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June 14, 2018

## *Via Electronic Filing*

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High St. SE, Suite 100  
Salem OR 97301

Re: In the Matter of Rulemaking Regarding Allowances for Diverse  
Ownership of Renewable Energy Resources.  
**Docket No. AR 600**

Dear Filing Center:

Please find enclosed the Comments of the Alliance of Western Energy Consumers on Proposed Rules in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch  
Jesse O. Gorsuch

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**AR 600**

In the Matter of	)	
	)	
Rulemaking Regarding Allowances for	)	COMMENTS OF THE ALLIANCE OF
Diverse Ownership of Renewable Energy	)	WESTERN ENERGY CONSUMERS
Resources.	)	ON PROPOSED RULES
_____	)	

Pursuant to the Oregon Secretary of State’s Notice of Proposed Rulemaking, the Alliance of Western Energy Consumers (“AWEC”) files these comments on the Oregon Public Utility Commission’s (“Commission”) Rulemaking Regarding Competitive Bidding Requirements.

AWEC appreciates the time and attention Commission Staff and stakeholders have expended in crafting the proposed rules and believes they have the potential to be an improvement over the existing competitive bidding guidelines (“Guidelines”). That said, AWEC is skeptical that any such improvement will justify the Guidelines’ perpetuation and continues to support eliminating them.

AWEC has been an active participant in the competitive bidding process for many years. That process nearly always results in the same outcome – utility ownership of the resource. In the last 10 years, and in eight completed request for proposal (“RFP”) processes, only one non-utility owned resource has been selected.<sup>1/</sup> This illustrates AWEC’s fundamental concern with perpetuating and expanding the Guidelines: there is no reason to believe that they

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<sup>1/</sup> Northwest and Intermountain Power Producers Coalition Opening Comments, Attachment A (Feb. 14, 2018).

have impacted the outcome of any resource procurement. As Table 1 in Staff's recent comments shows, customers have paid approximately \$3 million dollars over the past ten years just for Independent Evaluators ("IE") to support a process that provides them with few demonstrable benefits.<sup>2/</sup> This is not necessarily to say that the outcomes of the utilities' competitive procurements have not been least-cost and least-risk for customers. But even if they have been least-cost/least-risk, that further supports eliminating the Guidelines because it shows they are unnecessary.

Instead, the process works to the utilities' advantage by providing them a record on which to demonstrate prudence and allowing them to recover the costs of building this record from customers. Without the Guidelines, the utilities likely would still need to issue RFPs to demonstrate that they acquired the least-cost, least-risk resource and, consequently, acted prudently. With the Guidelines, the utilities do the same thing, but with Commission oversight. The Commission acknowledges an action plan from a utility's integrated resource plan ("IRP"); it approves a request for proposals; and it acknowledges a final shortlist of bids. None of those actions pre-approve a resource decision, but AWEC is unaware of a circumstance in which a utility received all of these acknowledgements and approvals and was then denied rate recovery on prudence grounds, and is skeptical that such an outcome would ever occur.

Moreover, when the Commission issues its decisions in this process, it often does so with incomplete information or is asked to weigh in on issues in which it lacks expertise. Discourse over recent RFPs, for instance, has included complex transmission and financial security issues, while IRPs include enormous amounts of information, including third-party

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<sup>2/</sup> Staff's Initial Comments at 3 (June 13, 2018).

models that outside experts may have little familiarity with. While the IRP process includes discovery, the RFP process generally does not, making it difficult to determine whether the appropriate shortlist was truly selected. These circumstances put the utilities at a distinct advantage in terms of the access to, and use of, information.

Meanwhile, the cumbersome process the Guidelines require is ill-suited for the current period of rapid technological and market changes that appear increasingly likely to favor swift action and flexibility by the utilities. The proposed rules' changes to the Guidelines may exacerbate this problem by increasing the scope of their applicability and expanding their requirements, thus requiring more, not less, up-front process.

If the Commission wishes to promote diverse ownership of resources – which AWEC supports – then imposing this policy goal through regulation (such as through the Guidelines) is unlikely to be effective. Structural changes to regulation itself are likely preferable. Absent those structural changes, customers may be better served by simply going back to the way things used to be – letting the utilities manage the procurement process themselves and then requiring them to justify their decision in a subsequent rate case.

If, however, the Commission determines to adopt a version of the proposed rules, then AWEC agrees with the Joint Utilities that the thresholds the rules establish for triggering the Guidelines are too low to justify the cost they impose on customers. AWEC supports maintaining the 100 MW threshold in the existing Guidelines, while establishing a 70 MWh threshold for energy storage to recognize the additional cost associated with these resources. PGE's recent Energy Storage Proposal in UM 1856, for instance, proposes a 17-20 MW battery system (equivalent to 68-80 MWhs) at its Coffee Creek substation, which it initially projected to

cost potentially over \$35 million.<sup>3/</sup> AWEC supported a competitive bidding process for this resource.<sup>4/</sup> As energy storage costs decline, the Commission may revisit this threshold.

AWEC does not, however, agree with the Joint Utilities that the proposed rules should require an IE in all procurements, and believes the proposed rules strike the right balance in this regard. The Joint Utilities complain that the cost associated with an IE will incent parties to advocate for a PPA-only RFP, where the proposed rules do not require the use of an IE.<sup>5/</sup> If, however, a utility proposes an RFP that is open to utility ownership options, any party advocating for a PPA-only RFP would need to demonstrate that restricting utility ownership options from the RFP is in the best interest of customers, which AWEC expects would be an extremely difficult task given the lack of information all parties would have about the bids that have not yet been submitted. The proposed rules simply create a path for a most cost-effective RFP process in the event a utility ownership option is not contemplated.

Dated this 14th day of June, 2018.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

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<sup>3/</sup> Docket UM 1856, PGE/100, Riehl-Brown/13.

<sup>4/</sup> Docket UM 1856, ICNU-NIPPC/100, Fitch-Fleischmann/7.

<sup>5/</sup> Proposed OAR 860-089-0200(7).