BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 600

In the Matter of Rulemaking Regarding Allowances for Diverse Ownership of Renewable Energy Resources.	)))))	**NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION RULEMAKING COMMENTS**

I. INTRODUCTION

Northwest and Intermountain Power Producers Coalition ("NIPPC") submits these Reply Comments to the Oregon Public Utility Commission ("Commission") regarding the proposed competitive bidding rules ("Draft Rules") published on April 18, 2018. The Draft Rules largely retain the status quo, which has failed to allow for diverse generation or mitigate against utility bias. The formal and informal record in this proceeding is voluminous, and NIPPC incorporates by reference its earlier comments. While NIPPC continues to support its previous recommendations, NIPPC understands that the Commission has rejected most of its substantive proposals to improve the competitive bidding process in Oregon. Therefore, the Commission should be under no illusions that adopting NIPPC's recommendations in these specific comments will adequately address the issue of utility bias and their economic incentives to own generation rather than purchase power.

These formal comments primarily respond to arguments made by the Joint Utilities[1] in their May 14, 2018 filing seeking further concessions from the Commission. NIPPC urges the

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[1] Portland General Electric Company ("PGE"), PacifiCorp, and Idaho Power Company filed comments collectively as the Joint Utilities.

Commission to stop diluting the proposals put forward by its staff ("Staff") and to carefully scrutinize the justifications put forth from the Joint Utilities.

This rulemaking provided an important opportunity for the Commission to take meaningful action. The Commission has already acknowledged that the regulatory model provides incentives for utilities to own their own generation resources.[2] Senate Bill ("SB") 1547 recognized that these incentives have created a problem that is not being mitigated by the Commission's current competitive bidding guidelines. SB 1547 would not have requested that the Commission adopt rules that allow for diverse generation, if the Legislature believed that the current process already did so.

The Commission must also acknowledge the current competitive bidding guidelines' failure to result in the least cost and least risk resource acquisitions and that any efforts to implement an "ownership agnostic" approach will ignore the problem and continue to fail to achieve the statutory directive that consummated in this rulemaking. Ownership agnostic simply ignores the bias and economic incentives, which will allow them to perpetuate. Explicit or implicit bias and correcting harmful economic incentives require laws and rules that specifically acknowledge and address the bias or incentive that one hopes to correct.

As the Commission Notice of Proposed Rulemaking points out, Oregon Revise Statute ("ORS") 469A.075 requires the Commission to "adopt rules that provide 'for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that

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[2] In the Matter of Commission investigation regarding performance-based ratemaking mechanisms to address potential build-vs.-buy bias, Docket No. UM 1276, Order No. 11-001 at 1 (Jan. 3, 2011).

generate qualifying electricity.'"[3] The Commission must develop competitive bidding processes *that overcome the utility bias* to allow for diverse ownership of generation. This means that the Commission needs to provide incentives and penalties that address the utilities' explicit and implicit bias for self-generation.

NIPPC recommends the Commission adopt rules that:

- Confirm there is no need for an independent evaluator ("IE") when a utility request for proposal ("RFP") does not allow utility ownership;
- Determine that it would be imprudence per se for a utility not to allow third-party bidders to use utility-owned assets when proposing new projects because it would increase costs to ratepayers and prohibit the efficient integration of new third-party resources with existing utility assets when soliciting bids; and
- Require utility-owned bids to undergo a thorough and independent financial and engineering due diligence commensurate with the extensive due diligence applied by lending banks to independent power producers ("IPPs") as a prerequisite to securing project financing for a major generation facility (aka, "project-finance due diligence").

II. BACKGROUND

The Commission has failed, and the proposed rules will continue to fail, to effectively mitigate utility bias in the resource procurement process. In retrospective analysis, in over thirty years of generic Commission proceedings, the utilities have won on almost all the most

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[3] OPUC Notice of Proposed Rulemaking at 1 (Apr. 18, 2018).

important and meaningful competitive bidding issues.[4] Given the weakness of the Commission's current guidelines and proposed rules, and the lack of willingness to ensure fair request for proposals in utility specific proceedings, the utilities have also won the vast majority of the "competitive" procurements. The Draft Rules are unlikely to result in competitive bidding rules that actually allow for meaningful levels of diverse ownership of generation. Unless the Commission is willing to take bold action, it will remain impossible to truly value the unique advantages and disadvantages of non-utility ownership structures when the utility has an economic incentive to select its own generation resource.

