**Portland General Electric Company**
*121 SW Salmon Street • Portland, Oregon 97204*

October 15, 2009

***Via Electronic Filing and U.S. Mail***

Oregon Public Utility Commission
Attention: Filing Center
550 Capitol Street NE, #215
PO Box 2148
Salem OR 97308-2148

**Re: UM 1396 – INVESTIGATION INTO DETERMINATION OF RESOURCE SUFFICIENCY PURSUANT TO ORDER NO. 06-538**

Attention Filing Center:

Enclosed for filing in UM 1396 are an original and five copies of:

Comments of Portland General Electric Company Regarding the September 29, 2009 Proposed Decision Outline.

PGE notes that the previous testimony and briefs in this docket focus on the issue of when a utility is considered resource sufficient. However, the proposed Decision Outline expands the scope of this docket beyond this issue. The proposed changes to the calculation methodology for avoided costs in the deficiency period raises multiple implications for the utilities, qualifying facilities and utility customers. PGE feels these issues need to be more thoroughly vetted by all parties before the Commission issues an order.

This document is being filed by electronic mail with the Filing Center. An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return to me in the envelope provided. This document is being served upon the UM 1396 and the UM 1129 service lists.

Thank you in advance for your assistance.

Sincerely,

J. Richard George
Assistant General Counsel

JRG:smc
cc: Service List-UM 1396, UM 1129

## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused Portland General Electric Company's Initial Comments in docket UM 1396, to be served by electronic mail to those parties whose email addresses appear on the attached service list and UM 1129 service list, and by First Class US Mail, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service.

Dated at Portland, Oregon, this 15th day of October, 2009.

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UM 1396 – SERVICE LIST – 10/15/09

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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

**UM 1396**

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| In the Matter of | ) | |
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| PUBLIC UTILITY COMMISSION OF OREGON | ) | COMMENTS OF PORTLAND GENERAL ELECTRIC COMPANY REGARDING SEPTEMBER 29, 2009 PROPOSED DECISION OUTLINE |
| | ) | |
| | ) | |
| | ) | |
| Investigation into Determination of Resources Sufficiency, Pursuant to Order No. 06-538 | ) | |
| | ) | |

## Introduction

PGE offers the following comments regarding the elements of the "Decision Outline" circulated by Judge Power under UM 1396. The comments were sent to the UM 1396 and UM 1129 service lists on September 29, 2009. PGE appreciates the extension of the due date for comments.

UM 1396 initiated an investigation, pursuant to Order No. 06-538, into the question of when a utility is resource deficient for purposes of computing avoided costs. The central issue of this docket is to "address the issue of *when* a utility should be considered to be resource deficient." PGE notes that the Decision Outline presents new issues and opens questions that appear beyond the scope of UM 1396 as initiated. No additional explanatory discussion was presented with the Decision Outline. The Decision Outline departs from the Order and proposes alternatives to calculating avoided costs based on a CCCT. Thus, further administrative process is likely necessary to examine these questions.

Parties, including PGE, have filed testimony and briefs in the docket. The matter was reopened specifically to receive comments on the Decision Outline. PGE's comments, therefore, do not revisit the issues from the previous scope of this docket. But, these comments do assume parties are familiar with the current avoided cost methodology based on: (1) reference to an Integrated Resource Plan (IRP) to establish resource sufficiency periods, and (2) using a) market prices to set avoided costs during the resource sufficiency period and b) CCCT costs to establish the baseline avoided costs in the resource deficiency period.

The Decision Outline presents a new, step-by-step methodology to determine the applicable avoided cost for different types of QFs. Within the step-by-step process, the Decision Outline frames a set of tests and decision points/options that must be followed in order to determine (1) what is the applicable resource deficiency date for a Qualifying Facility (QF), and (2) what is the applicable avoided costs for purchasing power from a QF.[1] The Decision Outline methodology essentially establishes decision points where some QFs may elect a different basis for avoided costs than under the current methodology.

The Decision Outline also incorporates a process for a potential QF to contribute to meeting Renewable Portfolio Standards (RPS) from SB 838. It also addresses the potential capacity value of a QF in the determination of avoided costs in a resource sufficiency period.

