



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

March 7, 2012

*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 1535**

Attention Filing Center:

Enclosed for filing in the above-captioned docket are an original and five copies of:

- **REPLY COMMENTS OF PORTLAND GENERAL ELECTRIC COMPANY**

This 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. Thank you in advance for your assistance.

Sincerely,

V. DENISE SAUNDERS  
Associate General Counsel

VDS:cbm  
Enclosures  
cc: UM 1535 Service List

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1535

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY

REPLY COMMENTS OF PORTLAND  
GENERAL ELECTRIC

Request for Proposals for Capacity & Baseload  
Energy Resources

Pursuant to the January 18, 2012, Prehearing Conference Memorandum issued in this docket, Portland General Electric Company (PGE) submits these comments in response to comments submitted by the Citizens' Utility Board of Oregon (CUB), the Industrial Customers of Northwest Utilities (ICNU), and the Northwest and Intermountain Power Producers Coalition (NIPPC).

**Background**

On November 23, 2010, the Oregon Public Utility Commission (OPUC or Commission) acknowledged PGE's 2009 IRP action plan, which included proposals to conduct Requests for Proposals (RFPs) to acquire (1) 200 MW of flexible year-round capacity resources by year-end 2013, (2) 200 MW of bi-seasonal peaking supply, (3) 150 MW of winter-only peaking supply, (4) a baseload of 300 to 500 MW combined-cycle natural gas plant by year-end 2015 and (5) 122 MWa<sup>1</sup> of renewable resources by year-end 2014. *See, Re Portland General Electric, 2009 Integrated Resource Plan*, Order No. 10-457 (Nov. 23, 2010). The resources acquired through the RFPs are needed to address PGE's projected need for approximately 1,500 MW of capacity

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<sup>1</sup> This was revised to 101 MWa in PGE's IRP Update. *PGE's 2011 IRP Update*, OPUC Docket No. LC 48 (Nov. 23, 2011) (IRP Update).

resources beginning in 2013 and 682 MWa of energy resources beginning in 2015. *IRP Update at 1.1.*

Almost a year ago, in April of 2011, PGE issued a draft RFP for Capacity Power Supply Resources to the bidding community and conducted bidder and stakeholder workshops to receive input on the RFP. On May 23, 2011, PGE submitted a Final Draft RFP for Capacity Power Supply Resources in this docket for Commission approval. On June 3, 2011, the Independent Evaluator (IE) provided OPUC Staff with an assessment of the Final Draft RFP concluding that the RFP was being conducted in a fair and unbiased manner and was consistent with the Commission's guidelines. *Independent Evaluator Assessment of PGE's Draft 2011 RFP for Capacity Power Supply Resources*, OPUC Docket No. UM 1535 at 2 (June 3, 2011) (2011 IE Report). OPUC Staff recommended that the Commission approve the RFP with conditions. *Staff Report*, OPUC Docket No. UM 1535 (July 26, 2011) (Staff Report).

On September 27, 2011, in response to comments by NIPPC and other parties, the Commission issued an Order on PGE's Final Draft RFP directing PGE to delay the capacity RFP and combine it with the energy RFP; remove consideration of dynamic transmission transfer rights from the initial evaluation of bids; consider making its site available to prospective bidders; and remove imputed debt as a factor to consider in identifying the short-list. *Re Portland General Electric, Request for Capacity Resource Proposals*, Order No. 11-371 (Sept. 27, 2011) (Order 11-371).

PGE spent the next few months developing a combined capacity and energy RFP and a process to allow prospective bidders to submit Engineering, Procurement and Construction (EPC) bids on PGE's Port Westward II and Carty sites. PGE issued an initial draft RFP on

January 4, 2012, held bidder and stakeholder workshops, and filed the Final Draft RFP for Power Supply Resources with the Commission on January 25, 2012.

Throughout the process, PGE has worked diligently to accommodate suggestions from the IE, the Commission, NIPPC and others. In addition to combining the capacity and energy RFPs and opening up our sites to third parties, we have made other significant changes to the RFP. These changes include: removing consideration of dynamic transfer rights from the initial evaluation of bids; removing imputed debt as a factor to consider in identifying the short-list; and adding more detailed credit requirements to the RFP.

On February 22, 2012, CUB, ICNU and NIPPC filed comments on the Draft RFP. All three acknowledged improvements to the RFP. *CUB Comments at 1, ICNU Comments at 1-2, NIPPC Comments at 2, 4, 11.* NIPPC, however, raised a number of concerns – some of which were echoed with little discussion by ICNU and CUB.

In these Reply Comments we agree to make further changes to the RFP to address some of the issues raised by NIPPC. However, we believe the majority of NIPPC's remaining concerns arise from a misunderstanding of the RFP or IRP and we provide clarifications to address these concerns. There are three changes requested by NIPPC that we are not willing to make (providing more details on scoring criteria; allowing bidders to use PGE site-specific cost information to prepare competing bids; and allowing third parties to own and operate projects on PGE's sites) either because of their potential to incent "gaming" in the RFP and/or because they are infeasible and not in the best interest of our customers.

PGE has included as Attachment A a chart showing how the draft RFP satisfies each of the applicable Commission Competitive Bidding Guidelines. The IE has concluded that "PGE has acted in good faith with all bidders, and created protocols and documents that will permit the

RFP to be conducted in a fair and transparent manner.” *Report of the Independent Evaluator, PGE 2011 Capacity Power Supply Resources RFP*, OPUC Docket UM 1535, at 1 (Feb. 8, 2012) (2012 IE Report). We agree. We believe we have developed a process that is fair and that will allow us to acquire the resources with the best combination of risk and cost for our customers. We urge the Commission to acknowledge the RFP with the changes outlined in our comments.

### **Response to Comments**

#### **A. NIPPC misinterprets PGE’s IRP and RFP provisions concerning gas transport, storage and scheduling**

NIPPC expresses several concerns with the RFP’s gas delivery and intra-day scheduling requirements. *NIPPC Comments at 5-9*. These concerns appear to be based on a misunderstanding of PGE’s existing gas arrangements, an erroneous reading of the RFP, and an attempt to weaken commercially reasonable requirements necessary for meeting PGE’s needs.

##### **1. PGE does not have excess gas transport and storage rights**

NIPPC cites to PGE’s discussion of its incremental gas need in its IRP to mistakenly conclude that PGE has “substantial gas storage and transport rights” that it could use to implement additional tolling agreements. *NIPPC Comments at 5, 8*. Consistent with IRP Guideline 5, PGE included in its IRP portfolio analysis the “costs to the utility for the fuel transportation . . . required for each resource being considered.” *2009 IRP at 80*. NIPPC quotes a portion of PGE’s IRP discussing its gas transport need to conclude that PGE has excess gas and transport rights. However, NIPPC omits a portion of the quote that explicitly states that “[t]he actual volumes [of gas pipeline and/or storage] may be higher or lower depending on . . . the location and fueling needs of new gas-fired resources acquired through a future RFP.” *2009 IRP at 325-326*. In other words, PGE did not intend to acquire the gas transport and storage identified in the IRP in advance of the conclusion of the RFP. As the IRP explains, the fueling

and transport/storage identified in the IRP is plant-specific and any future incremental gas and storage rights required by PGE will depend on the outcome of the RFP. *Id.* It would be impossible, and potentially very costly, for PGE to enter into transactions to support the RFP for gas transportation/storage for unknown power plant locations,<sup>2</sup> or to make un-cancellable commitments for gas transportation/storage before resources are selected through the RFP. NIPPC's assertion that PGE "possesses substantial gas storage and transport rights that it could (and should) use to implement any tolling agreement into which it may enter" is simply not true.

