

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 600

In the Matter of Rulemaking Regarding
Allowances for Diverse Ownership of
Renewable Energy Resources

COMMENTS OF
RENEWABLE NORTHWEST

I. INTRODUCTION

Renewable Northwest submits these comments in response to the January 25, 2018 Notice (the “Notice”) that the Oregon Public Utility Commission (“Commission”) issued following initiation of the formal rulemaking phase of this docket. We appreciate the opportunity to comment on the four questions that the Commission posed in the notice.

We are also grateful to Commission Staff for their work preparing the proposed rules on Resource Procurement for Electric Companies (the “Proposed Rules”). In our experience, Staff was receptive to the different perspectives that stakeholders expressed at several workshops and in written comments submitted during the informal phase of this rulemaking. We view the Proposed Rules as a good starting point for the formal phase of this rulemaking.

II. RESPONSES TO COMMISSION QUESTIONS

We include below our initial responses to the questions that the Commission posed in the Notice. We reserve the right to provide further comment on these topics in our reply comments and at the upcoming Commissioner Workshop referenced in the Notice.

1. Is it appropriate to allow exemptions from certain competitive bidding rule sections if a Request for Proposal (“RFP”) does not incorporate or consider electric company ownership of resources?

At the root of this question is whether the purpose of a Commission-established competitive bidding framework is to address the bias in favor of utility-owned resources recognized by the Commission¹ or to ensure competition irrespective of potential ownership options being considered by a utility. In our view, the existing competitive bidding guidelines and the Proposed Rules being contemplated in this rulemaking are primarily—but not solely—intended to address that bias in favor of utility-owned resources.

In the informal part of the rulemaking, we noted that “[a] fair, transparent, and competitive resource procurement process is essential to the procurement of lowest cost and lowest risk resources.”² These goals are important regardless of the potential ownership outcomes from an RFP. However, given the Commission-recognized bias in favor of utility-owned resources, it seems reasonable for the competitive bidding rules to include additional process safeguards when an RFP could result in utility ownership of resources. Similarly, it seems reasonable to allow exemptions from some of the competitive bidding requirements if utility ownership of resources is not a factor.

2. Is the engagement and participation of an Independent Evaluator (“IE”) in the competitive bidding process valuable regardless of whether the RFP contemplates utility resource ownership options?

Engagement and participation of an IE in the competitive bidding process is valuable regardless of whether a utility RFP contemplates utility ownership options, but there are cost and process tradeoffs worth considering. Even under the premise that the primary role of the IE may

¹ UM 1276, Order No. 11-001 at 5 (Jan. 3, 2011) (“We too accept the premise that a bias exists in the utility resource procurement process that favors utility-owned resources over PPAs.”)

² We circulated those comments with Staff, utilities, and stakeholder on October 25, 2016.

be to “guard against the potential for utilities to favor utility owned-assets,”³ the IE’s participation in an RFP may nonetheless provide valuable confidence in the fairness and transparency of the procurement process. However, the costs of involving an IE must ultimately be borne by utility customers. Additionally, involving an IE may add to a lengthy regulatory and procurement process. In light of these tradeoffs, it seems reasonable for the Proposed Rules to include an option for the Commission to determine, on a case-by-case basis, that an IE is not necessary when a particular RFP does not contemplate any utility ownership options.

3. Can or should electric companies be compelled or encouraged to offer electric company owned facilities to bidders proposing non-utility owned resources if those same sites are utilized for benchmark or electric company owned bids?

In our view, it is reasonable for the Commission to encourage utilities to offer utility-owned facilities to bidders proposing non-utility owned resources when it is practicable and legally permissible for utilities to do so. The Proposed Rules require a utility that does not allow third-parties to submit bids using elements secured by the utility to include in its draft RFP filing “a statement explaining why it would not be in the interests of the electric company’s customers to make such elements available for use in third-party bids [...]”⁴ This requirement could be interpreted as encouraging utilities to offer utility-owned facilities to bidders proposing non-utility owned resources.

Utility stakeholders have argued that such an approach amounts to an implied requirement that utilities offer bidders access to utility property.⁵ We disagree with this interpretation of the Proposed Rules. There is a difference between compelling utilities to offer third-party bidders access to utility-owned property and requiring utilities to explain why

³ AR 600, Notice at 1 (Jan. 25, 2018).

⁴ Proposed OAR 860-0XX-0300(2) and (3).

⁵ AR 600, Idaho Power Comments on Staff Report at 3-4 (Jan. 16, 2018); AR 600, PGE Comments on Staff Report at 9-10 (Jan 16, 2018).

customers would not benefit from a utility making such elements available for third-party use. The Proposed Rules merely require an explanation.

The main issue we see with the approach taken in Proposed OAR 860-0XX-0300(2) and (3) is lack of clarity. For example, it is not clear from the Proposed Rules what sort of information must be included in the explanation. Similarly, it is not clear what consequences—if any—would flow from the explanation provided or from failure to include such an explanatory statement in the draft RFP filing. Exploring these questions could potentially lead to greater stakeholder comfort with the approach taken in the Proposed Rules.

4. Should transmission activity be subject to competitive bidding requirements?

In our view, transmission activity should not be subject to the competitive bidding rules that will emerge from the current rulemaking. Transmission activity has not been a topic of discussion during the informal phase of the rulemaking, and the Proposed Rules do not address transmission activity and instead would limit their application to energy, capacity, and storage resources.⁶

Transmission is an asset that can enable or defer the addition of energy and capacity resources, but this in itself does not render transmission an energy or capacity resource. Even if transmission may be treated as an energy or capacity resource for modeling purposes in connection with a utility's integrated resource planning process, this treatment does not mean that the resource functions this way in a utility's portfolio. Moreover, we understand that there are federal requirements that apply to transmission competition. Adding a Commission overlay via the competitive bidding rules at this time may overly complicate and delay an already complicated and lengthy process and as a result may discourage the development of needed transmission resources.

⁶ See Proposed OAR 860-0XX-0100(1).

III. CONCLUSION

We again thank the Commission for this opportunity to address these key policy issues related to competitive bidding requirements. We look forward to discussing these issues further with the Commission, Commission Staff, and interested stakeholders.

Respectfully submitted this 14th day of February, 2018.

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