 - a. Note that the pro forma agreements in **Appendix E-2 - PPA Documents** are tailored for new resources and specific technologies; conforming changes may be required for existing resources or other types of resources.
2. Renewable plus BESS
 - a. Solar or wind collocated with a BESS will be considered. Note that the pro forma agreements in **Appendix E-2 - PPA Documents** are tailored for new resources and specific technologies; conforming changes may be required for existing resources or other types of resources.

- b. Bidders should secure confirmation from PacifiCorp Transmission that the facility's interconnection request or LGIA, if already executed represents the proposed renewable resource equipment and configuration and will not require a material modification¹⁶ to add a BESS.
 - c. BESS dispatch, when paired with renewable resource, must not exceed the LGIA's capacity.
- 3. Non-renewable
 - a. Note that the pro forma agreements in **Appendix E-2 - PPA Documents** are tailored for new resources and specific technologies; conforming changes may be required for existing resources or other types of resources.

For standalone BESS or PSH, PacifiCorp will utilize the pro-forma BSA in **Appendix E-3 – BSA Documents** and the PSH toll termsheet in **Appendix E-4 – PSH Documents**.

A general description and instructions are included in the **RFP Appendices**. In addition to the bid narrative and bid organization instructions in **Appendix B-2 - Instructions and Information Required in Bid Proposals**, PPA, BSA or PSH bidders should reference the submittal checklist in **Appendix E-1 PPA Instructions to bidders**.

The bidder's proposal must contain their redline to the applicable pro forma documents based on the specific bid; **Appendix E-2 – PPA Documents**, **Appendix E-3 – BSA Documents**, or **Appendix E-4 – PSH Documents**. The redline should contain all of Bidder's exceptions to the terms and conditions of the pro forma document. Bidders objecting to terms should provide alternate language and context to the objections for PacifiCorp to evaluate the alternate language. A bid that only provides a statement of "to discuss" or similar non-substantive commentary on the pro-forma agreement terms will be considered a non-conforming bid and subject to potential rejection in this RFP. Bidders should also submit comments to the pro forma agreement on issues that they have concerns with and identify alternatives to address the issues. While substantive comments to the pro-forma agreement are considered as part of the non-price scoring, PacifiCorp is looking for the completeness of the task and not the content in evaluating a project for inclusion in the initial shortlist, recognizing that substantive comments will be addressed in more detail with the bidders after selection to the initial shortlist.

All bidders in this category must complete the information requested in **Appendix C-2 - Bid Summary and Pricing Input Sheet** (PPA tabs listed in Section 4.B of RFP). PacifiCorp will accept PPA and PPA with BESS bids up to 30 years. A pumped storage hydro bid may submit a contract term longer than 30 years.

PacifiCorp reserves the right to request bid cash flow information in order to complete its evaluation for capital lease accounting for tax purposes on PPAs of longer duration, if necessary.

¹⁶ As defined in PacifiCorp Transmission's OATT.

D. BUILD TRANSFER AGREEMENT (BTA) PROPOSALS

PacifiCorp will consider build-transfer transactions whereby the bidder develops the resource, assumes responsibility for construction and then ultimately transfers the project to PacifiCorp upon or before the operation date, all pursuant to the terms of a BTA. The bidder will be responsible for all aspects of the development and construction of the facility, including, but not limited to, permitting, engineering, procurement, construction, interconnection and all related costs up to achieving commercial operation. Without limiting the foregoing, the bidder will be responsible for obtaining all permits, rights and resources required to construct and provide an operational generation resource consistent with the bidder's proposal.

In the 2020AS RFP, PacifiCorp is seeking build-transfer transactions for the following resource alternatives as previously summarized in Table 1:

1. New Renewable – Category A-2
 - a. BTAs will only be accepted for assets that are directly interconnected to PacifiCorp's system.
 - b. Conforming changes may be required in **Appendix F-2 - BTA Termsheet** to reflect specific resource types.
2. Renewable plus storage – Category B-2
 - a. Bidders should secure confirmation from PacifiCorp Transmission that the facility's interconnection request or LGIA, if already executed represents the proposed renewable resource equipment and configuration and will not require material modification to add a BESS.
 - b. BESS dispatch, when paired with renewable resource, must not exceed the LGIA's capacity.

In addition to the bid narrative and bid organization instructions in **Appendix B-2 - Instructions and Information Required in Bid Proposals**, BTA bidders should reference the submittal checklist in **Appendix F-1 - BTA Instructions to bidders**.

The bidder's proposal must contain their redline or other substantive comments to the BTA Termsheet provided in **Appendix F-2 – BTA Termsheet**. Bidders objecting to terms should provide alternate language and context to the objections for PacifiCorp to evaluate the alternate language. A bid that only provides a statement of "to discuss" or similar non-substantive commentary on the termsheet terms will be considered a non-conforming bid and subject to potential rejection in this RFP. While substantive comments to the BTA termsheet will be considered in evaluating a project for inclusion in the initial shortlist, substantive comments will be addressed in more detail with the bidders after selection on the initial shortlist and before development of the initial shortlist.

All bidders in this category must complete the information requested in **Appendix C-2 - Bid Summary and Pricing Input Sheet** (BTA tabs listed in Section 4.B of RFP).

The bidder must provide information, representations, and warranties sufficient to assure PacifiCorp that any proposed project will successfully complete construction and achieve full commercial operation by December 31, 2024, with the exception of the long-lead time resources identified as pumped storage hydro resources for the 2020AS RFP. BTA projects must provide documentation that the proposed resource will be eligible to claim any applicable federal or state

tax credits or other benefits¹⁷ as interpreted by applicable guidelines and rules of the federal Internal Revenue Service or applicable state revenue authority.