**2. Bidders are required to submit a viable fueling strategy, not a firm contract, with their bids**

PGE believes NIPPC has also misread the RFP requirements for gas transport and scheduling. NIPPC believes the draft RFP requires bidders, at the time they submit their bids, to possess rights to gas transportation from a liquid trading hub for the baseload, as well as firm intra-day scheduling rights from the storage facility for the flexible capacity resource. *NIPPC Comments at 6.* NIPPC argues that Commission Order 11-371 only requires bidders to provide a viable "plan" for acquiring gas storage and intra-day scheduling. *Id.*

We agree with NIPPC and our RFP only requires a viable plan for gas. However, PGE takes this opportunity to clarify how PGE proposes to evaluate fuel supply. To confirm that each bid submitted into the RFP has a reasonable chance of obtaining access to a firm fuel supply to serve customers' energy needs, PGE will implement the RFP as follows:

- Each bid, not proposing to use PGE's sites, will be required to submit a viable plan for its fueling strategy, including estimated associated costs, detailing how the proposed generation resource as bid will have firm fuel supplied. We believe this requirement is consistent with the Commission

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<sup>2</sup> Receipt and delivery points are required to be identified in gas agreements, and the Commission itself recognized in Order 11-371 that the ability to obtain gas storage and intra-day scheduling is largely location dependent.

Order<sup>3</sup> and will give PGE's RFP scoring team and the IE a basis for evaluating the relative strength of each bid's fueling strategy. Without this requirement, PGE's RFP scoring team would be left to determine the fueling strategy for each bid – an approach that is not efficient, sufficient or transparent.

- Bids for proposals using PGE's sites will be subject to the fueling plan inclusive of cost estimates developed by PGE for gas transport, gas storage and transmission arrangement on behalf of those sites.
- PGE will clarify that bidders are required to propose a fueling plan, not a firm contract, at bid submittal.<sup>4</sup>
- An acceptable fueling plan, inclusive of pricing and service level information for the fueling requirements, should also contain one or more of the following (bidders with the most firm commitments will score higher, e.g., a service agreement will score higher than a letter of intent):
  - Letter of intent/term sheet/memorandum of understanding from a pipeline and/or gas storage operator.<sup>5</sup>

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<sup>3</sup> NIPPC ignores the conclusions reached by the Commission in Order 11-371 at 4 that PGE does not have "any special advantage in acquiring" fueling services, and would instead impose a NIPPC-crafted fueling plan on PGE. NIPPC, at page 8 of its comments, suggests that PGE should enter into "capacity sharing arrangements with existing industrial customers, third party capacity purchasers, or potential system expansion." While PGE does not address the lack of merits of NIPPC's "plan," PGE points out that every bidder can pursue one or more of the options that NIPPC lists.

<sup>4</sup> On page 8 of its comments, NIPPC implies that gas transport rights are not a major limiting factor in the region. If this is the case, it should not be difficult for bidders to develop a viable fueling strategy.

<sup>5</sup> PGE disagrees with NIPPC's unsupported assertion "...that a gas company would [not] agree to provide an MOU when it knows that the gas supply obligations will be fulfilled by PGE, perhaps even with PGE's own existing gas transport rights." *NIPPC Comments at 8*. We note that in this RFP process, one pipeline has expressed its desire and ability to accommodate any requests for new transportation through a combination of available capacity and/or new expansion capacity.

- Non-binding precedent agreement with a pipeline and/or gas storage operator.
- Binding precedent agreement with a pipeline and/or gas storage operator.
- Long term firm service agreement for transport and/or gas storage.
- While pipelines will enter into twenty- to thirty-year agreements, PGE agrees that an evergreen right to renew or a right of first refusal that is in place for the duration of the bid's term will satisfy its requirement that the bid term be the same as the term for fueling arrangements. *See, NIPPC Comments at 7.*

To comply with Federal Energy Regulatory Commission requirements that the shipper must have title, PGE requires an assignment of any transportation rights associated with a tolling agreement (an assignment is not required for a PPA bid). If mutually acceptable to PGE and a winning bidder, PGE may take an assignment of applicable storage agreements.

### **3. PGE clarifies the meaning of “intra-day nomination”**

NIPPC states that further clarity is still needed regarding what PGE means by “intra-day nomination.” *NIPPC Comments at 7.* Traditionally, PGE has used hydro generation to provide ancillary services. However, as discussed in the IRP, the combination of expiring hydro contracts, load growth and an increasing penetration of variable energy resources in our portfolio results in a need for additional flexible generation. We are planning to add 200 MW of flexible capacity to our portfolio through this RFP. In order to provide ancillary services, if the bids are gas thermal-based generation, the gas fueling must be as flexible as the required generation output.



A bid will satisfy the requirement for intra-day gas if it can provide gas on demand as needed to fuel the resource outside of the NAESB nomination cycles. In order to do that, a bidder must demonstrate that it has:

- Access to a physical gas supply; and
- A flexible gas transport agreement from that gas supply to the burner tip of the resource contractually allowing firm “no-notice” service, i.e. a service that provides the bidder **on demand delivery** to meet the flexible capacity generating resource need using a combination of transportation and/or storage.

**B. Credit Requirements**

- 1. PGE’s credit requirements appropriately match the default risk for each bid structure with a corresponding mitigating credit tool**

NIPPC claims that the RFP credit requirements reveal a “structural impediment” to Independent Power Producers (IPPs) because PGE is requiring IPPs to provide assurances to PGE and its customers that PGE will not provide with its benchmarks and other utility ownership options. *NIPPC Comments at 11*. NIPPC’s premise is wrong. All bids, whether they are IPP or ownership, are required to provide performance assurance to protect PGE’s customers. Because the risk of default can differ dramatically depending on whether the resulting contract is a Purchased Power Agreement (PPA) or an ownership bid (i.e., a Build Own Transfer, an Asset Purchase and Sale, a self-build, or an EPC bid), the necessary performance assurance will also be tailored differently for each structure to ensure that it appropriately mitigates the corresponding risk.

For example, in a typical ownership structure requiring a new build, customers' exposure to counterparty default risk is bounded by the construction schedule. In order to address this risk, PGE requires a bid bond to bid, and performance assurance throughout the construction period. Accordingly, PGE's benchmark resource bid will be supported by the bid bond required of all construction bids, and if selected as the winning bid, the benchmark resource will be supported by the appropriate posted performance assurance during construction. The required performance assurance on an EPC bid is 25% of the total value of the construction contract. And, unlike the performance guaranty for a PPA, it will not be offset by a credit threshold ("line of credit").

