

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: June 27, 2017

REGULAR X CONSENT \_\_\_\_\_ EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: June 21, 2017

TO: Public Utility Commission

FROM: Geoffrey Ihle <sup>AI</sup>  
<sub>JE</sub>

THROUGH: Jason Eisdorfer and John Crider

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:  
(Docket No. UM 1834) Selection of an Independent Evaluator for PGE.

**STAFF RECOMMENDATION:**

Staff recommends the Commission select Bates White, Inc. (Bates White) to serve as an Independent Evaluator (IE) in the event Portland General Electric Company (PGE) pursues any Requests for Proposals (RFP) in 2017 for capacity, energy and renewable resources.<sup>1</sup>

**DISCUSSION:**

Issue

Whether the Commission should select a bidder to serve as an IE for PGE in the event the Company pursues any RFPs, and if so, whether the Commission should select Staff's recommended bidder to serve as IE.

Applicable Law

Under ORS 756.040(2), the Commission is "vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state,

<sup>1</sup> PGE 2016 IRP, Docket LC 66, Volume 1 pp. 33-34 (November 15, 2016). Staff's recommendation in this staff report should not be interpreted as a position, or a recommendation, on the outcome of PGE's IRP Docket, LC 66, any resource acquisition decision, or whether PGE may seek to recover any IE costs; rather, Staff is making an IE recommendation at this time to accommodate the timeline of the Company and stakeholders *should* PGE choose to issue RFP(s) in the future.

and to do all things necessary and convenient in the exercise of such power and jurisdiction.”

As amended by Oregon Laws 2016 Ch. 28, Section 6, ORS 469A.075(4) reads:

- (4) The commission shall adopt rules:
- (a) Establishing requirements for the content of implementation plans;
  - (b) Establishing the procedure for acknowledgment of implementation plans under this section, including provisions for public comment;
  - (c) Providing for the integration of the implementation plan with the integrated resource planning guidelines established by the commission for the purpose of planning for the least-cost, least-risk acquisition of resources; and
  - (d) *Providing for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that generate qualifying electricity.*

(Emphasis added). The Commission has opened Docket AR 600 for the purpose of implementing this provision.<sup>2</sup>

The Commission has issued Competitive Bidding Guidelines (Guidelines) that provide a framework for, and expectations of, resource procurement of “Major Resources.” Under the Guidelines, a utility must issue an RFP for major resource acquisitions identified in its last acknowledged Integrated Resource Plan (IRP). Major Resources are “those resources with durations greater than five years and quantities greater than 100 MW.”<sup>3</sup> See Order No. 14-149.

The Guidelines call for the IE to “oversee the RFP process to ensure that it is conducted fairly and properly.”<sup>4</sup> The IE is involved in almost the entire RFP process, from the RFP design through the submission of a Closing Report to the Commission.

The Guidelines contemplate that the utility should base a non-price score in an RFP on resource characteristics identified in the utility’s acknowledged IRP Action Plan, and that it will “discuss the consistency of the final shortlist with the company’s *acknowledged* IRP Action Plan [emphasis added].”<sup>5</sup> See Order No. 14-149.

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<sup>2</sup> Dockets AR 598 and UM 1771, Order No. 16-188, p. 1.

<sup>3</sup> See *In the Matter of Public Utility Commission of Oregon Investigation Regarding Competitive Bidding*, Docket UM 1182, Order 14-149, Appendix A, p. 1.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

Guideline 5 of the Commission's competitive bidding order addresses the IE selection and contracting process:

"...Commission Staff, with input from the utility and interested, non-bidding parties, will recommend an IE to the Commission, which will then select or approve an IE for the RFP. The IE must be independent of the utility and likely, potential bidders and also be experienced and competent to perform all IE functions identified in these Guidelines. The IE will contract with and be paid by the utility. The IE should confer with Commission staff as needed on the IE's duties under these Guidelines. The utility may request recovery of its payments to the IE in customer rates."<sup>6</sup>

See Order No. 14-149, Appendix A.

In its initial discussion of this guideline, the Commission stated: "We believe the utility and non-bidders should participate in the process and provide input to Staff. Staff, however, should make a final recommendation to the Commission for approval, which could be accomplished at a public meeting." See Order No. 06-446.<sup>7</sup>

## Analysis

### *Background*

On November 15, 2016, PGE filed its 2016 Integrated Resource Plan (IRP) with the Commission. In the IRP, PGE identifies needs for both flexible capacity resources and renewable resources.<sup>8</sup>

On May 9, 2017, PGE filed an application to open a docket for the selection of an IE to be used in one or multiple resource RFPs to be issued by PGE in 2017. The Company anticipates that the RFPs will be issued soon after acknowledgement of PGE's 2016 Integrated Resource Plan (IRP), currently under review with the Commission. Staff understands this may occur as soon as August 2017.

### *Staff Supports Selection of an IE*

Staff recommends the Commission select an IE for PGE to use in the event it proceeds with RFP development. Approval of an IE has no bearing on whether the Commission may later approve an RFP for issuance or acknowledge any resulting short-list. Staff has contemplated developing a pre-qualified list of IEs in the past. Approval of an IE at

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<sup>6</sup> *Ibid.*

<sup>7</sup> *In the Matter of Public Utility Commission of Oregon Investigation Regarding Competitive Bidding*, Docket UM 1182, Order No. 06-446.