Bidders will be responsible for submitting an operation and maintenance (O&M) service proposal as part of the overall BTA bid submittal consistent with the terms shown in **Appendix K - General Services Contract for Operation and Maintenance Services**. Any BTA proposal that does not include an O&M proposal that contains pricing, scope and other key terms will be rejected as a nonconforming proposal.

Bidders should note that any proposal submitted in this BTA category must comply with the applicable technical and construction specifications contained in **Appendix A - Technical Specifications**¹⁸ and must use the services of a single primary contractor.

To the extent the bidder uses a contractor or a separate legal entity other than the bidder itself, this entity must be experienced with the type of facility being proposed and meet credit criteria which may include a requirement for a parental guarantee, all as deemed acceptable to PacifiCorp in its sole discretion.

SECTION 5. RESOURCE INFORMATION

A. BID INFORMATION AND PRICING INPUTS

Appendix C-2 - Bid Summary and Pricing Input Sheet is an Excel-based worksheet that covers bid summary information, energy production profile, and pricing for bid type and category as described in Table 1 of the RFP. Bidders should reference the instructions in **Appendix C-1 - Bid Summary and Pricing Input Sheet (Instructions)** which provides detailed directions on each tab. Bidders are required to complete and submit **Appendix C-2 - Bid Summary and Pricing Input Sheet**, which contains ten (10) tabs.

B. RESOURCE PERFORMANCE ESTIMATE INFORMATION

Bidders are required to provide a resource performance estimate prepared by a third party expert. In the alternative, bidders can provide an in-house energy performance report subject to PacifiCorp being able to replicate the results.

Below is a summary of the requested resource performance information by resource type. Additional detail is provided in **Appendix C-3 - Energy Performance Report**.

WIND: For wind submittals, one (1) electronic and hard copy of an independent third-party or in-house wind assessment analysis/report supported by a minimum of (a) two years of wind data for

¹⁷ Bidders should provide specific details of claims for tax credits including legal opinions, equipment supply agreements, and documentation of ability to meet tax credit guidelines and rules.

¹⁸ PacifiCorp has included only common technical specifications and resource specifications for wind, solar, and BESS for BTA proposals. For other renewable resources, PacifiCorp will work through the resource specifications on an as needed basis.

BTA proposals from the proposed site or (b) one year of wind data for PPA proposals from the proposed site and one (1) electronic copy of the wind data that support the capacity factor.

SOLAR: For solar proposals, Bidder must provide one (1) electronic and hard copy of the PVSyst report and also the complete set of modeling input files in Microsoft Excel format that PacifiCorp can use to replicate the performance using PVSyst, PacifiCorp's preferred solar performance model. 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. The performance estimation reports must meet the requirements in **Appendix A – Technical Specifications** for Solar. Production estimates should be representative P-50 annual hourly (8760 hours) energy profile reflecting expected unit availability and annual degradation as supported in vendor documentation. In the event the bidder chooses to use different performance modeling software than specified, the bidder must provide sufficient data and inputs for PacifiCorp to validate the expected performance of the proposed resource.

GEOHERMAL: For geothermal proposals, a minimum of one production well and one injection well flow results for one year to support the viability and capacity of the geothermal resource along with a third party or in-house resource assessment report supporting the expected capacity factor.

BIOMASS: For biomass proposals, a letter of intent with a biomass fuel source for a period of ten (10) years or greater along with a third party or in-house resource assessment report supporting the expected capacity factor.

BIOGAS: For biogas proposals, a third party or in-house resource assessment report supporting the expected capacity factor. Report to include at a minimum, history of landfill, total volume permitted, volume filled, estimated closure date, organic fraction of the municipal solid waste, moisture levels, temperature and pH of the waste, future waste receipt, increase or decrease and average rainfall in the area.

STORAGE: For BESS proposals, the third party or in-house report should discuss system degradation, controls, location, life, cycles, load duration, description of shared facilities with the associated renewable generation facility and the other applicable information supporting the BESS expected performance.

OTHER: For all other renewable and non-renewable resource submittals, one (1) electronic and hard copy of an independent third party or in-house energy analysis/report supported by a minimum of (a) two years of motive force data (i.e., fuel acquisition, water flow, thermal well production, etc.) from the proposed site. Data must support the resource's capacity factor.

C. DIRECT INTERCONNECTION TO PACIFICORP'S SYSTEM

PacifiCorp Transmission received an order from FERC¹⁹ on May 12, 2020 allowing PacifiCorp Transmission to reform its interconnection study process set forth in its Open Access Transmission Tariff (OATT). The interconnection queue reform process replaces the existing “serial queue” interconnection study process with a “first-ready, first-served, cluster” interconnection study approach. PacifiCorp’s 2020AS RFP process for bid evaluation, scoring, modeling, and selection reflects PacifiCorp Transmission’s interconnection queue reform process as described in its OATT.

In the 2020AS RFP at the conclusion of the transition interconnection cluster study process, PacifiCorp will consider a bidder’s interconnection documentation and costs.

PacifiCorp anticipates that it will receive bids having progressed through various stages of the interconnection study process. On one end of the spectrum, some bids are likely to have executed a LGIA with PacifiCorp Transmission, while on the other end of the spectrum, other bids are likely to have only submitted an interconnection request that will not yet have been studied. To ensure there is a fair comparison among bids, while the company will be reviewing the bidder’s interconnection documentation to confirm it aligns with the bidder’s bid, 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 a bid requirement or included in the initial shortlist price evaluation.

Bidders will be required to meet the minimum eligibility requirement for RFP conformance demonstrating that its project bid conforms with the project’s interconnection documentation, which could be: (a) only an interconnection request, as long as it was submitted by the interconnection customer to PacifiCorp’s transmission function on or before January 31, 2020; (b) serial-queue interconnection study documentation if the bidder has the option to keep that documentation under the parameters of PacifiCorp’s proposed interconnection queue reform transition process; or (c) an executed LGIA.