NIPPC's suggestion that "the RFP should require PGE's shareholders to provide an equivalent level of assurance to its customers for its ownership options" (*NIPPC Comments at 13*) is misguided. Credit risk mitigation is by definition a counterparty risk mitigation. PGE is not aware of any commercial arrangement where a party posts performance assurance to itself. In any event, the scoring contained in the credit section is intended to evaluate the counterparty risk. Nonetheless, PGE will still subject its benchmark bids to the same credit thresholds as other bids.

In contrast to ownership structures, customers' exposure to the default risk of a seller under a tolling agreement or a PPA does not start until the delivery start date of the agreement. As a result, the initial credit requirement for a tolling agreement bid is a lower one. NIPPC misunderstands that "[t]o bid, the bidder must have performance assurance of no less than 25% of the value of the first three years of the contracts." *NIPPC Comments at 11*. Instead, at bid submittal, PGE imposes no credit requirement on the bidder if that bidder has and maintains an investment grade rating. If the bidder is not investment grade, PGE only requires a bidder,

submitting a PPA or a tolling agreement, to obtain a commitment letter from a qualified guarantor stating that it would post the collateral if selected. Pre-bid, there is no cost to a bidder submitting a PPA or a tolling agreement. In contrast, however, PGE benchmark bids and third-party bidders submitting new build for PGE ownership are required to post a bid bond.

For a PPA or a tolling agreement, once the bid is selected, customers will be exposed to the counterparty risk of default throughout the term of the contract. That risk is equivalent to the difference between the existing bid price and the replacement cost of contract of similar terms and duration. In order to address this ongoing risk, PGE's risk management policy, consistent with industry practice, calls for performance assurance throughout the term of the contract. As such, credit threshold requirements to bid and posted performance assurance during the term of the contract for PPA bids, including tolling agreements, are different from ownership bids because they protect against different kinds of risks, not because of bias, as NIPPC claims.

Requiring PGE to lower this standard as NIPPC suggests would be akin to asking PGE to weaken contractual provisions that protect our customers.<sup>6</sup> In short, contrary to NIPPC's assertions, PGE's credit requirements are not designed based on who (an IPP or PGE) is bidding. Rather, they are tailored to address the risk characteristics of the structure being bid. The bid structures of PGE's benchmark bids will be evaluated comparably to similar structures and will receive no improper advantage. The IE determined that PGE's credit scoring methodology is reasonable and consistent with good industry practice. *2012 IE Report at 5*. No changes are warranted.

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<sup>6</sup> Although NIPPC asserts that "the bidders will surely provide such protections if selected," NIPPC will take away the mechanism for providing such protections – the posted performance assurance. *See, NIPPC Comments at 12*.

**2. PGE clarifies its requirement for audited financial statements. As clarified, the requirements are reasonable and necessary to protect customers**

NIPPC believes that requiring the developer and the development team to provide three years of audited financial statements is burdensome and will discourage bidding. *NIPPC Comments at 13.* PGE will revise the RFP to clarify that the requirement for audited financial statements from the developer and the development team does not apply to bids of PPAs. Bids of PPAs should be accompanied by the financial statements of the seller for the specified period. Bids that include the construction of a project should be accompanied by the financial statements of the project development team (i.e., the project sponsors/owners). PGE clarifies that it is not requesting financial statements of service providers such as the development team's law firms or engineering consultants.

The RFP does require audited financial statements from both a bidder and its guarantor (if one is used). The bidder's financial statements are reviewed to determine whether the bidder's financial health is strong enough to fulfill its contractual obligations. PGE also reviews the bidder's financial statements to determine whether the bidder is at risk of exhausting the guarantor's cash, placing the guarantor's ability to provide performance assurance at a higher risk. The guarantor's financial results are reviewed to determine whether it is able to perform under the guarantee in the event the bidder does not fulfill its contractual obligations. A review of three years of financial statements is a prudent practice to help ensure that our customers are not placed at unnecessary financial risk from a seller's default. NIPPC members, as well as other industries, conduct business under this framework, but NIPPC is seeking to weaken, at the expense of Oregon consumers, the time-tested commercial protections that industry has determined to be a best practice in assessing creditworthiness for the purposes of risk mitigation

practices. We note that no bidder objected to the requirement at the bidder workshop and we have no reason to believe that it will discourage bidding.

**3. The performance assurance provisions in the tolling agreement are commercially reasonable and do not result in a “double dip”**

NIPPC complains that the tolling agreement attached to the RFP includes two penalties for forced outages – a reduction in the capacity payment and a penalty based on the cost of replacement energy. *NIPPC Comments at 9*. NIPPC confuses three separate and distinct risk management tools in its assertions, and mischaracterizes accepted industry contractual remedies as “penalties.” The three tools are availability guarantee, liquidated damages (LDs), and performance assurance (termination provisions). In the template tolling agreement attached as Appendix M to the RFP, these three tools operate sequentially, not simultaneously as NIPPC erroneously believes. The “Availability Guarantee” is established in Article 9.5 of the agreement. It allows for a certain amount of forced outages and is typically a hotly negotiated provision. The Seller does not receive any reductions in capacity payments, nor is the Seller charged any penalties for forced outages that fall within the Availability Guarantee.

Under Article 4.3(b), capacity charge payments to the Seller are reduced in the event of a Forced Outage or Forced Derate. However, under Article 9.5(b), liquidated damages are charged only “[I]f the amount of Liquidated Damages is larger than the Standard Capacity Charge,” in which case, “Seller shall pay PGE the net difference within two (2) Business Days of receipt of an invoice from PGE.” In other words, while PGE is entitled to liquidated damages for Seller’s breach of its obligation to provide a certain amount of capacity, the amount of liquidated damages is offset by the amount of capacity payments that Seller makes to PGE. There is no “double dip.”

Finally, if the Seller fails to meet the Availability Guarantee for a period of thirty consecutive days or more during the delivery period, then PGE can terminate the agreement. NIPPC indicates that the time period is too short. *NIPPC Comments at 10*. PGE believes the time period is consistent with common industry practice. However, for this RFP only, in an effort to accommodate NIPPC's concerns, PGE will revise the agreement to allow PGE to terminate if the facility fails to meet its commitments within 60 days, provided that the Seller is diligently pursuing a cure.

This performance assurance is designed to protect PGE and its customers against the risk of seller's default. A default is tightly defined in the contracts. This default is not tied to mechanical failure or mismanagement, and therefore is not illustrative of NIPPC's "misguided assumption that customers are only at risk of mismanagement of the operation of a plant when someone other than PGE operates it." *NIPPC Comments at 12*. Instead, a default could occur through a seller's bankruptcy in which case PGE's claim against the seller may be preceded by the seller's other creditors' claims. As a result, the level of performance assurance is commensurate with the credit risk of the seller.

In summary, PGE is not attempting to "double dip." While the proposed tolling agreement allows for a reduced capacity payment and liquidated damages, the amounts are offset against each other. These provisions, as well as the termination provisions, are commonly used industry practices to protect against default risk. Notwithstanding NIPPC's assertions, PGE believes it is only prudent to use generally accepted commercially reasonable remedies (remedies that NIPPC's members accept every day in other contracts) "to fully protect PGE's customers." *See, NIPPC Comments at 10*.

