

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1535**

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC	)	COMMENTS OF THE INDUSTRIAL
	)	CUSTOMERS OF NORTHWEST
Application to Open Docket for Request for	)	UTILITIES
<u>Proposals for Capacity Resources.</u>	)	

**I. INTRODUCTION**

The Industrial Customers of Northwest Utilities (“ICNU”) submits these comments regarding Portland General Electric Company’s (“PGE” or the “Company”) draft request for proposal (“RFP”) for capacity resources. The RFP will be issued to fulfill the capacity resource actions identified by PGE in its 2009 Integrated Resource Plan (“IRP”). PGE is planning to acquire approximately 200 megawatts (“MW”) of capacity resources, and the Company has included a 200 MW benchmark resource located at its existing Port Westward site.

ICNU recommends that the Oregon Public Utility Commission (“OPUC” or the “Commission”) either reject PGE’s RFP, or require the Company to make significant revisions and corrections to better ensure that the competitive bidding process is fair to third party independent power producers. Without making a number of changes, ICNU is concerned that the RFP will be biased in favor of PGE’s self-build benchmark resource, and potentially result in PGE building a more expensive resource to meet its future load growth. ICNU has reviewed an early draft of the comments being filed by the Northwest and Intermountain Power Producers Coalition (“NIPPC”), and as more fully explained in these comments, ICNU requests that the

Commission satisfactorily resolve NIPPC's concerns to ensure a fair and robust RFP. It would be preferable for PGE not to issue an RFP, than for the Company to issue an RFP where only one resource has a realistic opportunity to be selected as the winning bid.

## II. COMMENTS

### 1. The RFP Appears to Be Biased in Favor of PGE's Benchmark Resource

PGE's RFP includes a number of provisions that may bias the final resource selection in favor of the Company's self-build benchmark option. The goal of the RFP is to have an understandable and fair competitive bidding process that minimizes the utility's resource costs. Re an Investigation Regarding Competitive Bidding, Docket No. UM 1182, Order No. 06-446 at 2 (Aug. 10, 2006). The competitive bidding rules are also designed to reduce a utility's bias toward building its own resources rather than entering into purchase power agreements or purchasing resources from third parties. Re an Investigation Regarding Performance Based Ratemaking Mechanisms, Docket No. UM 1276, Order No. 11-001 at 6 (Jan. 3, 2011). Ultimately, ratepayers will be harmed if PGE does not take all reasonable efforts to ensure that the most cost-effective and reliable resource is selected in its RFP.

ICNU understands that PGE's self-build benchmark is based on the PGE's existing transmission plans, which include PGE's planned Trojan transmission line that would be used to bring the benchmark resource to load. PGE Draft RFP at 21; Re PGE, Docket No. UE 215, PGE/1500, Kuns-Cody/5. Ratepayers are funding the transmission line, which will result in PGE's benchmark resource not needing to acquire transmission rights to transfer power to load. Despite ratepayer funding of this line, PGE does not appear to be willing to allow independent third parties to build at PGE's site. In addition, bidders need to acquire their own transmission,

which must include dynamic transfer or real time ties to PGE's system. PGE Draft RFP at 12, 21. ICNU understands that NIPPC is raising concerns that PGE's restrictions regarding dynamic transfer may make it difficult to prove that such services have been acquired by the time bids are submitted. NIPPC Comments at 13-15. Essentially, PGE appears to have constructed an RFP that is biased in favor of its resource because the benchmark's transmission is provided free by ratepayers, but independent power bidders must make specific other arrangements, which may not be possible under PGE's schedule.

ICNU recommends that the Commission remedy these specific problems by:

- Allowing third parties to submit bids at PGE's Port Westward site;
- Allocating the costs of the Trojan to Horizon transmission line to any bid at PGE's Port Westward site; and
- Ensuring that bids at other locations provide the necessary transmission guarantees, but modifying the RFP to require PGE to take all steps to assist third parties in obtaining dynamic transfer or other transmission services. The availability of dynamic transfer should not be weighed or become a factor until after a bid has been selected to the RFP short-list.