In the Decision Outline, there is clearly an intent to better match up the avoided cost pricing with the resource costs that the utility anticipates it will avoid. Therefore, we

[1] Avoided costs are, "...the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source."

believe there may be benefits from a revised avoided cost methodology. However, those benefits must be considered relative to the added costs of complexity in the process and computations that will result from implementing the Decision Outline.

With these observations in mind, PGE offers comments on the proposed Decision Outline and follows with a recommendation. We recognize that our comments include unanswered questions about the Decision Outline methodology's impact and implications for utilities and QFs relative to avoided costs.

**PGE's Interpretation of the "Decision Outline"**

PGE has attempted to capture the ideas in the Decision Outline in the form of a flowchart, which is attached to these comments. The flowchart starts on the left and lays out the steps and decision points in the new methodology. The flowchart primarily depicts two things:

- The steps in the method to determine the resource sufficiency and deficiency periods
- The basis for computing avoided cost prices for different QFs and QF generation technology

PGE compiled this flow chart to give parties a visual depiction of the Decision Outline. Another purpose is to verify that PGE interpreted the Decision Outline appropriately.

PGE's flowchart of the Decision Outline-proposed avoided cost methodology shows that in the initial steps:

1. The avoided cost methodology starts with a determination about using an acknowledged IRP.

2. The next major resource acquisition(s) is identified in the IRP action plan. This sets the dates and types of the major resource additions.
    a. If the IRP is not acknowledged, additional processes are outlined.
3. The proposed QF is categorized as renewable (per RPS) or cogeneration/other.

Next, once the reference IRP is determined, and the QF to which this process applies is categorized as renewable or cogeneration/other, the resource deficiency period can be determined:

1. For cogeneration/other QFs, the resource sufficiency period ends with the on-line date of the next major resource acquisition from the IRP action plan.
2. For renewable resources, the resource sufficiency period ends with: either the option in (1) above, or the next renewable resource addition in the IRP action plan. The choice is given to the QF, dependent on whether the QF cedes Renewable Energy Certificates (RECs) to the utility.

Finally, based on the decisions and choices made above, the QF may elect an avoided cost calculation basis. If the QF is a renewable project, there are potentially three avoided cost streams available. The avoided cost streams include:

1. The current methodology (per Order 05-584).
2. The current methodology with the addition of capacity value for QFs that provide a capacity contribution.
3. Avoided costs in the deficiency period based on the renewable major resource acquisition.

Only the first two cost streams are available for QFs with a non-renewable project.

The Decision Outline methodology is complex and requires significant additional analysis by both QFs and utilities to determine the appropriate elections to make. We have not evaluated how avoided costs prices would differ between options, nor how QF revenue streams could vary by choices allowed in the methodology.

Before offering more detailed comments, we make the following observations about the methodology:

First, it appears that QFs with renewable generation (if ceding RECs to the utility) would have a choice of dates in determining when the utility is considered resource deficient. The QF can choose between the date of: (1) the major non-renewable acquisition, or (2) the major renewable acquisition. This appears to allow the QF to extend the sufficiency period if prices during that time are more favorable than during the deficiency period, or use a shorter sufficiency period if the prices during the deficiency period are more favorable.

Second, the Decision Outline states that the start date for a major resource acquisition, per the competitive bidding rules (100 MW and five years), demarcates the resource sufficiency and deficiency period. Yet, the end of the sufficiency period is further dependent upon the type of QF. Therefore, it appears that a major acquisition, as defined in the competitive bidding rules, is not a hard and fast rule to demarcate the resource sufficiency and deficiency period.

Additionally, the Decision Outline contains a disparity between two important concepts: a) the resource sufficiency and deficiency period demarcation, and b) the calculation of avoided costs in the deficiency period. For example, it appears the start of

the deficiency period could be based on a renewable resource, yet the avoided costs could be based on a CCCT.

**Comments by Decision Outline Element**

**Decision Outline: Utilities shall file their avoided costs every two years and, also, 30 days after an IRP order is issued (same as today).**

PGE supports continuing the current avoided cost filing schedule.