**4. PGE will make the clarifications to the RFP credit requirements suggested by the IE**

In its report, the IE suggested a number of clarifications to the credit provisions of the RFP. 2012 IE Report at 4. PGE will make these changes.

**C. Transmission**

**1. Bids should not be allocated costs of potential transmission projects that are not needed to deliver energy from the resource to load.**

NIPPC states that “[t]he Commission and the IE should remain vigilant in ensuring that the full costs of transmission for the life of the resource are allocated properly to bids using PGE’s own sites.” *NIPPC Comments at 14*. ICNU also “looks forward to PGE fully accounting for all the transmission costs” for the self-build resources. *ICNU Comments at 4*. PGE agrees that the cost of transmission should be allocated to bids on PGE’s own sites, as well as other sites. However, PGE does not believe that bids should be allocated a share of the cost of a potential transmission project that is not needed to deliver energy from the resource to load. NIPPC appears to misinterpret language from our 2009 IRP to mistakenly conclude that it is necessary for PGE to construct new transmission facilities in order to deliver energy from its benchmark resources. *NIPPC Comments at 14*. As NIPPC notes, PGE’s IRP describes three options for delivering energy from new resources to customers:

- 1) request transmission service from BPA, 2) request transmission service from a third-party transmission provider for resources outside the northwest, or 3) provide the needed transmission service ourselves.”

*PGE 2009 IRP at 168.*

PGE explained that “[w]e are examining BPA and self-build options for meeting our transmission needs within the region and assuring the system reliability and capacity that our customers require.” *2009 IRP at 165*. We discussed the South of Allston and Cascade Crossing

self-build options and received Commission acknowledgement for the construction of Cascade Crossing, subject to achieving certain milestones and participation and providing an updated cost-benefit analysis in PGE's next IRP. While NIPPC is correct that we indicated that we could potentially use Cascade Crossing to deliver energy from the Carty benchmark and could potentially use South of Allston to deliver energy from the Port Westward II benchmark, it is erroneous to conclude that the new transmission projects are *necessary* to deliver energy from the benchmark resources. NIPPC's claim that "PGE's existing transmission system cannot integrate either of its two benchmarks" is off the mark. *See, NIPPC Comments at 18.* New PGE transmission is not the only way to deliver firm energy from the identified sites to PGE load.

*a) South of Allston*

PGE does not need to make improvements to the South of Allston path to deliver energy from the Port Westward II benchmark resource. PGE included the South of Allston option in the IRP as a concept, not as a project that we were proposing to construct at this time. In describing this project, PGE stated, "At this point, this is a conceptual estimate" and indicated that "[w]e will provide the Commission an updated cost estimate and timeline in a future IRP filing as further studies and analysis are completed." *2009 IRP at 183-184.* That the South of Allston project was conceptual is further demonstrated by the fact that it was not included in the IRP action plan. PGE has taken no further action to develop the project.<sup>7</sup> PGE recognizes that in order to proceed with the project in the future, it would need to conduct additional transmission and cost studies and would likely need to obtain Commission acknowledgement in a future IRP.

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<sup>7</sup> NIPPC also mistakenly references PGE cost of service testimony to bolster its claim that the South of Allston project would be built for PGE's capacity benchmark resource. The marginal cost of service study is used to provide a long-run cost causation perspective for the allocation of the test year's revenue requirement to functional cost categories. The South of Allston project cost was not included in PGE's 2011 revenue requirement and was not included in rates. *See, NIPPC Comments at 15.*



We also recognize that any costs associated with the development of the project would be subject to review in a future rate proceeding. In short, any suggestion that the costs associated with the conceptual proposal for a South of Allston line should be used in this RFP is premature, inconsistent with the IRP and unnecessary since the line is not needed for the integration of the Port Westward benchmark resource.

***b) Cascade Crossing***

PGE does not need to build Cascade Crossing to deliver energy from the Carty benchmark resource. NIPPC quotes the IRP in an attempt to demonstrate that Cascade Crossing is tied to Carty.

*Transmission:* The existing 500 kV transmission line to the Boardman Plant has adequate capacity for both Boardman and the new Carty Generating Station. The primary transmission path is currently from BPA through the NOS process. In addition, if developed, the Cascade Crossing Project will provide a direct 500 kV link from the Boardman site into PGE's transmission system. PGE 2009 IRP at 205.

*NIPPC Comments at 15.*

Curiously, the language NIPPC quotes from the IRP does not tie Carty to Cascade Crossing. While the 500 kV line to the Boardman Plant does, indeed, have adequate capacity for both Boardman and Carty, it connects to BPA's Slatt substation, from which the only transmission option is to use BPA transmission. The language NIPPC quotes makes it clear that BPA is a transmission option for Carty. Indeed, PGE has submitted to BPA an interconnection request and a transmission service request sufficient to meet the needs of our proposed Carty energy facility. In other words, BPA transmission can be used to deliver energy from the proposed Carty benchmark resource. Therefore, the Cascade Crossing project is not the only transmission option.

The decision on whether or not to construct Cascade Crossing will be made after the results of the RFPs are known. The Cascade Crossing decision will be made based on the benefits and costs of *that* project. While the success of the Carty benchmark bid in the RFP may impact the decision to construct Cascade Crossing, the reverse is not true. That is, Cascade Crossing is not necessary for and should not impact the selection of Carty or other bids using the Carty site. It is not appropriate to assign Cascade Crossing costs to the Carty benchmark resource or to other bids that may utilize the Carty site.<sup>8</sup>

In short, PGE does not need either the South of Allston improvements or the Cascade Crossing Project to deliver energy from the benchmarks. The purpose of this RFP is to procure power supply resources. The South of Allston and Cascade Crossing projects involve transmission decisions that will be determined on their own merits. They do not affect the selection of resources in this RFP and their costs should not be allocated to the benchmark resources.

**2. PGE has not delayed any transmission projects to avoid allocating costs to benchmark resources**

PGE objects to NIPPC's statements that imply that PGE delayed the South of Allston and Cascade Crossing projects in order to avoid allocating the transmission costs of those projects to the benchmark resources. *See, NIPPC Comments at 17-18.* PGE has not delayed the South of Allston project. That project was never included in the 2009 IRP action plan, which includes actions to be taken in the following two to four years. NIPPC also claims, regarding the South of Allston project, that "PGE fully articulated the need for the line in its 2009 IRP." *NIPPC Comments at 16.* While the South of Allston project, if constructed, would relieve congestion

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<sup>8</sup> Just as PGE does not believe that it is appropriate to assign Cascade Crossing costs to any other bid that proposes to use BPA transmission but may have Cascade Crossing as a potential backup.

and improve system reliability, PGE did not include South of Allston in the 2009 IRP action plan and the line is not needed for the capacity benchmark resource.

While the Cascade Crossing timeline has been pushed out, the delay has nothing to do with Carty. As NIPPC and its members know, siting and permitting new transmission lines is a complicated and lengthy process that involves many state and federal agencies, tribal governments and numerous other stakeholders. Consequently, changes to timelines and schedules for the siting, permitting and construction of new transmission projects are difficult to anticipate or control.