The Commission, and the utilities, have historically recognized that utilities are incented to own and rate base rather than purchase new generation. There is nothing insidious or inherently inappropriate about this bias—it is a rational economic incentive for a regulatory compact that allows an opportunity to profit from capital investments rather than other important goals (e.g., reliability, prudent management, innovation, etc.). The utilities have long recognized this incentive. For example, in 1991 with the adoption of the first set of competitive bidding guidelines, PGE asked the Commission to more broadly consider the risks and incentives in resource acquisitions and pointed "out that since reasonable power purchase costs are merely passed through in rates as expenses, the utilities do not have an opportunity to earn a return or profit on power purchased from a developer."[5] Similarly, in 2010, PacifiCorp (supported by PGE and Idaho Power) proposed to address the bias by allowing "the utility the ability to earn a

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[4] Attachment A includes a summary of the major Commission competitive bidding investigations and the key changes.

[5] In the Matter of an Investigation into Competitive Bidding by Investor-Owned Electric Utility Companies, Docket No. UM 316, Order No. 91-1383 at 28 (October 18, 1991).

return on a PPA similar to how a utility would earn a return on a utility-owned resource."[6] The utilities were fine addressing and acknowledging the disincentive, as long as the solution allowed an opportunity for greater returns.

When making decisions regarding any specific proposals, the Commission should keep in mind the totality of nearly thirty years of missed opportunities. For example, when the Commission adopted revised competitive bidding guidelines in 2006, the Commission declined to require utilities to allow third parties to use their assets, including transmission rights. If the Commission had acted at that time, then the disputes regarding both PGE's and PacifiCorp's current RFPs could have largely been avoided. Similarly, during the last major competitive bidding investigation, the Commission rejected a specific limitation on the amount of utility ownership in an RFP, as well as numerous well supported proposals to address the risks of changes in forced outage rate curves, utility environmental regulations, utility increases in fixed operations and maintenance costs, capital additions, changes in the allowed return on equity, verification of output, heat rate and power curve, construction delays, construction cost overruns, and heat rate degradation. Again, in this proceeding, the vast majority of NIPPC's major proposals were either rejected by Staff in the informal process or by the Commission in narrowing the scope of this rulemaking. These include: defining diversity and imposing consequences for failing to achieve it, a two-stage bidding process, proper accounting for resource life span, and utility ownership cost cap.[7]

NIPPC is addressing the remaining issues and urges the Commission to at least make

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[6] UM 1276, Order No. 11-001 at 2.
[7] Attachment A.

modest improvements in the competitive bidding process. This rulemaking is likely to only produce incremental changes that will continue an expensive and litigious competitive bidding process that fails to allow diversity of generation ownership.

III. COMMENTS

A. Two RFP Paths: To IE or Not To IE

The Draft Rules allow the Commission to determine that an IE is unnecessary if an RFP prohibits utility ownership options.[8] The rationale is simple: the costs associated with an IE are not warranted when an RFP does not allow for utility-ownership because the main value the IE provides is protection from utility bias. The Draft Rules language is an improvement over the current process, but should be revised to explicitly prohibit customers from paying for an IE when there are no ownership options. If the results of the RFP cannot result in utility ownership, then the primary benefit of an IE is increased cost recovery for the utility, and utility shareholders should pay these costs.

The regulatory model incentivizes utilities to own their own generation assets and IEs provide the kind of transparency that makes it more difficult for utilities to tip the scale during resource procurement. While IEs arguably provide some nominal value in all RFPs, their primary purpose is to ensure utilities fairly compete in their own RFPs. When utilities are not competing against bidders, the costs associated with IEs are not justified. Adopting the Joint Utilities' recommendation would therefore impose unnecessary costs on ratepayers.