## **2. Other Potential Biases in PGE's RFP**

### **A. Gas Scheduling and Storage**

PGE's proposed RFP also includes a requirement that bidders provide intra-day scheduling of gas supplies. PGE Draft RFP at 18. ICNU is aware that NIPPC intends to raise the concern that this may prevent typical tolling arrangements, and that "intra-day" gas scheduling and gas storage is limited and/or not available in the Northwest. NIPPC Comments at 15-16. ICNU does not take a position regarding NIPPC's specific statements regarding the availability of gas products in the Northwest market, but recommends that PGE accept bids with

standard commercial terms regarding gas scheduling and storage. PGE's RFP should not include onerous gas scheduling and/or storage requirements that effectively prevent third parties from submitting competing bids.

**B. Technology Types**

NIPPC is raising a concern that PGE's RFP may exclude certain types of simple cycle combustion turbines. NIPPC Comments at 17-18. Specifically, the RFP may exclude "frame units." Id. ICNU does not take a position regarding the viability of any technology, but requests that PGE modify the RFP to allow all viable technologies. In the alternative, ICNU requests that PGE be required to explain why any specific excluded technology is not viable and appropriate.

**C. Debt Imputation**

PGE plans to use debt imputation to develop the final short list of resources in this RFP. ICNU's consistent position is that the issue of credit rating debt imputation for utility purchase power agreements should be addressed in general rate proceedings and not the RFP process. The Commission appears to agree with this view, finding in the recent final order in the utility self bias proceeding that:

with regard to the debt imputation issue, we allow the utilities to raise the impact on this practice on credit ratings and earnings in individual rate proceedings. We believe that this issue is more appropriately addressed in the context of an overall examination of a utility's cost of capital.

Docket No. UM 1276, Order No. 01-001 at 6. Thus, PGE should not use debt imputation when evaluating resources in this RFP.

### **3. Bidders Should Be Able Submit Bids in Both this RFP and PGE's Baseload Resource RFP**

PGE is also planning on issuing a baseload RFP for 300-500 MWs of baseload resources to meet future load growth. NIPPC has requested that PGE adjust its RFP schedule to allow bidders to use the economies of scale to bid into both RFPs. NIPPC Letter to PGE (April 14, 2011). NIPPC claims that this will result in more competitive bids, which could lower costs to ratepayers. Id. ICNU has not been provided PGE's response to this request nor any specific reasons why the RFPs cannot overlap. NIPPC's request seems reasonable, as it may lower costs for bidders to participate in the RFPs, result in lower bids, and could result in ratepayer savings. Absent a compelling justification by PGE, ICNU recommends that the Commission modify the RFPs to allow bidders to submit simultaneous bids into both RFPs.

### **4. Other Issues**

NIPPC is raising a number of other issues regarding the schedule and requesting clarification of certain aspects of the RFP. ICNU is not taking a position on these issues at this time, but will review PGE's and Staff's reply comments on these issues. ICNU reserves the right to make recommendations on these issues in later comments.

## **III. CONCLUSION**

PGE's RFP appears to be significantly biased in favor of the Company's self-build benchmark resource. The Commission should either reject PGE's proposed RFP, or require that PGE make changes to ensure that independent third parties are able to fairly and effectively participate in the RFP. Ratepayers will be harmed if PGE biases the competitive

bidding process to unfairly benefit its own self-build benchmark resource, or otherwise unnecessarily harm or exclude reliable and low cost alternative resource options.

DATED this 22nd day of June, 2011.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Irion A. Sanger

S. Bradley Van Cleve

Irion A. Sanger

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

(503) 241-7242 telephone

(503) 241-8160 facsimile

bvc@dvclaw.com

ias@dvclaw.com

Of Attorneys for Industrial Customers of  
Northwest Utilities

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1535**

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC	)	COMMENTS OF THE INDUSTRIAL
	)	CUSTOMERS OF NORTHWEST
Application to Open Docket for Request for	)	UTILITIES
<u>Proposals for Capacity Resources.</u>	)	

**I. INTRODUCTION**

The Industrial Customers of Northwest Utilities (“ICNU”) submits these comments regarding Portland General Electric Company’s (“PGE” or the “Company”) draft request for proposal (“RFP”) for capacity resources. The RFP will be issued to fulfill the capacity resource actions identified by PGE in its 2009 Integrated Resource Plan (“IRP”). PGE is planning to acquire approximately 200 megawatts (“MW”) of capacity resources, and the Company has included a 200 MW benchmark resource located at its existing Port Westward site.