In short, any implication that PGE has delayed transmission projects to avoid allocating the costs of transmission to the benchmark project is simply false.

**3. PGE will share transmission costs for the benchmark bids with parties under the Protective Order**

To the extent NIPPC, ICNU and CUB are concerned that PGE may not share its transmission cost allocation, PGE wants to make it clear that the transmission costs for the benchmark bids and all other bids on PGE's sites will be included in the Owner's Costs and provided pursuant to the terms of the Protective Order to parties in this docket.

**D. Scoring Criteria**

**1. The RFP provides enough information about the scoring criteria**

NIPPC complains that the RFP does not provide enough detail on scoring because it only provides scoring percentages for broad categories containing several project attributes. *NIPPC Comments at 19*. NIPPC raised the same complaint with regard to our initial RFP for Power Supply Resources. *NIPPC Capacity Comments at 23-24*. CUB and ICNU share NIPPC's concerns. *CUB Comments at 1; ICNU Comments at 5*. PGE has worked with the IE to ensure

that the RFP contains enough information about the scoring criteria to provide guidance regarding PGE's requirements and preferred resource attributes, enabling bidders to develop a well-informed bid. However, providing more specific detail regarding scoring would permit bidders to artificially adjust their proposals to game the process, rather than submitting their best possible bids.<sup>9</sup> Based on discussions with the IE, PGE believes it has struck the right balance. The IE continues to find that the price and non-price factors used in evaluating bids "are defined in adequate detail for bidders to understand how their bids will be evaluated, without providing too much detail so as to provide opportunities for gaming the process." *2011 IE Report at 11*; *2012 IE Report at 5-6*.

**2. PGE's proposal for evaluating transmission is reasonable and consistent with prior Commission direction**

NIPPC specifically complains that PGE has singled out transmission as a factor to be re-evaluated between initial and final short-list. *NIPPC Comments at 19*. Ironically, when NIPPC submitted comments on the draft Capacity Power Supply RFP, it argued for reserving at least part of the decision regarding transmission until after the initial short-list. Specifically, when discussing dynamic transfer capability, NIPPC stated:

NIPPC therefore suggests that the RFP requirement, and non-price factor, to establish a dynamic transfer be evaluated on the bidder's best efforts to establish a dynamic transfer or other cross BA arrangement. A bid's score should not be decreased prior to selection of the short list on account of failure to have established rights to a dynamic transfer. Should the bid reach the short list, NIPPC would expect PGE to recognize its value added in negotiating with the bidder's host BA to establish dynamic transfer, if necessary.

*NIPPC Capacity Comments at 14-15*.

PGE responded by stating that when selecting bids to move from the initial short-list to the final short-list, PGE will assess whether prospective resources on the initial short-list are

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<sup>9</sup> We note that Staff and other parties to this docket will be able to review the scoring criteria upon request and under the Protective Order issued by the ALJ.

likely to obtain both firm transmission and the ability to dynamically schedule and operate the resource. *PGE Capacity Reply Comments at 12*. PGE stated that it will remove from the short-list those proposals that are unlikely to be granted firm transmission with the ability to dynamically schedule and operate the resource. *Id.*

We believe it is appropriate to use the same approach for both the flexible capacity and baseload resources. As such, we intend to proceed in the same manner as initially proposed. Unlike other bid components, the status of a bidder's transmission and interconnection rights can be evaluated based on publicly available transmission queue information. Leaving transmission due diligence until later in the evaluation process will therefore allow us to consider the most up-to-date information concerning the status of an individual project as well as the status of regional transmission processes. This is consistent with our past Renewable RFP. It will also allow more time for the Cascade Crossing development process and the BPA Network Open Season to proceed. In addition, this process matches with the spirit of Commission Order 11-371, which requires PGE to delay the timing of scoring impacts due to dynamic transfer rights to final short-list negotiations. *See, Order No. 11-371 at 5*. Finally, because it will apply equally to all bids, it does not provide any advantage to PGE's benchmark resources.

**E. Broader Use of Technologies**

**1. In response to NIPPC's Comments, PGE is willing to adopt criteria and process for evaluating 100 MW bids for existing resources**

NIPPC would like the minimum bid for the baseload resource to be 100 MW or smaller. *NIPPC Comments at 20*. NIPPC states that this would open up the field for new entrants and would allow existing resources to participate in the bidding. *Id.*

PGE agrees with NIPPC that there are benefits to receiving a broader pool of bids backed by existing<sup>10</sup> resources. *See, NIPPC Comments at 20.* We note however that the Commission's Competitive Bidding Guidelines require the RFP to be aligned with the utility's acknowledged IRP. *Re In the Matter of an Investigation Regarding Competitive Bidding* (August 10, 2006) (Order 06-446). PGE's acknowledged 2009 IRP action plan included the issuance of an RFP for a "new high-efficiency, combined-cycle natural gas plant of approximately 300 to 500 MW." *IRP Addendum at 126.* The IRP action items are based on an analysis of how the proposed size, term and dispatch profile identified fit within PGE's preferred resource portfolio.

In order to address NIPPC's comments and ensure consistency with its IRP action plan, PGE is willing to consider a minimum bid size of 100 MW from an existing resource in this RFP as long as it meets the following criteria (criteria that all bids, even those greater than 300 MW, will also have to meet):

- The dispatch profile of the 100-300 MW resource being bid would have to be similar to that of a Combined Cycle Combustion Turbine in heat rate, fuel supply requirements or price indexing, and environmental emissions, and
- The dispatch of the 100-300 MW generation resource will not be subject to or limited due to coordination with other off takers of the plant. PGE must retain sole dispatch rights for the entire 100 MW with at least pre-schedule granularity, and

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<sup>10</sup> PGE disagrees with NIPPC that lowering the minimum size from 300 to 100 MW would in fact enable *new* entrants for the baseload energy requirements. PGE is unaware of any technology for combined cycle combustion turbines that is less than 300 MW. Therefore any new market entrants should have no problem meeting the 300 MW minimum.

- Any 100-300 MW bid would be aggregated with other bid(s) for baseload energy received through the RFP in order to reach the identified minimum 300 MW need.

PGE will score all bids independent of each other. PGE will then score the aggregate of the combination of bids (ranging in size from 100 to 300 MW) necessary to meet the 300 MW requirement in order to develop the initial short-list. To select the final short-list, PGE will then perform a portfolio analysis to normalize for term and size to compare the resulting portfolio to the preferred portfolio costs.

PGE believes this proposal addresses NIPPC's concern. If the Commission agrees with this approach, PGE will incorporate it in the RFP.

## **2. PGE will consider bids backed by battery technology**

NIPPC also suggests that PGE consider flexible capacity bids backed by grid scale battery-based energy storage. *NIPPC Comments at 20*. PGE is willing to consider any commercially viable generation technology that will meet PGE's needs. In order to avoid having bidders pay a \$10,000 bid fee to submit a bid for a technology that PGE believes will not meet its needs, we have tried to be as forthright as possible about the types of technologies that are likely to be satisfactory. As the Q&A on the IE website indicates, we continue to have concerns about battery storage technology.