NIPPC disagrees with the Joint Utilities' characterization of this option as allowing "inconsistent" use of the IE function. It is entirely consistent to allow two different RFP paths

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[8] OAR 860-089-0200(7).

based upon a consistent set of criteria and the underlying need for an RFP. For example, the utilities routinely seek a "waiver" of the Commission's competition bidding guidelines (or simply proceed without Commission approval) when certain conditions are present, and requiring the utilities to pay for an IE under certain conditions would be consistent with that approach. Effectively allowing an IE waiver or requiring shareholders to pay for it would not diminish the Commission's regulatory standards; it simply recognizes the primary purpose of the IE and appropriately balances the costs associated with an IE against the need for an IE. Finally, if a utility truly believes that the IE will provide value, then they can pay for it and not charge ratepayers.

NIPPC also disagrees with the Joint Utilities' position that not including an IE would (somehow) decrease competition.[9] The Joint Utilities do not explain the rationale for this claim, but it seems counter-intuitive given the high percentage of times utilities have historically won their own procurement processes. Perhaps the Joint Utilities are suggesting that bidders will not think it is a "real" RFP since utilities traditionally only select their own bids. To the contrary, NIPPC expects there may be *more* bidder interest in RFPs without utility ownership options; these RFPs may be seen as more fair, even absent an IE, because they present an opportunity for bidders to compete on equal footing. Essentially, the bidding community has confidence that RFPs will be fairly run, as long as there are no utility ownership options.

Finally, the Joint Utilities' suggestion that allowing RFPs without IEs might provide an incentive that unfairly tips the scale in an IPP's favor should also be rejected. Again, the IE's primary function is to protect against utility bias during procurement. And utilities have won

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[9] Joint Utilities' Rulemaking Comments at 2.

almost every RFP with IE involvement to date. Given this context, it is hard to fathom how the mere absence of an IE, in limited circumstances where utility-bias is impossible, could possibly provide a large enough incentive to outweigh the utility's preference for self-generation.

B. Utility-Owned Facilities: Encouragement Without Consequences

The Draft Rules "encourage" utilities to make their assets available to bidders, which is consistent with previous Commission orders. The Joint Utilities ask the Commission to confirm that there is no *requirement* to make utility assets available, and thus, no *consequence* should a utility decline to do so.[10] If utilities are allowed to use their assets to limit competition (and increase ratepayer costs) without consequence, it will be increasingly difficult to identify least cost and risk resource options during RFPs. NIPPC therefore urges the Commission to reject this notion and reiterates its position that any decision by a utility not to allow bidders to use their utility-owned facilities should be considered *per se* imprudence.

The Joint Utilities also ask the Commission to clarify that the consequence-free encouragement only applies to property paid by ratepayers. This suggests that if ratepayers have paid for the property then ratepayers *may* be able to rely upon the possibility that the property will be used to identify least cost and risk options; but, if shareholders paid for the property then the shareholders should be able to rely on their ability to use it anticompetitively, even to the detriment of ratepayers. Because it is sound policy to allow bidders to suggest projects that can leverage utility-owned assets to provide greater benefits to ratepayers, the Commission should decline to make any distinction based on who ultimately paid for the utilities' assets.

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[10] Joint Utilities' Rulemaking Comments at 12.

It is not easy for the Commission or bidders to ascertain whether certain utility assets have been included in PGE's rate base, were paid for by shareholders or swapped with another entity. Regardless of whether the Commission is going to only "encourage" utilities to not use their assets to select the least cost and least risk resources or conclude any anticompetitive use of assets is imprudent, it is absolutely paramount that this issue be addressed prior to the RFP. The Joint Utilities claim that the RFP process is too long, but if the utility does not provide information regarding any critical issue, then it may be impossible to address in the RFP.

This became evident in PGE's last RFP. NIPPC raised the issue of transmission rights in PGE's IRP, and PGE refused to provide relevant information regarding its transmission rights. PGE only provided minimal and inaccurate information in its RFP late in the process. The Commission and Staff were unable to understand or vet PGE's position, which meant that PGE may be able to use transmission as a tool to limit the pool of potential competitors. If PGE had allowed bidders to use even their Boardman transmission rights, the eligible bidder pool might not be limited to a small number of entities. The Commission, however, had insufficient information to address this issue because PGE had not been forthcoming about the full extent of its transmission rights before or during the RFP process.