At the conclusion of the transition cluster study phase, as part of updating bid pricing, bids selected to the initial shortlist will be required to provide direct assigned and network upgrade costs either from their cluster study results, their interconnection study documentation (if the bidder has retained the documentation under the parameters of PacifiCorp’s interconnection queue reform process), or from their executed LGIA.

Bidders should be aware of and clearly understand the specific steps, criteria, milestones and schedule of PacifiCorp Transmission queue reform and transition cluster study process. Bidders selected to the initial shortlist who are rejected by PacifiCorp Transmission for not meeting all

¹⁹ FERC Docket ER20-924

of PacifiCorp Transmission's non-commercial readiness criteria necessary to be included in the transition cluster study will be removed by PacifiCorp from the initial shortlist and deemed non-conforming bids.

D. TRANSMISSION SERVICE FOR DELIVERY TO PACIFICORP'S SYSTEM

PacifiCorp will not accept build-transfer transactions for projects using third-party transmission service for delivery to PacifiCorp's system.

PacifiCorp's 2020AS RFP is accepting new and existing resources, proposed under a PPA transaction, capable of interconnecting with a third-party transmission system and using third-party firm transmission service to deliver to PacifiCorp's transmission system. The minimum eligibility requirements for off-system bidders include an unredacted interconnection system impact study with the third party transmission provider and documentation²⁰ 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.

Bidders choosing the third-party interconnection and third-party transmission option are responsible for any current or future third-party tariff requirements or tariff changes including, but not limited to, interconnection, variable energy resource, electric losses, reserves, transmission, integration, imbalance, scheduling, and ancillary service arrangements required to deliver to the point of delivery on PacifiCorp's system. These costs will not be included in the evaluation of PPA proposals as they are assumed to be the responsibility of the bidder.

Bidders that propose bids relying on third-party transmission should also be aware that the use of transmission that is interruptible within the hour in any segment of the schedule or tagged from the source to the point(s) of delivery will require PacifiCorp to evaluate the cost and need to carry reserves against the schedule, which can be up to 100% in the case of electricity moved from a third party balancing authority area to PacifiCorp's network transmission system.

The PPA for a winning bid will contain contract milestone to provide an executed third party transmission service agreement six (6) months prior to the project's contracted commercial operations date.

²⁰ Transmission service documentation to PacifiCorp's system is two-fold; firm capacity is available on third-party transmission provider and bidder has made a request to the third-party transmission provider to acquire firm point-to-point transmission service to PacifiCorp's system. Documentation should include copies of direct, dated correspondence from transmission service provider to bidder, showing evidence a request for transmission service was in fact made, and transmission provider is indicating to bidder that firm, uninterruptible transmission service will be available for bidder to procure, for a specified OATT service, and identified MW capacity, POR, POD, and term. Dated correspondence should be at least within 6 months of bid submittal.

E. NETWORK TRANSMISSION SERVICE ON PACIFICORP'S SYSTEM

All proposals will require firm transmission on PacifiCorp's network transmission system to load and proposed resources must be able to be designated by PacifiCorp's merchant function as a network resource eligible for inclusion in PacifiCorp ESM's network integration transmission service agreement with PacifiCorp's transmission function (www.oasis.pacificorp.com). The terms and conditions specific to PacifiCorp's network transmission service request are further discussed in the pro forma PPA or BSA in **Appendix E-2 - PPA Documents** or **Appendix E-3 – BSA Documents** and the BTA term sheet in **Appendix F-2 - BTA Term Sheet**. Note, PacifiCorp's PPA, BSA, and BTA will include the following non-negotiable term: *"PacifiCorp shall have the right to terminate this Agreement if Network Service Provider confirms through the Tariff study process that network upgrades will be required on the Network Service Provider's transmission system in order to accept PacifiCorp's request to designate this Agreement as a Network Resource and the estimated cost to PacifiCorp of such network upgrades are in excess of XXX million dollars (\$X,000,000); provided, however, that such termination right under this section shall expire up to one hundred and eighty (180) days following the Effective Date (as may be extended for up to fifteen (15) additional days pursuant to the subsequent provision); provided, further, that prior to the exercise of such termination right, PacifiCorp shall deliver written notice to Seller of PacifiCorp's intent to terminate this Agreement and, unless the Parties otherwise mutually agree upon an alternative solution."*

F. TAX CREDITS AND/OR PROJECT INCENTIVES

Bidders bear all risks, financial and otherwise, associated with their or a facility's eligibility to receive any state or federal energy tax credits, sales tax waivers or exemptions, payment in lieu of tax (PILOT), or any other identified tax- or accounting-related, incentive, or benefit. The obligations of a bidder to perform under any executed agreement as a result of this solicitation remain effective and binding regardless of whether the sale of or the output from a bidder's facility under such agreement is eligible for or receives and tax credits or other tax- or accounting-related incentives or benefits.

For build-transfer transactions, PacifiCorp will require written attestation by an officer and documentation of the amount, timing and control of any and all available tax credits/incentives that the bidder's facility is eligible for, applied for, and/or received. Such documentation must include but not be limited to ownership rights to the credit, grant or incentive, timing including expiration dates and milestones to achieve the credit, grant, or incentive.

G. ACCOUNTING

All contracts proposed to be entered into as a result of this RFP will be assessed by PacifiCorp for appropriate accounting and tax treatment. Bidders are required to supply, upon request by PacifiCorp, any and all information that PacifiCorp reasonably requires in order to make these assessments if the bid is selected to the initial shortlist. Specifically, given the term length of the PPA, or the useful life of the asset to be acquired under an asset acquisition, accounting and tax rules may require either: (i) a contract be accounted for by PacifiCorp as a capital lease or

operating lease²¹ for book purposes pursuant to ASC 840, (ii) a contract be accounted for by PacifiCorp as a capital lease for tax purposes,²² or (iii) assets owned by the seller, as a result of an applicable contract, be consolidated as a variable interest entity (VIE) onto PacifiCorp's balance sheet.²³ Potential accounting treatment impacts may be incorporated into the bid evaluation and selection process. For instance, if PacifiCorp determines that a long term PPA offering would be treated as a capital lease for tax purposes, PacifiCorp would be treated as the tax owner for the proposed facility.