- **Parties may seek to update avoided costs based on the results from an RFP.**

This provision creates more potential avoided cost updates, in contrast to the timing noted above based on IRP acknowledgement or the every two-year update. While PGE supports an objective to keep avoided costs current and consistent with costs, this provision is likely to add uncertainty to the avoided cost update and approval processes. The two-year cycle is a reasonable duration for avoided cost updates.

The IRP is a guide for resource acquisition. Allowing the results of individual RFPs to determine avoided costs creates a link between the planning involved in the IRP and actual resource acquisitions that will unduly complicate resource deficiency determination.

The Commission has consistently issued orders that allow avoided costs to be determined on a going forward basis. An RFP-based avoided cost update, if implemented, would need to be applied consistently in increasing or decreasing avoided costs as necessary. Further, using the results of an RFP – that yields a committed resource addition - to set avoided costs, raises a concern about what are appropriate avoidable costs. In addition, we need to answer the question: what is the major resource acquisition relative to sufficiency and deficiency; the RFP project or is another resource applicable?

**Decision Outline: For both off-cycle and post-IRP filings, the start date for a "major resource acquisition" in an action plan of the most recent acknowledged IRP demarcates the resource "sufficiency" and "deficiency" periods.**

- **A "major resource" is defined as it is in the competitive bidding rules.**

PGE has no objection to this definition of a major resource.

- **For off cycle (every two year) filings, the utility may seek acknowledgement of updated action plans.**

PGE has no objection to the requirement of an acknowledged action plan for purposes of resource sufficiency/deficiency determination.

- **Renewable resource acquisitions may be major resource acquisitions for the purposes of determining the avoided costs for a renewable resource QF eligible under the RPS.**

This would align the type of generation from the QF with the resource sufficiency and deficiency periods. However, there is a further alignment between the resource sufficiency and deficiency periods and the avoided cost calculation to consider. It is inconsistent to base the start of the deficiency period on a renewable resource while calculating avoided costs during the deficiency period on another resource.

Another important consideration is the tracking of the RECs from the QFs generation. Ratepayers of the utility will not benefit if the generator does not provide the RECs to the utility. The Decision Outline notes that if the QF provides RECs to the utility, that QF should have the choice of an avoided cost based on renewable generation during the deficiency period. It is also appropriate to have the deficiency period defined by the renewable resource only if the QF passes the RECs to the utility.

- **Gas peakers may be major resource acquisitions if they have an earlier on-line date than other acknowledged major resource acquisitions (such as a Gas CCCT).**

Gas peakers are used in conjunction with other generation to meet peak loads and may be used to "firm" intermittent resources, most notably wind, to provide capacity. In the standard QF contract, QFs are not obligated to provide capacity to the utility. If the QF does not guarantee capacity, then (in terms of resource sufficiency/deficiency) a peaker should not be considered a major resource acquisition for purposes of determining avoided costs. In order for this concept to be a reasonable option, the QF must provide a guarantee of capacity.

We comment below on the Decision Outline's proposal regarding avoided cost implications of the gas peaker and the need for QFs to provide a reliable capacity resource.

- **For partially acknowledged plans, the Commission will indicate how the utility shall determine avoided costs.**

PGE had a partially acknowledged IRP in the past. The action plan from the previously acknowledged plan is outdated. Utilities need direction from the Commission under these scenarios.

**Decision Outline: For resource sufficiency periods, avoided costs will be based on appropriate wholesale market price forecasts.**

PGE supports basing avoided costs on wholesale market price forecasts and notes this is not a change from the methodology outlined in Commission Order 05-584.

**Decision Outline: For resource deficiency periods, avoided costs will be based on one of the following:**

- **If a peaking resource precedes another major resource, avoided cost will be based on market prices plus a premium for capacity contribution. (This premium would depend on whether the QF provides power when the utility would use the peaker) The market-plus rate will be in effect until the start date of another resource.**

This provision adds an avoided cost determination for a unique set of QFs that can supply capacity allowing the utility to avoid capacity purchases. Any other QFs that cannot supply capacity, such as wind or other intermittent or non-dispatchable generation, should not receive the premium for capacity contributions. Those QFs are in the equivalent of a resource sufficiency period until an applicable major resource acquisition equivalent to a CCCT is identified to be on line.

