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V. Denise Saunders
Associate General Counsel

December 17, 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 – Request for Proposal for Capacity Resources

Attention Filing Center:

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

- Response of Portland General Electric Company to Troutdale Energy Center LLC's Petition to Intervene

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:nem
Enclosures
cc: Service Lists

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1535

In the Matter of)	
)	RESPONSE OF PORTLAND
PORTLAND GENERAL ELECTRIC)	GENERAL ELECTRIC COMPANY
COMPANY)	TO TROUTDALE ENERGY CENTER
)	LLC's PETITION TO INTERVENE
Request for Proposal for Capacity Resources)	

Pursuant to OAR 860-001-0300, Portland General Electric Company (PGE) responds to the December 5, 2012 Petition to Intervene submitted by Troutdale Energy Center LLC (TEC). PGE is concerned that TEC's participation in this docket will unreasonably broaden the issues, burden the record, or delay the proceedings. PGE believes that there are sufficient grounds for the Oregon Public Utility Commission (Commission) to deny the petition. Nonetheless, if the Administrative Law Judge (ALJ) grants the petition, PGE requests that it make it clear that it will hold TEC to its representations that it will not unreasonably broaden the issues, unduly burden the record, or delay the proceeding.

Background

The Commission opened this docket almost two years ago, in March of 2011. On April 15, 2011, the Administrative Law Judge (ALJ) issued a prehearing conference memorandum stating that the deadline for Petitions to Intervene was May 12, 2011. The ALJ also cited ORS 756.525 which permits a person to apply for intervention "before the final taking of evidence" in the proceeding.¹

¹ ORS 756.525 appears to be directed at contested case proceedings. Since the RFP process is not a contested case proceeding and no evidence is taken, it is unclear how it applies in this instance.

TEC filed its Petition to Intervene on December 5, 2012, eighteen months after the deadline². In its petition, TEC states that it is a bidder in PGE's RFP. TEC also states that it may raise issues that will be helpful to the Commission and that its participation will assist the Commission in resolving issues that may arise in the proceeding. TEC does not state what these issues might be. TEC also claims that no other party in this proceeding represents TEC's interests.³

Earlier in this proceeding, despite the fact that it had neither requested nor been granted intervenor status, TEC submitted a request to the Commission for a public hearing on issues that had already been fully vetted and decided by the Commission. The Commission issued an order denying TEC's request.

PGE is now at the end of the RFP process. It has identified a final short-list of bids, notified bidders as to whether or not they are on the short-list, and informed bidders on the short-list that it will contact them in January to discuss next steps.

TEC's Participation May Unreasonably Broaden the Issues, Burden the Record, or Delay the Proceedings

OAR 860-001-0300(7) provides the Commission or ALJ with the discretion to deny a petition to intervene if the petitioner's appearance and participation will unreasonably broaden the issues, burden the record, or delay the proceedings. Section 2(e) of the rule requires petitioner to identify the issues it intends to raise at the proceedings.

² TEC provides no explanation as to why it did not intervene in this proceeding earlier. TEC has been fully aware of this proceeding for over a year and half. TEC filed with the Oregon Energy Facility Siting Council a notice of intent to construct and operate a generating plant and to sell its output to PGE in November 2011.

³ TEC's affiliated company, Development Partners Group LLC, is a member of the Northwest and Intermountain Power Producers Coalition (NIPPC), a trade organization that has participated fully and actively in the proceeding on behalf of its members.

TEC does not identify the issues it intends to raise, but merely states that it may “raise issues that will be helpful to the Commission.” In its petition, TEC represents that it will not unreasonably broaden the issues, unduly burden the record, or delay the proceeding. However, TEC has previously burdened the record and attempted to delay the RFP process by inappropriately requesting an additional public hearing on issues that had already been vigorously argued by its trade group and decided by the Commission.⁴

PGE is concerned that TEC may attempt similar efforts again. Our concerns are particularly heightened given that we are near the very end of an already lengthy and robust public process. Bidders in the RFP have deadlines that need to be respected if we hope to have them hold their prices. Therefore, any further delay to the process could jeopardize PGE’s ability to get the best deal for its customers. Moreover, PGE, the Commission, and the Independent Evaluator (IE) have gone to great lengths to ensure that the RFP will be conducted in a fair and unbiased manner consistent with the Commission’s Competitive Bidding Guidelines. Our efforts include refileing our initial RFP for capacity resources in its entirety to combine it with the RFP for energy resources and making PGE-owned sites available to EPC bidders. In addition, we have actively worked with stakeholders, including TEC’s industry trade group, to make revisions to the draft RFP and provide clarification on outstanding issues. We have also worked with bidders, through the IE, to respond to questions and address concerns. For example, we have responded to over 190 bidder Q&As on the IE website and addressed other concerns informally through discussions with the IE. We also held multiple workshops for bidders and stakeholders to discuss the RFP, respond to questions, and incorporate suggestions.

⁴ Although the Commission denied TEC’s request for a hearing, TEC’s request triggered filings by PGE and other parties, and resulted in a Commission Order requiring a ten day delay to the RFP process. The resulting delay has pushed the process beyond the 140 day timeline for which bidders were required to hold their bids irrevocable.

We recognize the importance of public involvement in the RFP process, and believe our efforts thus far demonstrate not only our openness to such involvement, but our willingness to accommodate input from other parties. It would be unfortunate to have a process, which PGE, the parties, and the Commission have worked long and hard in developing, derailed at the eleventh hour by a bidder whose primary interest is the success of its own bid. Given the late date of TEC's intervention and the fact that it has ample recourse to raise any concerns it might have through the IE or its trade group, we believe there are sufficient grounds to reject TEC's petition. However, if the ALJ nonetheless grants TEC's petition we request that the ALJ make it clear that it will hold TEC to its representations and that it will not allow it to unreasonably broaden the issues, unduly burden the record, or delay the proceeding.

Conclusion

PGE is at the end of an RFP process implemented to acquire resources identified in an Integrated Resource Plan submitted by the Company over three years ago and acknowledged by the Commission in 2010. In the two years since the RFP docket was opened, we have worked diligently with the IE, Commission Staff, and stakeholders to ensure that the process is fair, unbiased, and consistent with the Commission's Competitive Bidding Guidelines. For the reasons discussed above, we believe that TEC's eleventh hour intervention could unreasonably broaden the issues, burden the record, or delay the proceedings. Therefore, there are sufficient grounds for the ALJ to deny the petition. However, if the ALJ grants the petition, we request that it hold TEC to the representations it makes in its petition.

DATED this 17th day of December, 2012.

Respectfully submitted,



V. Denise Saunders, OSB #903769

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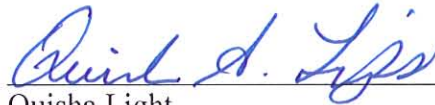
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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **RESPONSE OF PORTLAND GENERAL ELECTRIC COMPANY'S (PGE) TO TROUTDALE ENERGY CENTER, LLC'S PETITION TO INTERVENE** to be served by electronic mail and by First Class U.S. Mail, postage prepaid and properly addressed, to those parties on the attached service list for OPUC Docket UM 1535.

Dated at Portland, Oregon, this 17th day of December, 2012.



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**SERVICE LIST 12/17/12
OPUC DOCKET # UM 1535**

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