H. COST ASSOCIATED WITH DIRECT OR INFERRED DEBT

PacifiCorp will not take into account potential costs to PacifiCorp associated with direct or inferred debt (described below) as part of its economic analysis in the initial shortlist evaluation. However, after completing the final shortlist and before the final resource selections are made, PacifiCorp may take direct or inferred debt into consideration. In so doing, PacifiCorp may obtain a written advisory opinion from a rating agency to substantiate PacifiCorp's analysis and final decision regarding direct or inferred debt.

Direct debt results when a contract is deemed to be a capital lease pursuant to ASC 840 and the lower of the present value of the nonexecutory minimum lease payments or 100% of the fair market value of the asset must be added to PacifiCorp's balance sheet.

Inferred debt results when credit rating agencies infer an amount of debt associated with a power supply contract and, as a result, take the added debt into account when reviewing PacifiCorp's credit standing.

SECTION 6. BID EVALUATION AND SELECTION

OVERVIEW OF THE EVALUATION PROCESS

PacifiCorp's bid evaluation and selection process is designed to identify the combination and amount of new resources that will maximize customer benefits through the selection of bids that will satisfy projected capacity and energy needs while maintaining reliability. Based on proxy resource cost assumptions used in the 2019 IRP, energy and capacity needs were best satisfied by the resource selections summarized in **Appendix H - 2020AS RFP Locational Capacity Limits**. The models that PacifiCorp will use to evaluate and select the best combination and amount of bids are the same models that were used to evaluate proxy resources in PacifiCorp's 2019 IRP.

²¹ The terms "Capital Lease" and "Operating Lease" have the meaning assigned to such terms in the Accounting Standards Codification (ASC) 840 as issued and amended from time to time by the Financial Accounting Standards Board (FASB).

²² See IRS Code Section 7701(e) describing the test for capital lease for tax purposes.

²³ The term "Variable Interest Entity" or "VIE" - has the meaning assigned to such term in ASC 810 as issued and amended from time to time by the FASB.

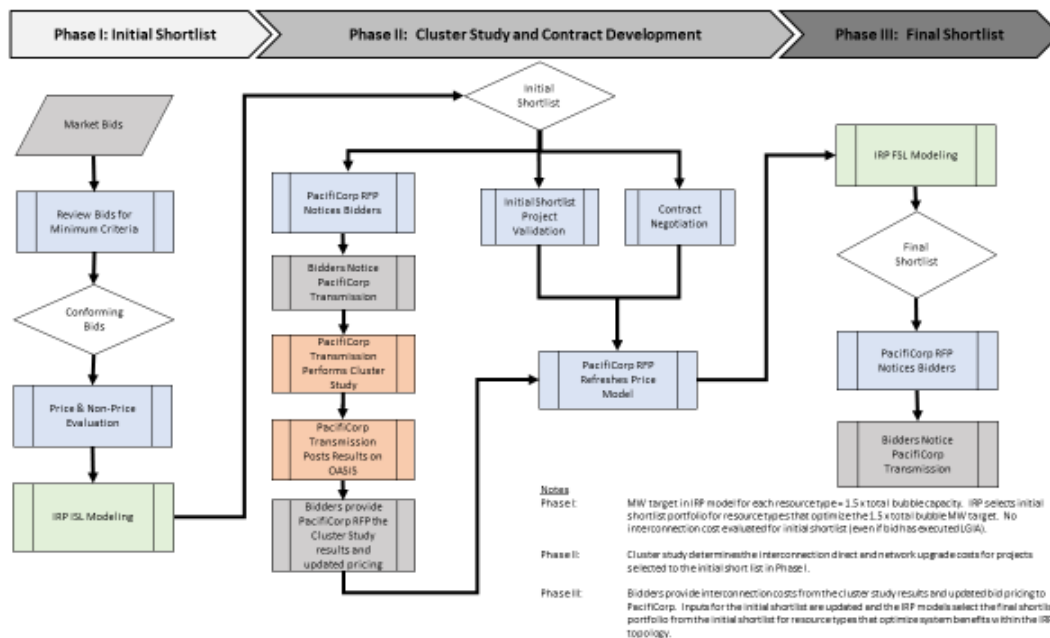
PacifiCorp uses the IRP modeling tools to serve as decision support tools that can be used to guide prudent resource acquisition paths that maintain system reliability at a reasonable cost.

The bid evaluation process is designed to reflect PacifiCorp Transmission's interconnection queue reform including the transition period milestones and process steps. At a high level, the 2020AS RFP evaluation process involves three phases:

1. Initial shortlist
2. Interconnection cluster study and contract development, and
3. Final shortlist

The 2020AS RFP evaluation process is shown in Figure 1.

Figure 1. Bid Evaluation and Selection Process



A. PHASE I – INITIAL SHORTLIST

Phase I entails the acceptance of the bid, due diligence and screening to ensure bids conform with minimum requirements established in the 2020AS RFP, price and non-price scoring and ranking of the bids based on their location in relationship to the 2020 IRP topology and resource type, and advancing the lowest cost bids to the initial shortlist. During this phase of the bid evaluation process, PacifiCorp will not ask for, or accept, updated pricing or updates to any other bid components. PacifiCorp will rely on the pricing and other inputs as submitted into the 2020AS RFP for each bid. However, PacifiCorp will contact bidders to confirm and clarify information presented in each proposal. The pricing model will be made available to the IE, but not to bidders or stakeholders.