QFs, particularly those eligible for standard contracts, do not typically provide capacity to the utility. However, the market-based avoided costs include on-peak and off-peak rates which account for energy and capacity. Adding an additional premium for capacity contribution is not appropriate in the near-term and short-term because market prices are reasonable proxies for capacity value. In particular, given that the premium lasts only until another resource is on line, the capacity premium is a short-term arrangement and no long-term capital costs should be included in the avoided costs. Otherwise, the costs are equivalent to building and discarding a capacity resource within a span of a few years. Market pricing is appropriate.

This quasi-deficiency period brings additional complications. There may be multiple resource additions. For example, the IRP could include a peaker, then a baseload resource, then another peaker. Is the second peaker taken into account? The fixed portion of a contract can last up to 15 years, and utilities need to forecast at least 20 years of fixed rates. The avoided costs are determined before the contract is signed and are not subject to change. In comparison, the current methodology, with a CCCT as the basis for avoided costs during the resource deficiency period, is simple and straight forward.

- **For a proposed renewable QF (eligible under the RPS) in which the developer will cede RECs over to the utility, the proposed QF may choose an avoided cost stream based on the avoided cost of the major renewable acquisition.**

This avoided cost determination adds an option for the utility to purchase RPS-eligible QF power and receive the RECs at the prices equivalent to the utilities planned renewable major resource acquisitions. This option directly links QF pricing to the avoided costs of the renewable resource.

Aspects of this specialized avoided cost determination need further details. For instance, avoided costs need to be equivalent with the utility costs and timing of renewable resource acquisitions.

- **When the major avoidable resource is a Gas CCCT, all QFs may choose an avoided cost stream based on the cost of the Gas CCCT.**

Although this avoided cost option appears to be consistent with current avoided cost methodology, the option must be integrated into the other avoided cost options in a manner that assures that avoided costs are consistently applied. The Decision Outline sets out several avoided cost options for QFs which may or may not be tied to avoided costs. If the QF has the choice of multiple fixed price options, then ratepayers will clearly be disadvantaged. Naturally, given a choice, a QF will choose the option that pays higher rates.

Further, we note that the guidance from PURPA states, "No such rule prescribed under subsection (a) of this section shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy." 16 U.S.C. §824-a3.

**Decision Outline: For off-cycle (every two year) filings, market prices and generation costs may be updated. The start date for the resource deficiency period shall not be updated unless the utility receives acknowledgement of an updated action plan.**

PGE agrees that an updated action plan is a sound basis for determining the resource sufficiency and deficiency periods.

**Summary**

PGE accepts the current avoided cost methodology as an appropriate and practical implementation of the requirements to offer QFs avoided cost-based rates consistent with PURPA requirements. The Decision Outline introduces a number of variables regarding avoided costs that require more detailed matching of QF supply commitments and applicable avoided costs. To simply create more avoided cost options without matching resources to avoidable costs may increase costs to utility customers.

If the Commission is seeking an improved link between the type of resource and the resource sufficiency/deficiency periods and associated avoided costs, PGE recommends more analysis, including:

- Determining if the link between the date which signals the start of the deficiency period and the basis for the avoided costs is consistently applied. For example, if the start of the deficiency period is based on a CCCT, then the calculation for avoided costs during the deficiency period should be based on the cost of a CCCT. Allowing the pricing to be based on a renewable resource when the start of the deficiency period is based on a CCCT is inappropriate.
- Determining if allowing a QF the choice to base avoided costs on either a CCCT or a renewable resource is consistent with avoided costs. The QF will always choose the more attractive pricing. If there is a choice, then the avoided cost is unlikely to reflect the incremental cost to the utility, but for the purchase from a QF.

- Consider aligning both the start of the deficiency period and the basis for avoided costs during the deficiency period with the specific type of generation provided by the QF, if the RECs are ceded to the utility. For example, a QF providing wind power would look to the utility's action plan as a signal for the start of the deficiency period. If the utility plans a major acquisition of wind in 2012, then the deficiency period for that type of QF would start in 2012. Accordingly, the avoided costs during the deficiency period would be based on the projected costs of wind generation from the utility's IRP.