The Joint Utilities ask that they receive compensation for use of their facilities, including those ultimately used by third party bidders. Here, for the first time in this proceeding, the utilities recognize that, if they were required to use their assets for ratepayer benefit, then it might harm their shareholders. Specifically, they state that "[a]llowing third parties access to such sites could create a disincentive for utilities to make otherwise prudent investments in land

for future development."[11] This is because, as they explain, that it would be "unreasonable to expect that property funded by shareholders would be made available to third parties [to provide lower cost and less risky generation for ratepayers] because that property has been treated as plant held for future use, and is paid for by shareholders and with no return on the investment."[12]

NIPPC agrees in principle that utilities should be made whole for the use of their assets, and that an unfortunate aspect of the current regulatory model is that utility shareholders make investments in assets not yet used and useful, and the only way that they can recover those costs is by placing them in rate base regardless of whether that benefits ratepayers. Even though this issue was not raised in previous meetings and has not been addressed with any specificity, NIPPC supports the Joint Utilities proposed language. Specifically, NIPPC agrees "that third party bids fully compensate the electric company's customers for the cost and risk of use such elements." The specific amount of compensation should be proposed in the draft RFP, and approved by the Commission as part of its acknowledgement order.[13]

C. Project-Finance Due Diligence: Simple Changes Can be Significant

Due diligence review does not need to be complicated to be effective. The Joint Utilities have successfully made this concept appear complex, consistently rejected the premise for this idea and claim that any difference in the handling of bids due to ownership is unfair to bidders proposing utility-owned projects.[14]

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[11] Joint Utilities' Rulemaking Comments at 13.

[12] Joint Utilities' Rulemaking Comments at 12-13.

[13] For the sake of clarity, NIPPC opposes all of the Joint Utilities' language in this section that: 1) limits use of property and assets to only those assets that have been included in rates; and 2) it would somehow be prudent for the utilities to decline to make their property and assets available.

[14] Joint Utilities' Rulemaking Comments at 14.

NIPPC's proposal is actually simple and common in the electric industry. NIPPC proposes to introduce a due diligence review of the utility-owned bids on the shortlist that is commensurate with the type of "project-finance due diligence" that is regularly conducted to obtain third-party financing for an independent power producer's facility. The concept of "project finance" is to justify the economic viability and profitability of a project on its own basis, without relying on the assets of its parent company. The point of the exercise is to ascertain whether the project components are economically viable and likely to perform as predicted to generation electricity at the costs predicted. It serves as a useful model for the type of due diligence that should be required for the Commission to allow the utility-owned project to be placed in rates on a "cost-plus" basis under Oregon's cost-of-service policies.

The utilities have consistently argued that Oregon law prohibits the Commission from capping the utility's rates over the life of the utility-owned generation asset at the price the utility provided for purposes of evaluation in the RFP. In fact, this issue was recently experienced in the ongoing PacifiCorp RFP, where the IE recommended capping costs of the major Wyoming Wind Farms plus Transmission, but the Commission believed it was unable to do so. While NIPPC believes the Commission has the legal authority to cap costs, if the Commission will not cap costs for utility-owned generation, then the Commission should require the same type of due diligence as third-party lenders require before the utility-owned resource is approved for inclusion in the utility's rate base.

The need for a more thorough due diligence is apparent. Utilities are inclined to choose utility-owned bids, and may be inclined to select bids that would not withstand the kind of project-finance due diligence that power purchase agreement ("PPA") bids must undergo to

establish their financing. Moreover, because ratepayers will pay the actual costs of a utility owned resource, including construction cost overruns, ratepayers deserve the same kinds of protection that lenders routinely require. The Commission should establish at least a minimum level of project-finance due diligence as part of the competitive bidding process to ensure utility-owned bids are just as viable as PPA bids.

NIPPC originally proposed the following language:

> the Commission must retain a highly qualified consulting firm of the type utilized by financing institutions for purposes of obtaining a due diligence evaluation consistent with those required to secure financing from reputable financing entities prior to investment in major generation facilities. The Commission Staff will maintain a list of pre-qualified entities that meet the criteria of a highly qualified consulting firm, and at the time that the draft RFP is made available for comment, the Commission Staff will choose and contact an entity from the list to have the entity available for the analysis at the time of short-list evaluation.