1. Conformance to Minimum Requirements

Bids will initially be screened after receipt against minimum requirements for RFP conformance, and after IE review and consultation, non-conforming bids will be notified to correct their bid within two (2) business days or be removed from the RFP. PacifiCorp will screen each project bid and confirm that it conforms with the project's interconnection documentation, which could be: (a) an interconnection request, as long as it was submitted by the interconnection customer to PacifiCorp Transmission on or before January 31, 2020; (b) serial-queue interconnection study documentation if the bidder has the option to keep that documentation under the parameters of PacifiCorp's proposed interconnection queue reform transition process; or (c) an executed LGIA.

2. Price and Non-Price Scoring and Ranking

Conforming bids will be evaluated using PacifiCorp's proprietary pricing models and ranked by resource type within each IRP topology location. PacifiCorp will limit the capacity in a given location to 150% of the capacity chosen by company's 2019 IRP preferred portfolio. This will be expanded further by selecting on a resource basis, a pool of up to the 150% capacity level for each IRP topology location. Those targets are shown in **Appendix H - 2020AS RFP Locational Capacity Limits** in the topology map on the right. For locations where the IRP preferred portfolio did not include any new resources in the 2023-2024 time frame, PacifiCorp will limit the total capacity by resource type to be no greater than 150% of the capacity available via enabling transmission upgrades for that location as assumed when developing the 2019 IRP.²⁴

For example, in Southern Oregon, which is shown on the 2019 IRP Preferred Portfolio topology map to the left in **Appendix H**, 500 MW of solar and 125 MW of BESS were selected by the 2019 IRP. Bids located in Southern Oregon would be separated by resource type (*i.e.*, solar, solar with a BESS, wind, etc.), then ranked and selected up to a total of 750 MW for each resource type²⁵, meaning that up to 750 MW of solar, 750 MW of wind, 750 MW of solar with BESS, etc. if available, would be scored and ranked in Southern Oregon for possible selection to the initial shortlist.

Bids including long-lead time resources will be evaluated as a separate resource type categories in each location in its evaluation and development of the Initial Shortlist. If no bids for a specific resource type are submitted, that resource type will not be included in the location. If PacifiCorp determines that there is a distinct change in bid scores at a level of capacity that falls short or exceeds this capacity limit, the company will coordinate with the IE to establish a limit by resource type that could either fall below or exceed the maximum total capacity for a given location.

Wyoming East – PacifiCorp eastern Wyoming region of the PACE BAA is treated differently from other topology areas because the interconnection capacity in that area has been studied

²⁴ IRP Table 6.11 – Transmission Integration Options by Location and Capacity Increment

²⁵ BESS capacity will be limited to 25% of the nameplate capacity of the collocated solar capacity (*i.e.*, in Southern Oregon, 750 MW of solar would select 190 MW of BESS). PSH will be evaluated as a separate resource type in each location.

extensively as part of PacifiCorp Transmission's long-term transmission planning resulting in the planned addition of Gateway South, a 500 kV high-voltage transmission line that will extend approximately 400 miles from the proposed Aeolus substation in southeastern Wyoming into the Clover substation near Mona, Utah. That expansion will enable approximately 1,920 MW of interconnection capability for generation projects in this area and therefore the capacity limit will be specifically tied to 1,920 MW. Bids in the Wyoming east cluster area are expected to trigger Gateway South to be added and account for its cost as part of the initial shortlist modeling process and later in the final shortlist modeling and selection process for the combined resources selected and the Gateway South transmission project.

- **Price Score (up to 75%).** PacifiCorp will calculate the delivered revenue requirement cost of each bid, inclusive of any applicable carrying cost and net of tax credit benefits, as applicable. In developing revenue requirement costs, PacifiCorp will use cost data for each bid. Table 4 contains a summary of the cost / benefit components included in PacifiCorp's analysis by bid structure.

Table 4. Summary of Cost/Benefit Components by Bid Structure

Component	PPA Option	BTA Option	BSA Option
Initial Capital Revenue Requirements (net of ITC, if solar)	-	(X)	-
Ongoing Capital Revenue Requirements	-	(X)	-
PTC Benefit (if wind)	-	Z	-
Terminal Value	-	Z	-
O&M, Lease/Royalty, Insurance	-	(X)	-
Property Taxes	-	(X)	-
State Generation Tax (if Wyoming or Montana)	-	(X)	-
Network Upgrade Revenue Requirements	(X)	(X)	(X)
Transmission Wheeling and Losses (if off-system)	(X)	(X)	(X)
PPA Price	(X)	-	-
Storage Costs	(X)	(X)	(X)
Energy Arbitrage and Operating Reserve Storage Value ²⁶	Z	Z	Z
Generation Energy Value (net of balancing area reserve obligation)	Z	Z	-
Integration Cost	(X)	(X)	-
	Z	Benefit	
	(X)	Cost	

²⁶ Energy Arbitrage and Operating Reserve Storage Value are only required in the cases for a PPA or a BTA bid that include a storage (e.g. battery) component and are used in the StorageVET model.

Any internal assumptions for key financial inputs (*i.e.*, inflation, discount rates, marginal tax rates, asset lives, AFUDC rates, *etc.*) and PacifiCorp carrying costs (*i.e.*, integration costs, owner's costs, *etc.*) will be applied consistently to all bids, as applicable. PacifiCorp anticipates that it will receive bids having progressed through various stages of the currently effective serial queue interconnection study process. On one end of the spectrum, some bids are likely to have executed LGIA with PacifiCorp Transmission, while on the other end of the spectrum, other bids are likely to have only submitted an interconnection request that will not yet have been studied. To ensure there is a fair comparison among bids, while the company will be reviewing the bidder's interconnection documentation to confirm it aligns with the bidder's bid, 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. At the conclusion of the transition cluster study phase, as part of updating bid pricing, bids selected to the initial shortlist will be required to provide direct assigned and network upgrade costs either from their cluster study results, their interconnection study documentation (if the bidder has kept the documentation under the parameters of PacifiCorp's interconnection queue reform process), or from their executed LGIA. At that time, bidders shall include their direct assigned and network upgrade costs in their refreshed prices for final short list evaluation.