ICNU recommends that the Oregon Public Utility Commission (“OPUC” or the “Commission”) either reject PGE’s RFP, or require the Company to make significant revisions and corrections to better ensure that the competitive bidding process is fair to third party independent power producers. Without making a number of changes, ICNU is concerned that the RFP will be biased in favor of PGE’s self-build benchmark resource, and potentially result in PGE building a more expensive resource to meet its future load growth. ICNU has reviewed an early draft of the comments being filed by the Northwest and Intermountain Power Producers Coalition (“NIPPC”), and as more fully explained in these comments, ICNU requests that the

Commission satisfactorily resolve NIPPC's concerns to ensure a fair and robust RFP. It would be preferable for PGE not to issue an RFP, than for the Company to issue an RFP where only one resource has a realistic opportunity to be selected as the winning bid.

## II. COMMENTS

### 1. The RFP Appears to Be Biased in Favor of PGE's Benchmark Resource

PGE's RFP includes a number of provisions that may bias the final resource selection in favor of the Company's self-build benchmark option. The goal of the RFP is to have an understandable and fair competitive bidding process that minimizes the utility's resource costs. Re an Investigation Regarding Competitive Bidding, Docket No. UM 1182, Order No. 06-446 at 2 (Aug. 10, 2006). The competitive bidding rules are also designed to reduce a utility's bias toward building its own resources rather than entering into purchase power agreements or purchasing resources from third parties. Re an Investigation Regarding Performance Based Ratemaking Mechanisms, Docket No. UM 1276, Order No. 11-001 at 6 (Jan. 3, 2011).

Ultimately, ratepayers will be harmed if PGE does not take all reasonable efforts to ensure that the most cost-effective and reliable resource is selected in its RFP.

ICNU understands that PGE's self-build benchmark is based on the PGE's existing transmission plans, which include PGE's planned Trojan transmission line that would be used to bring the benchmark resource to load. PGE Draft RFP at 21; Re PGE, Docket No. UE 215, PGE/1500, Kuns-Cody/5. Ratepayers are funding the transmission line, which will result in PGE's benchmark resource not needing to acquire transmission rights to transfer power to load. Despite ratepayer funding of this line, PGE does not appear to be willing to allow independent third parties to build at PGE's site. In addition, bidders need to acquire their own transmission,



which must include dynamic transfer or real time ties to PGE's system. PGE Draft RFP at 12, 21. ICNU understands that NIPPC is raising concerns that PGE's restrictions regarding dynamic transfer may make it difficult to prove that such services have been acquired by the time bids are submitted. NIPPC Comments at 13-15. Essentially, PGE appears to have constructed an RFP that is biased in favor of its resource because the benchmark's transmission is provided free by ratepayers, but independent power bidders must make specific other arrangements, which may not be possible under PGE's schedule.

ICNU recommends that the Commission remedy these specific problems by:

- Allowing third parties to submit bids at PGE's Port Westward site;
- Allocating the costs of the Trojan to Horizon transmission line to any bid at PGE's Port Westward site; and
- Ensuring that bids at other locations provide the necessary transmission guarantees, but modifying the RFP to require PGE to take all steps to assist third parties in obtaining dynamic transfer or other transmission services. The availability of dynamic transfer should not be weighed or become a factor until after a bid has been selected to the RFP short-list.