Staff revised the language, with the major substantive change to require the IE (rather than a separate independent company) to conduct the due diligence review. NIPPC supported this change, which would require the IE to have internal expertise or contract with entities that regularly perform this type of analysis for banks and other financers.

The original Staff proposed rules provided that:

> For any bids on the final short list that provide for the possibility of electric company or affiliate ownership of the resource, the IE must conduct a project finance due diligence review. This review must make a determination of whether or not, subject to any conditions, the electric company or affiliate ownership resource would receive third-party project financing to construct and operate the proposed resource at the costs and bid prices submitted into the RFP.

NIPPC believes that Staff's language is sufficiently clear, and would simply require any utility ownership option bid be conducted to the same sort of project-finance due diligence that

most third party non-utility ownership bids are subjected to. NIPPC has revised both Staff and its initial language:

> For each Benchmark or each bid with utility ownership on the final short list, the IE must conduct a project-finance due diligence evaluation of the type utilized by financing institutions for purposes of securing financing from reputable financing entities prior to extending project financing for major generation facilities.

All three definitions are based on the assumption that bankers and other financers typically retain independent firms to evaluate the viability of projects seeking financing commitments from commercial lenders. This is a commonly accepted idea in all types of business that obtain project financing. For example, when lending money to purchase a home, a bank will hire a third party to conduct market analysis to make sure they are not lending money that is clearly in excess of market value. A home inspector may also be retained to review the house and whether there are underground oil tanks. When hiring a builder to construct a new home or make improvements, a lawyer may be retained to review the construction agreement. These are the types of actions that someone who is investing their own money may take.

Investors require a far more thorough and rigorous analysis when lending money to construct electric generation resources for independent power producers securing project financing. A PPA bidder will develop and tender a bid that includes a confidential pro-forma accounting of project costs, revenues and returns. The bank will want every input to this income statement reviewed to determine whether the numbers are supported, whether they match the terms of the various contracts, the risk around the inputs, and steps taken to hedge that risk. The risk around each will be assessed and valued. A review will also ensure that all permits have been obtained, that the counter parties have the requisite experience to construct the facility,

wind and solar profiles and cost assumptions are reasonable, etc. The draft power purchase agreement will be reviewed to ensure that the lenders understand how much the generator will be paid, how much power they will be paid for, and all the other risks, benefits and potential liabilities. Based upon the financial and engineering due-diligence review, the bank will decide whether to lend money to the project, how much of the total project cost they are willing to lend, and what interest rate they will demand.

Some large developers that balance sheet finance their projects may not separately retain an independent consultant to conduct this due diligence. However, they often have internal staff that conduct a similar rigorous internal review of the proposed project pro-forma, often throughout the development process, because they also are putting their own private capital at risk, not ratepayer money.

Utility ownership bids are not vetted with the same project due diligence because their financing has the ultimate back stop of ratepayers. While the Commission conducts prudence reviews, too large of disallowance will harm the utility's cost of capital, which ultimately increase rates. Because they provide essential service (electricity), utilities are generally considered "too big to fail."

The utilities have attempted to argue that this recommendation is too ambiguous. However, any active participant in the energy industry would know exactly what is contemplated by this proposed language. The level of due diligence that occurs during project financing is well known and there are firms that offer this type of due diligence review for third-party lenders. The language plainly requires that the review conducted be "of the type utilized by financing institutions for the purpose of securing financing." The utilities have not come forth

with any statements from any IE that would find this language confusing or ambiguous. If a proposed IE is not aware of the type of due diligence that IPPs must go through to obtain project financing from a third-party lender, then that IE has no business advising this Commission on whether the utility's ownership bids have the same level of assurances of cost and performance as the IPP bids. The Commission should adopt NIPPC's proposed language into the final rule to ensure that utility-owned bids are not placed in rate base without first passing the same type of scrutiny as IPP bids for PPA options.