The cost of each bid will be netted against system-value curves, which will be developed and locked down with the IE in advance of receiving bids. The system-value curves will be developed from Planning and Risk (PaR) model simulations that will calculate the hourly marginal system energy value of a flat energy profile and the hourly marginal operating reserve value of a flat operating reserve profile, by location.

Bid costs net of the applicable system-value will be used to assign a price score to each bid. This will be achieved by calculating an inflation-adjusted real-levelized net cost of capacity expressed in "\$/kW" based on the capacity contribution of each bid. This value will be force ranked, with a maximum of 75 points to the evaluated bid with the highest calculated net benefit by location and resource type, a minimum of zero (0) points to the evaluated bid with the lowest calculated net benefit; and the remaining bids scored on the 0 to 75 point scale according to the relationship of their respective calculated net benefits to those of the highest and lowest bids.

- Non-Price Score (Up To 25%). The non-price analysis will gauge the maturity and readiness of the project including development, site control, permitting, equipment procurement, conformance to PPA or BTA terms and conditions, schedule, and operational characteristics and the associated risks of each bid. A matrix will be used for each non-price factor and is included in **Appendix L – Non-Price Scoring Matrix**.²⁷ For each non-price factor, proposals will be assigned one of three discrete scores: (1) 100% of the

²⁷ OAR 860-089-400-2(b).

percentage weight; (2) 50% of the percentage weight; or (3) 0% of the percentage weight as shown in the Non-Price Scoring Matrix. Bids will be evaluated based on their ability to demonstrate the proposal is thorough, comprehensive and provides limited risk to PacifiCorp before PacifiCorp performs due diligence on any given bid. Bidders that have a demonstrated track record and bids for mature proposals will receive higher scores. The following table summarizes the basis for weighting each non-price factor.

Table 5. Non-Price Factor Weighting

Non-Price Factor	Non-Price Factor Weighting
1. Bid Submittal Completeness	5%
2. Contracting Progression and Viability	5%
3. Project Readiness and Deliverability	15%

PacifiCorp will use the combined price and non-price results to rank bids. Based on these rankings, PacifiCorp will identify an initial pool of resources by location and resource type based on the total bid score (maximum at 100%, with a maximum of 75% for price and a maximum of 25% for non-price factors). This initial pool of resources will be made available as resource alternatives for IRP modeling.²⁸

3. IRP Modeling and Selection of the Initial Shortlist

Upon identification of the initial pool of bids, bid inputs will be submitted to the IRP team for modeling of the resources using the production cost models used in the 2019 IRP. The production cost models will select the optimized portfolio of resources subject to the same total capacity limits used to score and rank bids in the initial pool of resources. As noted above, PacifiCorp will limit the capacity in a given location to 150% of the capacity included in the company's 2019 IRP preferred portfolio. For locations where the IRP preferred portfolio did not include any new resources in the 2023-2024 time frame, PacifiCorp will limit the total capacity by to be no greater than 150% of the interconnection capacity for that location as assumed when developing the 2019 IRP. Note, that the IRP modeling tools will selection among the least cost resource types by location based on bid cost and performance data.

As was done in the 2019 IRP, reliability analysis will be performed on all initial bid selections to ensure that the selected portfolio of resources can meet all hourly load and operating reserve requirements with sufficient cushion to account for other system uncertainties such as non-normal weather events. Should incremental flexible resource capacity be required to maintain system reliability through 2024, these resources will be selected from bids capable of providing incremental flex capacity.

²⁸ Note, in instances where bidders offer a bid alternative for the same resource type in the same location, only the highest scoring bid alternative for that location and resource type will be included in the initial pool of resources.

PacifiCorp will not make any of the IRP evaluation models available to the IE, bidders, or stakeholders. However, PacifiCorp will summarize how the IRP evaluation models function for the IE, who will have full access to the inputs and outputs of all IRP models used during the evaluation process.

4. Initial Shortlist Notification by PacifiCorp

PacifiCorp will notify bidders that were selected to the initial shortlist in Phase I.

5. Bidder Notification to PacifiCorp Transmission

Bidders will then be required to notify PacifiCorp Transmission of their selection to the initial short list to demonstrate they have met the “commercial readiness” criteria (in addition to having satisfied any other PacifiCorp Transmission defined requirements) established in PacifiCorp Transmission’s interconnection queue reform process. Bidders will be responsible to ensure that their bid(s) submitted to PacifiCorp in response to the 2020AS RFP are in compliance with and represent existing interconnection service requests, study documentation, or existing contracts between Bidder and PacifiCorp Transmission.

Bidders assume the risk, and PacifiCorp will not be held liable, in the event that a bid selected to the initial shortlist in the 2020AS RFP is deemed ineligible for PacifiCorp’s transition cluster study due to deviations between the submitted project bid and the LGIA, study documentation, or application associated with such project as submitted to PacifiCorp Transmission, or due to a Bidder’s failure to satisfy any other requirement of PacifiCorp’s OATT. Bidders will be required to meet all requirements of PacifiCorp Transmission’s transition cluster study process including deposits, payments, milestones and any penalties associated with withdrawals from the transition cluster process and could be subject to disqualification from the 2020AS RFP for any violation during the transition cluster study process.

B. PHASE II – INTERCONNECTION CLUSTER STUDY AND CONTRACT DEVELOPMENT

Phase II is composed of the following tasks: transition cluster study report issued by PacifiCorp Transmission, resource capacity factor verification and storage performance performed by third-party consultants for PacifiCorp, preliminary contract negotiations with the initial shortlist bidders, and bid update by the initial shortlist.