PGE suggests that bidders contemplating bidding battery-backed technology into the RFP should contact the IE before submitting a bid and incurring the \$10,000 bid fee. The IE could provide feedback to the bidder as to whether or not the bid is likely to meet the minimum threshold dispatch requirements. The dispatch profile of the desired flexible technology (Draft RFP, Appendix Q) includes at times a 24-hour period of flexible energy dispatch, with intra hour

range of operation from zero to the nameplate rating of that technology bid. In order to help the IE make the determination that a technology can meet the dispatch profile, the bidder should adequately describe the technical capabilities of the resource, and include at a minimum the nameplate (must be 25 MW or greater), intra hour ramp rate generation, intra hour ramp rate of recharging, storage efficiency (loss percentages), maximum duration of generation at max output, and time to recharge back to full storage for the IE to consider. In order to demonstrate that the technology is utility-scale, the bidder should also list all utility-scale deployment of the technology in the United States.

PGE believes this approach will enable bids for battery technology to be pre-qualified without incurring the bid fee.

#### **F. Imputed Debt**

In Order 11-371, the Commission notified parties that its Order 11-001 was intended to supersede Competitive Bidding Guideline 9c, which allowed consideration of rating agency debt imputation in the selection of the final bids from the initial short-list of bids. In Order 11-001, the Commission opined that imputed debt was more appropriately addressed in an overall examination of the utility's cost of capital. Based on the Commission's clarification, PGE has removed consideration of imputed debt from the RFP. NIPPC and ICNU express concerns about commenting on submissions by PGE to the Commission regarding imputed debt. PGE will follow any procedural requirements established by the Commission for consideration of imputed debt.



## G. Use of PGE Sites

### 1. **The RFP includes adequate safeguards to prevent bidders from using confidential site specific and owners costs information to prepare a competing bid on another site**

NIPPC objects to safeguards that PGE developed to prevent bidders who have obtained confidential site specific and owner's costs information from using such information to prepare a competing bid on another site. *NIPPC Comments at 23-25*. This safeguard is put in place to prevent gaming. It is not unusual nor is it overly burdensome.

One of the challenges that PGE faced in making its sites available to bidders was in developing a process for providing potential bidders with enough information about the sites and their associated costs to allow bidders to determine whether they would submit a competitive bid on a PGE site while protecting the integrity of a competitive process where bidders cannot use that information to game the system.

PGE has developed a means for providing pertinent and timely information to assist prospective bidders in determining whether to commit to building on PGE's site. PGE offers three categories of information which become progressively more PGE-specific and therefore more restrictive in terms of availability. The three categories are:

- **Technical Specifications:** available to all bidders. This information will allow prospective EPC bidders to determine their internal capabilities to competitively meet these specifications.
- **PGE Site Specifications:** contains transmission strategies, fueling strategies as well as a description of what services PGE will provide on behalf of the EPC bidders. Bidders submitting bids for existing resources on other sites have no need to see this information about PGE's sites.

Accordingly, this information will be provided only to those bidding in new resources in the RFP and who have signed the appropriate Non-Disclosure Agreement. At this stage, a potential EPC bidder who has been provided with access to the PGE Site Specifications can still provide its services to support a bid on a third party site.

- Owner's Costs: contains costs associated with the PGE Site Specifications. In order to prevent gaming, an EPC bidder who receives this information will not be permitted to submit a competing bid on another site. PGE will not restrict EPC bidders who submit a bid to build one type of product on PGE's site from submitting additional bids for a different product on another site. For example, a bidder committing to submit an EPC bid for a capacity resource on PGE's site can still provide its services to support a bid on a third party site for a baseload energy resource.

Consistent with the procedural schedule established in this docket, the Technical Specifications, Site Specifications and Owner's Costs will be available before the Commission issues an order on the RFP. The IE, Staff and Parties will have the opportunity to review the information under the Protective Order and submit comments to the Commission. PGE will offer site visits and workshops on the specifications and owner's costs for potential bidders who have signed the applicable NDA. Potential bidders will also have more than three months to prepare the bids from the release of the specifications to the submittal to prepare their bids. EPC bidders will have progressively more information before committing to PGE's sites.

NIPPC cites to PacifiCorp's ongoing RFP in Docket UM 1540 to support its contention that PGE's concerns about confidentiality are unfounded. *NIPPC Comments at 24*. PGE believes that in constructing a fair RFP process it should focus on the characteristics of the target market from which it is drawing, which may be different from the target market of RFPs issued by other utilities. In this RFP we are seeking resources to serve load tied to the Northwest market. Participants in the Northwest market include several merchant plants (un-encumbered by long-term PPAs). These existing resources, whose cost-basis are different than that of a new build, would gain an unfair and anti-competitive advantage if they have access to PGE's owner's costs information. Such access may not yield the lowest priced bids for customers as they may not submit what would have otherwise been better (lower cost) bids. Given the nature of the target market for the RFP, PGE has provided appropriate safeguards to protect confidential information and its approach to this issue is particularly reasonable given that bidders on non-PGE sites do not need PGE site information to prepare complete bids.

PGE believes its approach to providing confidential site and cost information strikes the right balance between providing sufficient information to allow prospective bidders to develop bids on PGE sites while at the same time preventing bidders who do not need the information from using it to game the process. NIPPC asks the Commission to revise PGE's requirement that "the few qualified EPC companies choose between PGE's site and the IPP sites because it will deter IPP participation in this RFP." *NIPPC Comments at 23-24*. ICNU shares NIPPC's concerns. *ICNU Comments at 2-3*. PGE disagrees that there are "few qualified EPC companies" and that our safeguards will deter bidder participation in the RFP. We can easily identify at least

twenty EPC firms<sup>11</sup> – indicating that there is a large enough pool of EPC applicants to accommodate our desire to prevent bidders from using confidential information to prepare competing bids. Further, as the IE noted,” this process was explained during the stakeholder’s conference and the bidders’ conference on January 18, 2012, and no participant raised concerns at that time.” *2012 IE Report at 1*. Finally, as indicated in the 2012 IE Report, “The IE reviewed this approach with PGE and agrees it will appropriately provide for the protection of confidential information, while at the same time making the information available to qualified bidders.” *2012 IE Report at 2*.

**2. Allowing a third party to own and operate a plant on a PGE-owned site is not feasible and does not provide the best value for our customers**

NIPPC and ICNU suggest that the RFP should allow for bidders to propose to construct and commission projects on PGE’s sites, and also to own and operate the plants for a minimum period of 15 years under a PPA or tolling agreement. *NIPPC Comments at 27; ICNU Comments at 3*. There are a number of considerations that make such a proposal impractical, costly and infeasible. For example, the Port Westward II site is under the same site certificate as the Port Westward I site. Therefore, if anyone other than PGE were to own a plant on the Port Westward II site, they would need to apply for a new site certificate, and PGE would need to obtain an amendment to its site certificate – a process that can take several months and conceivably up to a year

On the Carty site, there are significant legal issues that arise from the fact that there are other owners of the Boardman facilities. Given existing contractual provisions regarding the Boardman facilities, a third-party owner would not be able to deliver to customers the same

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<sup>11</sup> CDM, Enercon Services, Flour, KBR, McDermott Intl., Shaw Group, Stanley Consultants, Zachry Holdings, AECOM, AMEC, Black & Veatch, Burns & McDonnell, Golder Associates, Harris Group, HDR, Sargent & Lundy, Bechtel, Kiewit Corp, Parsons Brinckerhoff, Power Engineers

benefits from using the Boardman infrastructure. There is also no assurance that existing co-owners would be amenable to such a renegotiation. Finally, there are a number of potential legal risks and liabilities associated with the construction and operation phases of the plant that would need to be resolved. While not all of these issues are insurmountable, they could take a significant amount of time and expense to resolve – and in some cases the resolution would be dependent on the cooperation of other parties and agencies. In any event, such issues are not likely resolvable in time to meet our customers energy and capacity needs.