DATED this 15th day of OCTOBER, 2009

Respectfully Submitted,

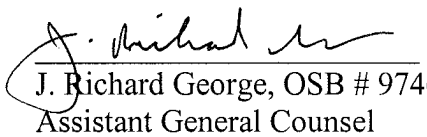

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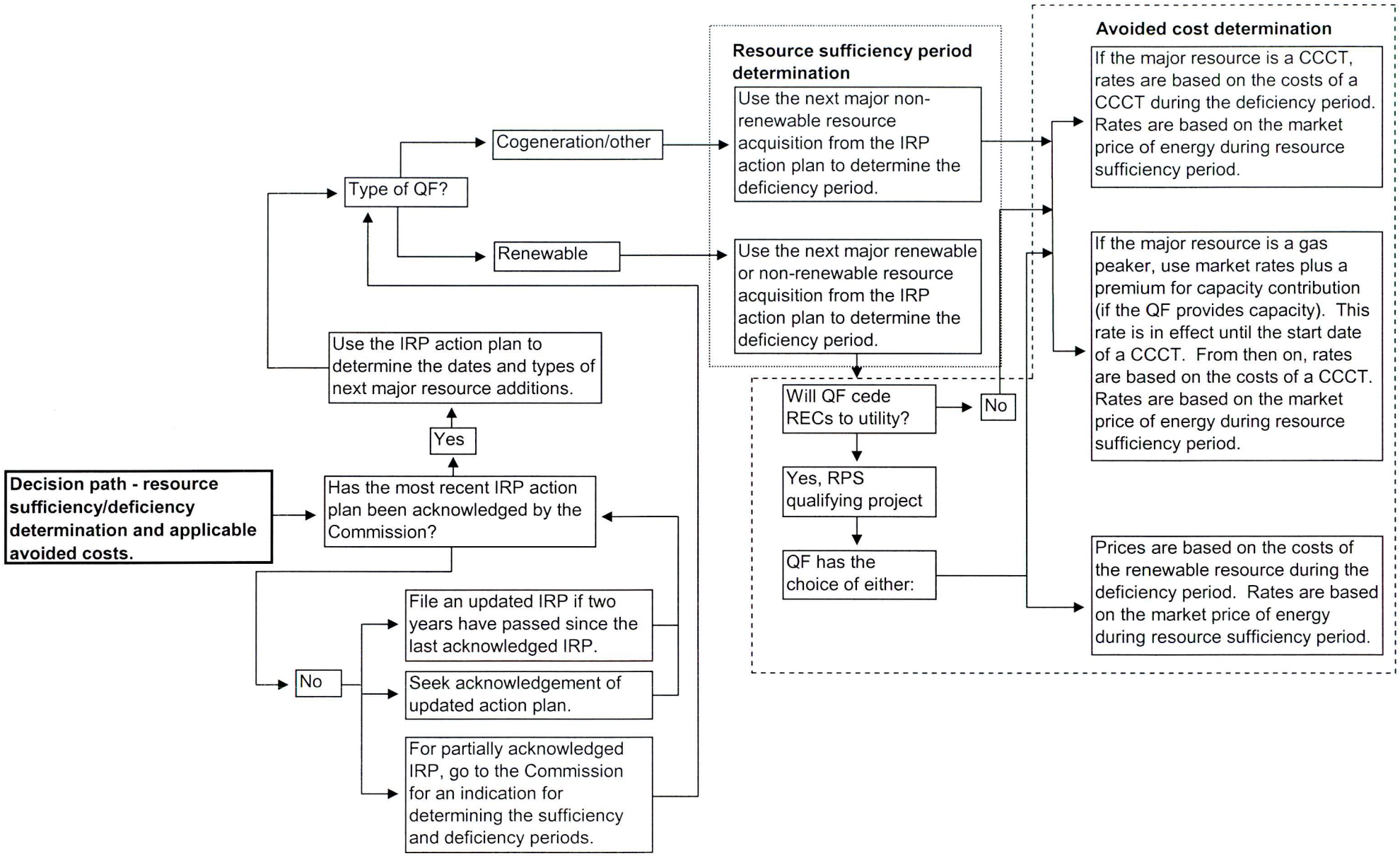
**Chart 1: PGE's interpretation of ALJ's Proposed "Decision Outline"**




Major resource is defined in the competitive bidding rules as more than 100 MW and five years.