1. Interconnection Cluster Study Report

The transition interconnection cluster study report is expected to take approximately six months and will be performed by PacifiCorp Transmission in accordance with its approved transition interconnection queue reform process.

2. Resource Capacity Factor Verification and Storage Performance

PacifiCorp will engage a third-party subject matter expert to verify the capacity factor of the proposed wind and solar resources selected to the initial shortlist consistent with Oregon rule 860-089-0400 5(a). In addition, PacifiCorp will engage a third-party subject matter expert to assist in the evaluation of bids including storage, specifically focused on the operating characteristics and specifications of the storage resource proposed by the bidder. This task will be done in parallel with the transition cluster study.

3. Contract Development

PacifiCorp will engage the initial shortlist bidders to work through terms and conditions in the applicable pro forma agreement or term sheet for each proposal using the submitted issues list and agreement mark-up contained in their bid. All initial shortlisted bidders will be expected to complete a near-final draft contract specific to their project on the timeline established in the 2020AS RFP, including any long-lead resources making the initial shortlist. Delay in completing the negotiations of a near-final draft contract may result in removal from the initial shortlist. Completing a near-final draft contract does not guarantee bidder selection to PacifiCorp's final shortlist. Only execution of a definitive agreement between PacifiCorp and the bidder after the final shortlist selection, on terms acceptable to PacifiCorp, in its sole and absolute discretion, will constitute a winning bid proposal.

4. Bid Update

At the conclusion of the interconnection cluster study process, results of the transition cluster study will be posted to OASIS and participating parties including the initial shortlist bidders will be notified of their results. Bidders will be required to update their bid pricing and to include the direct assigned and network upgrade costs associated with interconnection either from their cluster study results, their interconnection study documentation, or from their executed LGIA. Best and final pricing must be provided for the same site using the same LGIA, study documentation, or application associated with the original bid, the same or similar project equipment, and on the same development and construction timeline as originally proposed.

C. PHASE III – FINAL SHORTLIST

Phase III is the selection of the final shortlist. In Phase III, the same production cost models used for the IRP and for selection of the initial shortlist in Phase I will be rerun for the initial shortlist resources with updated bid pricing and interconnection costs results from either the bidder's cluster study results, their serial-queue study documentation, or their LGIA. After confirming that updated pricing meets the requirements of the 2020AS RFP, PacifiCorp will use the same proprietary models used for the Phase I initial ranking, with the bids' interconnection information, updated pricing, verified capacity factor, and storage evaluation, if applicable, to process bid costs for input into the IRP production cost models. PacifiCorp will use its System Optimizer (SO) model (the same model used by PacifiCorp to develop resource portfolios in the 2019 IRP) to develop a resource portfolio. As was done in the 2019 IRP and in Phase I, PacifiCorp will perform a reliability assessment to ensure that the selected portfolio of resources can meet all hourly load and operating reserve requirements

with sufficient cushion to account for other system uncertainties such as non-normal weather events. Should incremental flexible resource capacity be required to maintain system reliability, these resources will be selected from the initial shortlist of bids that are capable of providing incremental flex capacity or remove resources to hit the targeted reliability requirements. PacifiCorp will not update the non-price portion of the bid evaluation from Phase I. Cost and risk analysis, along with any other factors not expressly included in the formal evaluation process, but required by applicable law or commission order, will be used by PacifiCorp, in consultation with the IE, to establish the final shortlist.

1. Processing of Best and Final Bids

In processing bid costs, PacifiCorp will convert any calculated revenue requirement associated with capital costs, as applicable (i.e., return on investment, return of investment, and taxes, net of tax credits, as applicable) to first-year-real-levelized costs, consistent with the treatment of capital revenue requirement in PacifiCorp's IRP modeling. All other bid costs will be summarized in nominal dollars and formatted for input into the IRP models, consistent with the treatment of non-capital revenue requirement in PacifiCorp's IRP modeling. Projected renewable resource performance data (expected hourly capacity factor information) will also be processed for input into the IRP models.

2. Bid Resource Portfolio Development

The initial shortlist with updated pricing and costs will be submitted to the IRP modeling team representing the final shortlist pool from which the IRP models will select the final short list. However, with the cluster study results available, resource selections will be informed by interconnection costs and potential limits on interconnection capacity. PacifiCorp will SO to develop a resource portfolio, tested for reliability, that contains the selection of updated initial shortlist bids providing the lowest cost, to establish the final shortlist. If during the reliability assessment, the selected portfolio of resources does not meet all hourly load and operating reserve requirements with sufficient cushion to account for other system uncertainties such as non-normal weather events, and incremental flexible resource capacity is required to maintain system reliability, PacifiCorp in consultation with the IE, may add resources from the initial shortlist of bids that are capable of providing incremental flex capacity or remove resources to hit the targeted reliability requirements. Bids will be available for selection to the resource portfolio for a range of different environmental policy and market price scenarios (policy-price scenarios).²⁹

²⁹ Policy-price scenarios will be conceptually consistent with those used in the 2019 IRP (i.e., alternative environmental policy assumptions among low, medium, and high price scenarios), but updated to reflect PacifiCorp's assessment of the most current information. Policy-price scenario assumptions will be established and reviewed with the IE before updated bids with updated pricing are received and opened.

3. Stochastic Risk Analysis

PacifiCorp will also evaluate each of the resource portfolios developed with the SO model using PaR—the same model used in PacifiCorp’s 2019 IRP to analyze stochastic resource portfolio risk. PaR captures stochastic risk in its production cost estimates, without altering the resource portfolio, by using Monte Carlo sampling of stochastic variables, which include: load, wholesale electricity and natural gas prices, hydro generation, and thermal unit outages. For purposes of the 2020AS RFP, PaR will be used to calculate the stochastic mean PVRR and the risk-adjusted PVRR for each policy-price scenario.³⁰

4. Identifying Top-Performing 2020AS RFP Renewable Resource Portfolios

PacifiCorp will summarize and evaluate the 2020AS RFP resource portfolios to identify the specific bid resources that are most consistently selected among the policy-price scenarios. Based on these data, and in consultation with the IE, PacifiCorp may select one or more 2020AS RFP resource portfolios for further scenario risk analysis.