## **2. Other Potential Biases in PGE's RFP**

### **A. Gas Scheduling and Storage**

PGE's proposed RFP also includes a requirement that bidders provide intra-day scheduling of gas supplies. PGE Draft RFP at 18. ICNU is aware that NIPPC intends to raise the concern that this may prevent typical tolling arrangements, and that "intra-day" gas scheduling and gas storage is limited and/or not available in the Northwest. NIPPC Comments at 15-16. ICNU does not take a position regarding NIPPC's specific statements regarding the availability of gas products in the Northwest market, but recommends that PGE accept bids with

standard commercial terms regarding gas scheduling and storage. PGE's RFP should not include onerous gas scheduling and/or storage requirements that effectively prevent third parties from submitting competing bids.

**B. Technology Types**

NIPPC is raising a concern that PGE's RFP may exclude certain types of simple cycle combustion turbines. NIPPC Comments at 17-18. Specifically, the RFP may exclude "frame units." Id. ICNU does not take a position regarding the viability of any technology, but requests that PGE modify the RFP to allow all viable technologies. In the alternative, ICNU requests that PGE be required to explain why any specific excluded technology is not viable and appropriate.

**C. Debt Imputation**

PGE plans to use debt imputation to develop the final short list of resources in this RFP. ICNU's consistent position is that the issue of credit rating debt imputation for utility purchase power agreements should be addressed in general rate proceedings and not the RFP process. The Commission appears to agree with this view, finding in the recent final order in the utility self bias proceeding that:

with regard to the debt imputation issue, we allow the utilities to raise the impact on this practice on credit ratings and earnings in individual rate proceedings. We believe that this issue is more appropriately addressed in the context of an overall examination of a utility's cost of capital.

Docket No. UM 1276, Order No. 01-001 at 6. Thus, PGE should not use debt imputation when evaluating resources in this RFP.

### **3. Bidders Should Be Able Submit Bids in Both this RFP and PGE's Baseload Resource RFP**

PGE is also planning on issuing a baseload RFP for 300-500 MWs of baseload resources to meet future load growth. NIPPC has requested that PGE adjust its RFP schedule to allow bidders to use the economies of scale to bid into both RFPs. NIPPC Letter to PGE (April 14, 2011). NIPPC claims that this will result in more competitive bids, which could lower costs to ratepayers. Id. ICNU has not been provided PGE's response to this request nor any specific reasons why the RFPs cannot overlap. NIPPC's request seems reasonable, as it may lower costs for bidders to participate in the RFPs, result in lower bids, and could result in ratepayer savings. Absent a compelling justification by PGE, ICNU recommends that the Commission modify the RFPs to allow bidders to submit simultaneous bids into both RFPs.

### **4. Other Issues**

NIPPC is raising a number of other issues regarding the schedule and requesting clarification of certain aspects of the RFP. ICNU is not taking a position on these issues at this time, but will review PGE's and Staff's reply comments on these issues. ICNU reserves the right to make recommendations on these issues in later comments.

## **III. CONCLUSION**

PGE's RFP appears to be significantly biased in favor of the Company's self-build benchmark resource. The Commission should either reject PGE's proposed RFP, or require that PGE make changes to ensure that independent third parties are able to fairly and effectively participate in the RFP. Ratepayers will be harmed if PGE biases the competitive

bidding process to unfairly benefit its own self-build benchmark resource, or otherwise unnecessarily harm or exclude reliable and low cost alternative resource options.

DATED this 22nd day of June, 2011.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Irion A. Sanger

S. Bradley Van Cleve

Irion A. Sanger

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

(503) 241-7242 telephone

(503) 241-8160 facsimile

bvc@dvclaw.com

ias@dvclaw.com

Of Attorneys for Industrial Customers of  
Northwest Utilities

# Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com  
Suite 400  
333 SW Taylor  
Portland, OR 97204

June 22, 2011

***Via Electronic and US Mail***

Public Utility Commission  
Attn: Filing Center  
550 Capitol St. NE #215  
P.O. Box 2148  
Salem OR 97308-2148

Re: In the Matter of PORTLAND GENERAL ELECTRIC Application to  
Open Docket for Request for Proposals for Capacity Resources  
**Docket No. UM 1535**

Dear Filing Center:

Enclosed please find the original and five (5) copies of the Comments on the Final Draft of the RFP on behalf of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Thank you for your assistance.