<sup>8</sup> The renewable resource need is a future need. PGE finds that it would be economically beneficial to take "early action" with respect to Renewable Energy Credit (REC) accumulation. See *Ibid.*, pp. 308-09.

this time will allow PGE to proceed in a timely manner, *should* PGE choose to issue RFP(s) in the future. In supporting selection of an IE, Staff is not taking any position on the outcome of PGE's IRP Docket (LC 66), any resource acquisition decision, or the appropriateness of cost recovery for IE expenses.

With the current timing between the IRP and potential issuance of resource RFPs, Staff recommends that the Company include language in its contract with any selected IE that clarifies the Company, by entering into an agreement with the IE, is not obligated to proceed with development of an RFP or engage in the RFP process.

#### *Staff Review of IE Bids*

Because Staff supports making an IE selection in advance of any RFP development process, Staff has reviewed the 13 bids for IE services that PGE received and recommends the Commission select the bidder that is a preferred bidder of the utility and Staff.

PGE evaluated the 13 bids it received for IE services, and PGE recommended its top three scoring bidders to Staff as the utility's preferred bidders. Using a combination of price and non-price criteria, PGE gave each of the three bidders a high combined score. PGE believes any of its recommended bidders would be able to be successful as the IE for future resource RFPs. PGE used the following general criteria<sup>9</sup> to score the bids:

- Level of understanding of the scope of work to be performed;
- The ability to perform the work;
- Soundness, professionalism, and feasibility of their proposed methodology; and
- Completion of the project proposal at a reasonable price.

Staff independently analyzed the 13 bids received in response to PGE's IE RFP, using categories and weights similar<sup>10</sup> to PGE's methodology. Staff's top-ranked bidder is Bates White, one of PGE's three recommended bidders.<sup>11</sup> There were some differences

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<sup>9</sup> PGE's full scoring methodology is more robust, and was discussed with more specificity at the June 20, 2017 workshop with non-bidding stakeholders who had signed the protective order in this docket.

<sup>10</sup> Staff performed sensitivity analysis on the relative weightings to its "cost" and "reasonableness of cost" categories and found the top bidder rankings to be robust to a range of reasonable weighting schemes. Staff also evaluated the "reasonableness of cost" category on the basis of an estimate of the likelihood the bidder could perform its scope of work at the price quoted.

<sup>11</sup> See Confidential Attachment A for detail on Staff's rankings. Note there are only 12 bids shown. Staff reviewed the 13 bids it received from PGE but was later notified that one bid was withdrawn due to a conflict of interest and therefore removed that bid from Staff's rankings.

in the remainder of the rankings, which Staff does not find significant. Staff finds Bates White to be a firm that is independent of the utility and likely potential bidders. Additionally, the firm has experience in Oregon and other jurisdictions, and is competent to perform all IE functions. Bates White provided a listing of over ten RFPs where it has served as the monitor. In Oregon, Bates White has served as the IE in PacifiCorp's 2008 R-1 Renewables RFP and 2012 Baseload RFP. Staff is satisfied that Bates White understands what is required of the IE and is able to deliver such services.

Staff held a workshop on June 20, 2017 with PGE, the Industrial Customers of Northwest Utilities (ICNU) and Northwest Intermountain Power Producers Coalition (NIPPC). At the workshop, these stakeholders expressed their comments and concerns related to PGE's IE RFP process, and also shared the outcome of their ranking process for the 12 bidders. NIPPC shared that its preferred bidder is Bates White. ICNU maintains its position that PGE has no need for an RFP at this time; therefore, an IE is not required at this time. However, if the Commission were to select an IE at this time, Bates White is also ICNU's preferred choice for an IE.

#### *IE-Related Costs*

Given the timing of PGE's application for Commission approval of an IE prior to a Commission decision in LC 66 on PGE's 2016 IRP, Staff has considered cost-recovery implications. As noted above, Staff encourages PGE to include language in its contract with the selected IE expressly stating that PGE is not obligated to proceed with development of an RFP with the IE. Further, whether or not customers would bear the costs of the IE is to be determined at a later date. Staff notes that simply selecting an IE does not immediately indicate a rate impact; rather, the Commission has discretion to determine whether IE-related costs should be borne by customers when the prudence determination of the resource acquisition is determined. Should the Company request a deferral for IE-related costs, the Commission will have an opportunity at that time to determine whether deferral is an acceptable approach, and if so, whether or not such deferred costs should be amortized. Staff takes no position on such a filing at this time. Staff notes that if such costs are deferred, when PGE requests amortization of the deferred costs, an earnings review would occur and Staff would review the costs to determine if they are reasonable and prudent before recommending amortization.

#### Conclusion

Staff's independent analysis resulted in Bates White being ranked as the top bidder. Staff believes that Bates White's experience in similar resource RFPs meets the project requirements and covers the scope of work indicated in PGE's RFP at a reasonably low price.<sup>12</sup> Staff believes that if Bates White is selected, it has an excellent chance of

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<sup>12</sup> Expected cost information can be found in Confidential Attachment B.

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executing its IE duties in a way that significantly furthers the goals of having a fair and transparent resource RFP. The Company, Staff, and NIPPC all support the selection of Bates White. As previously stated, ICNU also finds that Bates White is the top bidder, but with the caveat that no IE should be selected at this time.

**PROPOSED COMMISSION MOTION:**

Select Bates White, LLC to serve as the IE in the event PGE pursues any Requests for Proposals in 2017 for capacity, energy and renewable resources.

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