Finally, the Joint Utilities have objected to this requirement only applying to utility ownership options on the short-list and not all bids. As mentioned above, independent power producers typically perform this type of due diligence because they, unlike utilities, need to stand behind their bid price. To counter the inherent bias present in the regulatory model, it is entirely appropriate to treat utility-owned bids differently than PPAs, and only require the IE to separately perform this due diligence on projects on the short-list that the utility could own.

III. CONCLUSION

For the reasons above, NIPPC recommends the Commission adopt the draft rules as is, or bolster them so that they do more to mitigate against utility bias and make modest changes to potentially allow for diversity of ownership in resource generation.

Dated this 29th day of May 2018.

Respectfully submitted,

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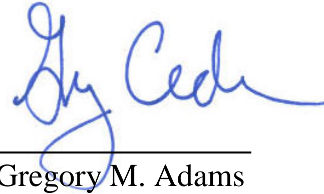

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Attachment A

Failed Efforts to Address Utility Bias in Favor of Generation Ownership

1. Past Generic Competitive Bidding and Utility Ownership Bias Proceedings

Proceedings	Order Summary: Beneficial Changes	Key Rejected Issues
In the Matter of an Investigation into Competitive Bidding by Investor-Owned Electric Utility Companies, Docket No. UM 316, Order No. 91-1383 (October 18, 1991).	Adopted competitive bidding guidelines with the goal of minimizing long-term energy costs through a fair competitive bidding process consistent with the utility's least cost plan and not unduly constrain management. Directed utilities to acquire at least a portion of its new power resources through a competitive bidding process, including minimal specific requirements.	No set aside for renewable energy. No requirement that the utility provide transmission access to bidders, but directed utility "make best effort attempts to assist sponsors of winning projects get their electricity to the utility's system", and RFP should clearly define transmission policy. No requirement to levelize payments. Refused to address risks and rewards of resource acquisition, including PPAs are passed through in rates as expenses and utilities do not earn profits on PPAs.
In the Matter of an Investigation into Competitive Bidding, Docket No. UM 1182, Order No. 06-446 (Aug. 10, 2006).	Revised competitive bidding guidelines with similar goals and objective, but including more specific and stringent requirements, including 100 MW and five year threshold, an Independent Evaluator, acknowledgement of the RFP, and the option for acknowledgement of the RFP results	Did not set the threshold for competitive bidding at 50 MW. No requirement that a utility offer up its site locations, but encourage a utility to offer its site. No requirement an independent bidder to be given the right to use transmission facilities, but encouraged the utility to provide information on the availability of transmission. Allowed consideration of debt imputation in the final negotiations.
In the Matter of Commission Investigation regarding Performance-Based Ratemaking Mechanisms to Address Potential Build-vs.-buy bias, Docket No. UM 1276, Order No. 11-001 (Jan. 3, 2011).	Recognized that utilities have an inherent bias that favors utility ownership of generation assets over PPAs, but closed the docket without taking any actions to address the bias	Rejected proposal to allow utility earn a return on PPA similar to how it would earn a return on a utility owned resource Rejected proposal to incent PPAs to reflect a risk avoidable discount with a 10% pre-tax adder on forecasted costs of qualifying PPAs

In the Matter of an Investigation into Competitive Bidding, Docket No. UM 1182, Order No. 13-204 (June 10, 2013).	Required IE to provide a more comprehensive analysis of risks and benefits of construction costs of utility ownership resources and required utilities to use qualified and independent third-party experts to review wind capacity factors. Rejected utility counterparty risk proposal.	Did not revise RFP process to fully address: • Utility heat rate degradation • Risk of wind capacity • Construction cost overrun bid adder
In the Matter of an Investigation into Competitive Bidding, Docket No. UM 1182, Order No. 14-149 (April 30, 2014).	Required the utility to obtain acknowledgment of RFP resource short-list; rejected all other substantive proposals by independent power producers	Refused to adopt a limitation on the amount of utility ownership resources that result from an RFP. Did not revise RFP process to address: • the risk of changes in forced outage rate curves • allowed utility to consider end effects • utility environmental regulatory risk • utility increases in fixed operations and maintenance costs • capital additions • changes in the allowed return on equity • verification of output, heat rate and power curve • construction delays