In addition, allowing a third party to own and operate a plant on PGE's Carty or Port Westward II sites will cause our customers to lose the inherent benefit that PGE's ownership of these sites brings. These benefits include (1) costs savings that arise from the ability of new plants on these sites to share facilities with existing PGE owned and operated resources; (2) economies of scale that can be achieved by using existing PGE staff and resources to operate new resources on the PGE sites; (3) cost savings due to completed permitting and development; (4) more efficient inventory management; and (5) PGE's contractual rights to use Boardman facilities.<sup>12</sup>

In Order 11-371, the Commission recognized that allowing third parties access to PGE-owned sites was a management decision. Allowing a third party to own and operate plants on utility sites is not required by the Competitive Bidding Guidelines nor is needed to ensure consistency with the IRP. In addition, allowing a third-party owner/operator on PGE's site would not result in lower costs or reliability for customers. Historically, the Commission has recognized that its role in the RFP process should not unnecessarily intrude into utility

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<sup>12</sup> We note that while NIPPC goes to great lengths to emphasize the risks associated with utility-owned projects, it ignores these and other significant benefits that can accrue to customers from utility-owned projects. In any event, the benefits and risks of both utility projects and PPAs should be fully debated in Docket UM 1182, the docket that the Commission has opened for that purpose, and not here.

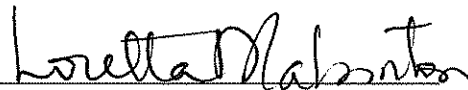
management prerogatives. *Re Competitive Bidding by Investor-Owned Electric Utility Companies, Order No. 91-1383 (Oct. 18, 1991). See also, Order 06-446 at 2.* For the legal and operational reasons discussed above, we do not believe that revising this RFP to allow a third party to own and operate a plant on PGE's site would be practical, in the best interest of our customers, or a prudent management decision.

### **Conclusion**

In response to the direction provided by the Commission in Order 11-371, PGE has prepared a combined capacity and baseload energy RFP and has made other significant changes to address issues raised by the Commission, prospective bidders and parties. In these Reply Comments, we have agreed to make additional changes. We have also attempted to clarify, where possible, additional concerns raised by NIPPC. Our RFP has been fully vetted by the IE, Commission Staff, the bidding community and parties to this proceeding. We appreciate the input we have received and believe that we have proposed an RFP that complies with the Commission's Competitive Bidding Guidelines, is consistent with PGE's IRP, and will encourage fair and robust participation.

DATED this 7<sup>th</sup> day of March, 2012.

Respectfully submitted,



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UM 1535 – Table of Final Draft RFP Compliance with Competitive Bidding Guidelines

Guideline	Description	Location Where Addressed
1	<p>RFP Requirement</p> <p>A utility must issue an RFP for all Major Resource acquisitions identified in its last acknowledged IRP. Major Resources are resources with durations greater than 5 years and quantities greater than 100 MW. If multiple small generating resources total more than 100 MW and meet the following criteria, then there is a rebuttable presumption that the multiple small resources are a single Major Resource and the competitive bidding guidelines apply:</p> <ul style="list-style-type: none"> <li>a. The small resources are located on one parcel of land or on two or more adjacent parcels of land, or the generation equipment of any small resource is within five miles of the generation equipment of any other small resource; and</li> <li>b. Construction of the resources is performed by the same contractor, or under the same contract, or under multiple contracts entered into within two years of each other.</li> </ul> <p>A single area of land is considered one parcel even if there is an intervening public or railroad right of way.</p> <p>The utility bears the burden of rebutting this presumption. If multiple small resources meet these criteria, but the utility believes that other factors show that each resource is separate and distinct, then the utility may request that the Commission find that the resources do not qualify as a single Major Resource. If the utility proceeds without making this request and without following the competitive bidding guidelines, then the utility may attempt to rebut the presumption that it should have followed the guidelines when the utility seeks recovery of the costs of the resource in rates.</p>	<p>Final Draft Power Supply RFP submitted on 1/25/12</p>

2	Exceptions to RFP Requirement	<p>A utility is not required to issue an RFP under the following circumstances:</p> <ul style="list-style-type: none"> <li>a. Acquisition of a Major Resource in an emergency or where there is a time-limited resource opportunity of unique value to customers.</li> <li>b. Acknowledged IRP provides for an alternative acquisition method for a Major Resource.</li> <li>c. Commission waiver on a case-by-case basis.</li> </ul> <p>Within 30 days of a Major Resource acquisition under Subsection (a) above, the utility must file a report with the Commission explaining how the requisite conditions have been met for acting outside of the RFP requirement. The report must be served on all the parties and interested persons in the utility's most recent rate case, RFP and IRP dockets.</p> <p>When requesting a waiver under Subsection (c) above, the utility must file its request with the Commission and serve the request on all parties and interested persons in the utility's most recent general rate case, RFP and IRP dockets. The Commission will issue an order addressing the waiver request within 120 days, taking such oral and written comments as it finds appropriate under the circumstances.</p>	N/A
3	Affiliate Bidding	<p>A utility may allow its affiliates to submit RFP bids. If affiliates are allowed to bid, the utility must blind all RFP bids and treat affiliate bids the same as all other bids.</p>	N/A
4	Utility Ownership Option	<p>A utility may use a self-build option in an RFP to provide a potential cost-based alternative for customers. A site-specific, self-build option proposed in this way is known as a Benchmark Resource. A utility may also consider ownership transfers within an RFP solicitation.</p>	RFP, p. 12-14 discuss PGE's intention to submit Benchmark resource bids
5	Independent Evaluator (IE)	<p>An IE must be used in each RFP to help ensure that all offers are treated fairly. 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</p>	<p>Accion Group was selected as IE by the Commission in Order 11-111 (Docket UM 1524).</p> <p>RFP, p. 5 discusses the role of the IE</p>



