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June 28, 2016

Public Utilities Commission of Oregon
Filing Center
POB 1088
Salem, OR 97308-1088
Puc.filingcenter@state.or.us

RE: OPUC Docket UM 1773 PGE PARTIAL WAIVER OF COMPETITIVE
BIDDING GUIDELINES, APPROVAL OF RFP SCHEDULE
Comments of Small Business Utility Advocates

Attention Filing Center:

Small Business Utility Advocates (“SBUA”) appreciates the opportunity to comment on the PGE Renewables Request for Proposals. SBUA presents perspective from the small business, also known in utility service, as small nonresidential customers on the RFP documents and process. Small nonresidential customers have several interests in these proceedings including power rates as RFP projects would impact these, prospect of work, and reducing emissions, among others. SBUA members are generally small businesses, and many of them are state-certified minority or women-owned, and/or emerging small businesses (COBID). SBUA’s comments here focus primarily on supplier diversity for small businesses in PGE territory work prospects and provide example revisions specific to the documents. SBUA comments also include at the end a few notes regarding rate impacts and the RFP process.

A. Supplier Diversity:

The utility expresses commitment to small business and diversity in its supply chain. For example, the PGE website <https://www.portlandgeneral.com/suppliers>, includes language supportive of small businesses and links to a page expressing support for Supplier Diversity. The utility’s website states: “PGE is committed to promoting diversity and economic development in the communities we serve. One way of demonstrating this is by ensuring equal opportunity in all competitive bid events for qualified minority-owned, women-owned, disabled veteran-owned and emerging small business enterprises (MWESB) suppliers. PGE recognizes that these businesses are vitally important to the overall success of our company.”



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However, the RFP does not explicitly incorporate Portland General Electric's Supplier Diversity in the context of the work available under this RFP and in fact this language is absent from the RFP. There are different ways PGE can reflect this Supplier Diversity. Among other options, the utility can identify an aspirational goal, it can require bidders to provide a plan for recruiting local small businesses as subcontractors, or the utility can provide preference points among the scoring criteria for this RFP.

Examples of potential model language from other RFPs follow¹:

- “___ has established an overall aspirational goal of 20% in awarding PTE prime consultant and sub-consultant contracts to State of Oregon certified M/W/ESB firms. Proposing firms are encouraged to use the State’s OMWESB website (<http://www4.cbs.state.or.us/ex/dir/omwesb/>) for identifying potential M/W/ESB”

- “Workforce Diversity and Community Involvement:
 - Describe your firm’s workforce demographics and any measurable steps taken to ensure a diverse internal workforce (e.g., women and people of color).
 - How do you approach internal on the job training, mentoring, technical training, and/or professional development opportunities for women and people of color?
 - Describe your firm’s employee compensation structure, (e.g., living wages, healthcare coverage, employee leaves, dependent care, retirement benefits, etc.).
 - Describe your firm’s approach toward mentoring, scholarship relationships, and internships and how to best leverage opportunities with the PGE on this Project?”

- “This section of the proposal shall contain narratives for workforce diversity and M/W/ESB utilization as more fully described below. The narratives should include identification of Offeror’s certifications and/or nondiscrimination practices, and any historical M/W/ESB (or DBE) Joint Ventures, Sub Contracting, and/or Mentoring plan to build capacity that is congruent with PGE’s diversity policies.”

¹ RFPs And Related Documents Examined For Possible Example RFP Language Include The Following: Tri-County Metropolitan Transportation District Of Oregon Request For Proposals For Construction Manager/General Contractor Services Blue Line Station Rehabilitation Project RFP No. Rc140392Jb; City Of Portland Beech Park Qbs Solicitation Number Pks048; Request For Proposals For The Portland Building ReconstruCtion Project Progressive Design-Build Relocate Services (Prime Contractor And Architect Team Selection) RFP Number 00000260; Sellwood Bridge Replacement Slayden – Sundt Jv Diversity Plan



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B. There are several places in the RFP documents where PGE could consider integrating its commitment to supplier diversity:

PGE 2016 Draft Renewable RFP:

1.2 About PGE

Include PGE’s Supplier Diversity (Policy) with webpage link:

<https://www.portlandgeneral.com/suppliers>

3.7 Bid Evaluation Criteria

Add language in the criteria that preference will be given to bids affirming the Supplier Diversity by outreach and in forming a bid. Language could also require or encourage Bidders to submit a diversity supplier plan.

8. Criteria Used for Scoring Qualified Bids p 18.

See below Appendix M for criteria percentage points allocation with example of 5% allocated to firms implementing PGE Supplier Diversity.

8.2.5 Non-price factors

Non-price factors could include “Association of certified COBID firms in the project.”

Appendix G: Required Bid Information

Add Contractor and Subcontractor information to the Experience of Developer Team, including information re state certification.

Provide the following information:

- Describe the developer’s participation in successfully developing power production projects in the U.S., emphasizing projects located in the Pacific Northwest (whether in development or constructed) and those that are similar to the project proposed in the bid. Provide a synopsis of the developer’s role (i.e. development, construction, long-term owner for a PPA or seller of asset, etc.). Identify customers of projects and aforementioned structures. Identify suppliers that have been used for projects (i.e. Vestas, General Electric, etc.).



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- List members of the development and management team and provide a brief, summary resume of each individual (include a description of that individual's training, experience, function(s) performed for the project and area(s) of expertise).
- List major subcontractors identifying which have state COBID certification.**
- Describe business-related litigation or regulatory investigations in which the developer or development team members were previously (in the last 7 years), are currently, or are expected to be engaged.

Appendix M: Scoring chart p. 102:

Add between "Project Development Criteria" and "Project characteristics" inserting "Diversity Supplier/subcontractors" 5 % of total score, reducing other categories. At a minimum include a line item for implementation of Diversity Supplier.

Appendix B-2 APA (Asset Purchase Agreement) Term Sheet:

Exhibit I: List of Approved Subcontractors or Suppliers referenced on p xxxiv

Add: Diversity Compliance matrix or chart to show 5% diversity goal achievement.

C. SBUA agrees with concerns expressed regarding minimum bid bond.

The limited review SBUA has been able to provide this with review from a construction industry bonding submits the observation that the terms make it much easier for a large energy developer to be the successful bidder. These terms include the exceptions made for "investment grade bidder", requiring a bonding company to have \$2 billion in assets, and 10% project bonding, which are higher requirements than usual, and all of which favor much larger companies.

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With less time and other resources to evaluate preliminarily the potential rate impacts on small nonresidential ratepayers, SBUA supports further review of leveling the playing field for smaller energy producers. The multiplier effect of locally-sourced project expertise supports an RFP that enables local businesses to participate in this renewable energy development. Please contact us at 541-270-6001 or dhenkels@cleantechlawpartners.com for more information or if you have any questions. Thank you for your assistance in this matter.

Sincerely,

/s/ Diane Henkels

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