2. Beneficial Changes in Current Draft Competitive Bidding Rules

Beneficial Changes in Current Draft Rules	Potential Impact of Beneficial Change	NIPPC Position
Waiver clarification: Proposed OAR 860-089-0010	The granting of waiver does not result in or amount to Commission acknowledgment	Support.
Stakeholder are explicitly provided greater involvement in the selection of the Independent Evaluator. Proposed OAR 860-089-0200.	The electric company must notify parties about its need for an Independent Evaluator and solicit input in how it solicits proposals. This is an improvement because PGE in the past did not inform NIPPC that it would request an IE and refused to allow NIPPC to review or provide input in the IE selection process.	This provision remains inadequate because it allows the utility (rather than Staff or the OPUC) ultimate control over the terms of the solicitation.
Description of RFP design, scoring methodology and modeling prior to RFP filing. Proposed OAR 860-089-0250	Requires utility to include design, scoring and modeling in IRP, or make a separate filing its RFP. This will allow greater transparency and quicker RFP review because key information will be provided in advance of the RFP.	Support.
IE Scoring all bids. Proposed OAR 860-089-0450(5)	Requires IE to score all bids.	Support.

3. Previous NIPPC Proposals that Were Rejected in this Proceeding

Proposed Change	Description
Define Diversity	Diversity of ownership means a range of different generation owners, including but not limited to utility ownership, PPAs, and PPAs with the option for utility ownership. There cannot be ownership diversity unless a substantial share of the generation is from long-term PPA in which the utility does not have the option to purchase the generation asset over the life of the power purchase agreement.
Diversity Requirement	For RFPs that result in the acquisition of multiple generation facilities or more than 100 MW of renewable energy or multiple storage facilities in excess of 50 MW, the utility cannot obtain acknowledgement if the RFP does not result in ownership diversity. The Commission shall not acknowledge an RFP that does not result in ownership diversity if the utility's RFPs over the last ten years have not resulted in ownership diversity. Evaluate diversity based on the totality of the last RFPs. If the utility's long-term resource acquisitions over the last ten years have not resulted in diversity, then diversity gets greater weight in the resource evaluation as a non-price factor.
Two-stage bidding process	To address the inherent conflict of interest between shareholder and customer interests that utility managers possess, NIPPC proposes a two-step bidding process. First, all ownership bids will be evaluated. The best ownership score will be announced to the bidders. Next, bids for PPAs should be provided with an opportunity to beat the ownership score.
Utility Ownership Cost Cap	The costs included in rates for utility ownership options, including equipment procurement, construction supervision, internal and external legal, finance and accounting expense, construction bids and all similar items, shall be capped at the cost included in the bid used for comparative analysis in the RFP.
The Independent Evaluator is engaged by the electric company	The Independent Evaluator should be engaged by the Commission.

Proper Accounting for Resource Life Span	The entity that scores the utility ownership bids against the IPP bids accurately, or at least transparently, compares resources with varying life spans. This issue arises because a utility owned project is a longer-term obligation placed in rate base for 30-plus years, and the shorter-term PPA is typically for a shorter duration of 15-25 years. In addition, the significant costs of required capital replacements over a 30-year resource life may not be fully accounted for in the utility owned bid, while the IPP will need to account for these costs in their fixed price bid. Generally speaking, the PPA option will typically be far less expensive to the ratepayer in the early years and the utility owned resource may decline in costs in its later years (if the utility owned generation costs and performs as advertised in those future years and rate-base depreciation exceeds the additions to rate-base due to capital replacements and repairs). This dichotomy raises two different issues relevant to an RFP evaluation. First, because a utility owned resource is placed in rates for a period that is typically far in excess of the term of the PPA bids, the RFP that compares these two different resource types must conduct present value and/or levelization analysis in an attempt to compare bid prices between the two bid types. Second, this issue highlights the even more important question of whether it is appropriate for utilities to be committing to generation commitments of 30-plus years at a time when the electric industry is undergoing major structural changes.
Access to Bidder Information	Bidders should have access to their own bid evaluations and scores, and the score for all utility ownership bids on the short list.