		<p>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.</p>	
6	RFP Design	<p>The utility will prepare a draft RFP and provide it to all parties and interested persons in the utility's most recent general rate case, RFP and IRP dockets.</p> <p>The utility must conduct bidder and stakeholder workshops on the draft RFP.</p> <p>The utility will then submit a final draft RFP to the Commission for approval, as described in paragraph 7 below.</p> <p>The draft RFPs must set forth any minimum bidder requirements for credit and capability, along with bid evaluation and scoring criteria. The utility may set a minimum resource size, but Qualifying Facilities larger than 10 MW must be allowed to participate.</p> <p>The final draft submitted to the Commission must also include standard form contracts. However, the utility must allow bidders to negotiate mutually agreeable final contract terms that are different from ones in the standard form contracts.</p> <p>The utility will consult with the IE in preparing the RFPs, and the IE will submit its assessment of the final draft RFP to the Commission when the utility files for RFP approval.</p>	<p>Draft RFP provided to all parties on 1/4/12</p> <p>Stakeholder &amp; Bidder Workshops held 1/18/12</p> <p>Final Draft RFP submitted to Commission 1/25/12</p> <p>RFP, p. 25-27 discuss minimum bidder requirements for credit and capability</p> <p>RFP, p. 12-14 and 28-33 discuss bid evaluation and scoring criteria</p> <p>Standard form contracts are provided as Appendices J through M</p> <p>IE Assessment was filed 2/9/12</p>
7	RFP Approval	<p>The Commission will solicit public comment on the utility's final draft RFP, including the proposed minimum bidder requirements and bid scoring and evaluation criteria. Public comment and Commission review should focus on: (1) the alignment of the</p>	<p>Comments due 2/22/12 and 5/11/12.</p>

		<p>utility's RFP with its acknowledged IRP; (2) whether the RFP satisfies the Commission's competitive bidding guidelines; and (3) the overall fairness of the utility's proposed bidding process. After reviewing the RFP and the public comments, the Commission may approve the RFP with any conditions and modifications deemed necessary. The Commission may consider the impact of multi-state regulation, including requirements imposed by other states for the RFP process.</p> <p>The Commission will target a decision within 60 days after the filing of the final draft RFP, unless the utility requests a longer review period when it submits the final draft RFP for approval.</p>	<p>Target of 6/5/12 is within 60 days of PGE's release of its site specifications on 4/27/12</p>
8	Benchmark Resource Score	<p>The utility must submit a detailed score for any Benchmark Resource, with supporting cost information, to the Commission and IE prior to the opening of bidding. The score should be assigned to the Benchmark Resource using the same bid scoring and evaluation criteria that will be used to score market bids.</p> <p>Information provided to the Commission and IE must include any transmission arrangements and all other information necessary to score the Benchmark Resource.</p> <p>If, during the course of the RFP process, the utility, with input from the IE, determines that bidder updates are appropriate, the utility may also update the costs and score for the Benchmark Resource. The IE will review the reasonableness of the score(s) for the Benchmark Resource. The information provided to the Commission and IE will be sealed and held until the bidding in the RFP has concluded.</p>	<p>RFP, p. 14</p> <p>PGE Reply Comments, p 18 discusses provision of transmission information</p> <p>RFP, p. 12-14</p>
9	Bid Scoring Evaluation Criteria	<p>a. Selection of an initial short-list of bids should be based on price and non-price factors and provide resource diversity (e.g., with respect to fuel type and resource duration). The utility should use the initial prices submitted by the bidders to determine each bid's</p>	<p>RFP, pp. 10, 28-33</p>

		<p>price score. The price score should be calculated as the ratio of the bid's projected total cost per megawatt-hour to forward market prices using real-levelized or annuity methods. The non-price score should be based on resource characteristics identified in the utility's acknowledged IRP Action Plan (e.g., dispatch flexibility, resource term, portfolio diversity, etc.) and conformance to the standard form contracts attached to the RFP.</p> <p>b. Selection of the final short-list of bids should be based in part on the results of modeling the effect of candidate resources on overall system costs and risks.</p> <p>The portfolio modeling and decision criteria used to select the final short-list of bids must be consistent with the modeling and decision criteria used to develop the utility's acknowledged IRP Action Plan. The IE will have full access to the utility's production cost and risk models.</p> <p>c. Consideration of ratings agency debt imputation should be reserved for the selection of the final bids from the initial short-list of bids. The utility should obtain an advisory opinion from a ratings agency to substantiate its analysis and final decision, if requested by the Commission. <b>[superseded by Order No. 11-371]</b></p>	
10	Utility & IE Roles in RFP Process	<p>a. The utility will conduct the RFP process, score the bids, select the initial and final short-lists, and undertake negotiations with bidders.</p> <p>b. The IE will oversee the RFP process to ensure that it is conducted fairly and properly.</p> <p>c. If the RFP does not allow affiliate bidding and does not include ownership options (i.e., the utility is not including a Benchmark Resource or considering ownership transfers), the IE will check whether the utility's scoring of the bids and selection of the short-lists are reasonable.</p> <p>d. If the RFP allows affiliate bidding or includes ownership options, the IE will independently score the utility's Benchmark Resource (if any) and all or a sample of the bids to determine whether the</p>	<p>RFP. p. 5 discusses the role of the IE</p> <p>N/A</p> <p>RFP, pp. 5, 12-14</p>

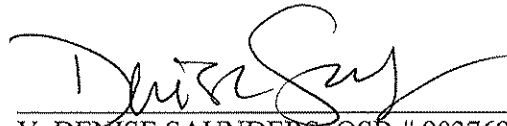
		<p>selections for the initial and final short-lists are reasonable. In addition, the IE will evaluate the unique risks and advantages associated with the Benchmark Resource (if used), including the regulatory treatment of costs or benefits related to actual construction cost and plant operation differing from what was projected for the RFP.</p> <p>e. Once the competing bids and Benchmark Resource (if used) have been scored and evaluated by the utility and the IE, the two should compare results. The utility and IE should attempt to reconcile and resolve any scoring differences. If the two are unable to agree, the IE should explain the differences in its Closing Report.</p>	RFP, p. 5
11	IE Closing Report	The IE will prepare a Closing Report for the Commission after the utility has selected the final short-list. In addition, the IE will make any detailed bid scoring and evaluation results available to the utility, Commission staff, and non-bidding parties in the RFP docket subject to the terms of a protective order.	RFP, p.5
12	Confidential Treatment of Bid & Score Information	Bidding information, including the utility's cost support for any Benchmark Resource, as well as detailed bid scoring and evaluation results will be made available to the utility, Commission staff and non-bidding parties under protective orders that limit use of the information to RFP approval and acknowledgment and to cost recovery proceedings.	General Protective Order, Order No. 11-097 issued March 25, 2011

13	RFP Acknowledgement	<p>The utility may request that the Commission acknowledge the utility's selection of the final short-list of RFP resources. The IE will participate in the RFP acknowledgment proceeding.</p> <p>Acknowledgment has the same meaning as assigned to that term in Commission Order No. 89-507. RFP acknowledgment will have the same legal force and effect as IRP acknowledgment in any future cost recovery proceeding. The utility's request should discuss the consistency of the final short-list with the company's acknowledged IRP Action Plan.</p> <p>Staff of the Public Utility Commission of Oregon will make a recommendation about whether the Commission should require IE involvement through the final resource selection at the time of acknowledgement of the utility's final short list of resources, and to allow other parties, including bidders, to request expanded IE involvement at that time. <b>[Modified by Order No. 11-340]</b></p>	N/A
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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused **REPLY COMMENTS** to be served by electronic mail to those parties whose email addresses appear on the attached service list for OPUC Docket UM 1535.

Dated at Portland, Oregon, this 7<sup>th</sup> day of March, 2012.



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