Sincerely,

/s/ Sarah A. Kohler  
Sarah A. Kohler

Enclosures

cc: Service List

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Comments on behalf of the Industrial Customers of Northwest Utilities upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, and via electronic mail.

Dated at Portland, Oregon, this 22nd day of June, 2011.

Sincerely,

/s/ Sarah A. Kohler

Sarah A. Kohler

**(W) PORTLAND GENERAL ELECTRIC**

Randy Dahlgren – 1WTC0702  
V. Denise Saunders – 1WTC1301  
121 SW Salmon St.  
Portland, OR 97204  
pge.opuc.filings@pgn.com  
denise.saunders@pgn.com

**(W) CITIZENS' UTILITY BOARD OF OREGON**

GORDON FEIGHNER (C)  
ROBERT JENKS  
G. CATRIONA MCCRACKEN  
610 SW BROADWAY, STE 400  
PORTLAND OR 97205  
gordon@oregoncub.org  
bob@oregoncub.org  
catriona@oregoncub.org

**(W) NW INDEPENDENT POWER PRODUCERS**

Robert D. Kahn  
1117 MINOR AVENUE, SUITE 300  
SEATTLE WA 98101  
rkahn@nippc.org;rkahn@rdkco.com

**(W) RICHARDSON & O'LEARY**

Gregory M. Adams  
Peter J. Richardson  
PO BOX 7218  
BOISE ID 83702  
greg@richardsonandoleary.com  
peter@richardsonandoleary.com

**(W) OREGON DEPARTMENT OF ENERGY**

MATT KRUMENAUER (C)  
VIJAY A SATYAL (C)  
625 MARION ST NE  
SALEM OR 97301  
matt.krumenauer@state.or.us  
vijay.a.satyal@state.or.us

**(W) CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP**

RICHARD LORENZ  
J LAURENCE CABLE  
1001 SW FIFTH AVE - STE 2000  
PORTLAND OR 97204-1136  
rlorenz@cablehuston.com  
lcable@cablehuston.com

**(W) DEPARTMENT OF JUSTICE**

**(W) NW INDEPENDENT POWER**

JANET L PREWITT (C)  
NATURAL RESOURCES SECTION  
1162 COURT ST NE  
SALEM OR 97301-4096  
janet.prewitt@doj.state.or.us

**(W) ESLER STEPHENS & BUCKLEY**  
JOHN W STEPHENS  
888 SW FIFTH AVE STE 700  
PORTLAND OR 97204-2021  
stephens@eslerstephens.com;  
mec@eslerstephens.com

**(W) PUBLIC UTILITY COMMISSION**  
ERIK COLVILLE (C)  
PO BOX 2148  
SALEM OR 97308-2148  
erik.colville@state.or.us

**(W) REGULATORY & COGENERATION  
SERVICES INC**  
DONALD W SCHOENBECK  
900 WASHINGTON ST STE 780  
VANCOUVER WA 98660-3455  
dws@r-c-s-inc.com

**(W) RENEWABLE NORTHWEST  
PROJECT**  
MEGAN WALSETH DECKER  
JIMMY LINDSAY  
917 SW OAK, STE 303  
PORTLAND OR 97205  
megan@rnp.org  
jimmy@rnp.org

**PRODUCERS**  
ROBERT D KAHN  
1117 MINOR AVENUE, SUITE 300  
SEATTLE WA 98101  
rkahn@nippc.org;rkahn@rdkco.com

**(W) NW ENERGY COALITION**  
WENDY GERLITZ (C)  
1205 SE FLAVEL  
PORTLAND OR 97202  
wendy@nwenergy.org

**(W) DEPARTMENT OF JUSTICE**  
STEPHANIE S ANDRUS (C)  
BUSINESS ACTIVITIES SECTION  
1162 COURT ST NE  
SALEM OR 97301-4096  
stephanie.andrus@doj.state.or.us

**(W) TEPPER LLC**  
CHUCK SIDES  
MANAGEMENT GROUP OF OREGON, INC  
PO BOX 2087  
SALEM OR 97308  
chucksides@mgoregon.com