5. Scenario Risk Analysis

This step of the evaluation process will help identify whether top-performing portfolios exhibit especially poor performance under a range of future policy-price scenarios. PacifiCorp will develop new system resource portfolios around the top-performing 2020AS RFP resource portfolios and calculate a system PVRR for each policy-price scenario. Similarly, the portfolios developed in the SO model will be evaluated in PaR, and PacifiCorp will calculate a stochastic mean PVRR and a risk-adjusted PVRR for each policy price-scenario.

6. Other Factors: Applicable Law and Statutory Requirements

Before establishing a final shortlist, PacifiCorp may take into consideration, in consultation with the IE, other factors that are not expressly or adequately factored into the evaluation process outlined above, particularly any factor required by applicable law or Commission order to be considered.

7. Final Shortlist Selection

PacifiCorp will summarize and evaluate the results of its scenario risk analysis, considering PVRR results, to identify the specific least-cost bids. Based on these data and certain other factors as described above, and in consultation with the IE, PacifiCorp may establish a final shortlist.

³⁰ The stochastic mean metric is the average of system net variable operating costs among 50 iterations, combined with the real-levelized capital costs and fixed costs taken from the SO model. The risk-adjusted metric adds 5% of system variable costs from the 95th percentile to the stochastic mean. The risk-adjusted metric incorporates the expected value of low-probability, high-cost outcomes.

Selection of the final shortlist may be conditioned on the results of a restudy under PacifiCorp Transmission's transition cluster study process.

After the final shortlist is established and approved, PacifiCorp will re-engage in negotiations with the selected bidders to finalize their contract and prepare the contract for execution. Selection of a bid to the final shortlist does not constitute a winning bid. Only execution of a definitive agreement between PacifiCorp and the bidder, on terms acceptable to PacifiCorp, in its sole and absolute discretion, will constitute a winning bid proposal.

SECTION 7. AWARDING OF CONTRACTS

A. INVITATION

This RFP contains only an invitation to make proposals to PacifiCorp. No proposal is itself a binding contract unless the parties execute definitive and complete documentation providing otherwise.

PacifiCorp may in its sole discretion do any one or more of the following:

1. Determine which proposals are eligible for consideration in response to this RFP.
2. Issue additional subsequent solicitations for information, and conduct investigations with respect to the qualifications of each bidder.
3. Supplement, amend, or otherwise modify this RFP, or cancel this RFP with or without the substitution of another RFP.
4. Negotiate with bidders to amend any proposal.
5. Select and enter into agreements with the bidders who, in PacifiCorp's sole judgment, are most responsive to the RFP and whose proposals best satisfy the interests of PacifiCorp and its customers, and not necessarily on the basis of price alone or any other single factor.
6. Issue additional subsequent solicitations for proposals.
7. Waive any irregularity or informality on any proposal to the extent not prohibited by law.
8. Reject any or all proposals in whole or in part.
9. Vary any timetable.
10. Conduct any briefing session or further RFP process on any terms and conditions.
11. Withdraw any invitation to submit a response.

B. BASIS OF REJECTION

Proposals may be rejected for any reason including but not limited to not meeting the minimum eligibility requirements identified in Section 3.H of this RFP.

C. NON-RELIANCE LETTER

All parties will be required to sign **Appendix G-2 - Non-Reliance Letter** if they qualify for the initial shortlist.

D. POST-BID NEGOTIATION

Post bid negotiations will be accomplished in two phases. PacifiCorp will negotiate initial terms and conditions of contracts with the initial shortlist in Phase II and further negotiate final contract terms including both price and non-price factors following issuance of the final shortlist. PacifiCorp will also include in its evaluation any factor that may impact the total cost of a resource, including but not limited to all of the factors used in the final shortlist cost analysis plus consideration of accounting treatment and potential effects due to rating agency treatment, if applicable. Post-bid negotiation will be based on PacifiCorp's cost assessment. PacifiCorp will continually update its economic and risk evaluations until both parties execute a definitive agreement for a selected resource acceptable to PacifiCorp in its sole and absolute discretion.

PacifiCorp has no obligation to enter into any agreement with any bidder to this RFP and PacifiCorp may terminate or modify this RFP at any time without liability or obligation to any bidder. In addition, this RFP does not in any way prevent PacifiCorp from entering into any agreement that PacifiCorp deems prudent, in PacifiCorp's sole discretion, at any time before, during, or after this RFP process is complete. Finally, PacifiCorp reserves the right to negotiate only with those entities that propose transactions that PacifiCorp believes in its sole discretion have a reasonable likelihood of being executed.

E. SUBSEQUENT REGULATORY ACTION

Unless mutually agreed between the parties in a definitive agreement or unless required by actual (or proposed) law or regulatory order, PacifiCorp does not intend to include a contractual clause whereby PacifiCorp is allowed to adjust contract prices in the event that an entity who has regulatory jurisdiction over PacifiCorp does not fully recognize the contract prices in determining PacifiCorp's revenue requirement. As of the issuance date for this solicitation, PacifiCorp is unaware of any such actual law or regulatory order.

F. RFP RESULTS

At the conclusion of the 2020AS RFP after execution of all contracts or cancellation of the RFP, PacifiCorp will make individual bidder's score available to the bidder, upon request³¹, and make a publicly available filing in the Oregon RFP docket providing the average bid score and the average price of a resource by resource type from the final shortlist³².

³¹ OAR 860-089-500(6)

³² OAR 860-089-500(5)