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V. Denise Saunders
Associate General Counsel

May 12, 2017

Via Electronic Filing

Oregon Public Utility Commission
Attention: Filing Center
PO Box 1088
Salem OR 97308-1088

Re: AR 600- PGE's Comments on the Staff Report

Dear Filing Center:

Enclosed for filing in the above-captioned docket are PGE's Comments on the Staff Report. This document is being filed by electronic mail with the Filing Center.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "V. Denise Saunders". The signature is written in a cursive, flowing style.

Denise Saunders

VDS:lgh

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
AR 600/UM 1776**

In the Matter of:

Rulemaking Regarding Allowances for
Diverse Ownership of Renewable Energy
Resources.

PORTLAND GENERAL ELECTRIC
COMPANY COMMENTS ON
STAFF REPORT

Portland General Electric Company (PGE) submits these comments in response to the Staff Report issued on May 11, 2017 in this docket.

I. INTRODUCTION

Senate Bill 1547, Section 6 amends ORS 469A.075(4)(d) to require the Commission to adopt rules “(d)[p]roviding for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that generate qualifying electricity.” In Order 16-188, the Commission opened a permanent rulemaking (Docket No. AR 600) to implement this provision of SB 1547. The Commission also opened a concurrent investigation to update its competitive bidding guidelines (Docket No. UM 1776).

The parties have participated in several workshops and exchanged preliminary suggestions for revisions to the Competitive Bidding Guidelines (the Guidelines). Based on these initial activities, PGE agrees with Staff that it would be helpful for the Commission to provide guidance on the scope of revisions that the parties should consider. Staff identifies three potential options:

- 1) Restrict the scope of this rulemaking to the establishment of rules that preserve the competitive bidding process described by the existing guidelines as much as possible (to the degree that rules can effectively replicate guidelines).

2) Establish rules and restrict the scope of this docket to only certain categories of issues or particular concerns raised by parties. The Commission could also take up in other dockets issues raised by parties which are not directly related to the current open dockets.

3) Decline to adopt any restrictions on scope at this time and ask the parties to address the full range of issues presented in comments.¹

PGE strongly recommends that the Commission direct the parties to pursue Option 1.

The Competitive Bidding Guidelines currently provide for the evaluation of RFPs that allow for diverse ownership of renewable energy resources. These provisions can be converted to rules in relatively short fashion to meet the requirements of SB 1547.

Moreover, the Commission adopted substantive changes to the Guidelines in Order 14-149 after a long and robust contested case process in which most of the parties to this docket participated. Many of the changes adopted by the Commission can be used to assist in the evaluation of competitive bidding processes that allow for diversity of ownership of renewable resources. There have been no RFPs conducted under the Competitive Bidding Guidelines since the adoption of these changes. PGE believes that the Commission should allow the changes adopted in Order 14-149 to be put into practice before determining whether additional changes to competitive bidding rules or guidelines are warranted.

II. COMMENTS

A. **The Existing Guidelines Meet the Directives of SB 1547 and Can Be Readily Converted to Rules.**

The Commission's existing Competitive Bidding Guidelines meet the directives of SB 1547 – they allow for Commission evaluation of RFPs that allow for diverse ownership of renewable energy sources. Under the Guidelines, the Commission can weigh in on issues affecting diversity of ownership in (1) its review and approval of the RFP design under Guidelines 6 and 7; (2) its review and decision on acknowledgement of the shortlist under

¹ Staff Report at 5.

Guideline 13. In addition, the IE, which reports to Commission Staff, can further evaluate diversity of ownership through its general oversight of the RFP process (Guideline 10b); its review of the bid scoring under (Guidelines 8 and 10c); its evaluation of the risks and advantages associated with a Benchmark Resource (Guideline 10d); and its participation in the acknowledgement of the shortlist (Guideline 13). The Commission can and should adopt these existing guidelines as rules in a relatively expeditious manner.

B. The Existing Guidelines Do Not Impede Diversity of Ownership in PGE's Resource Portfolio

PGE's power portfolio includes over ninety mid- and long-term contracts with independent power producers (IPPs). The contracts include three wind power purchase contracts (PPAs), sixty-three solar PPAs, seven biomass PPAs and contracts with over ten hydro-electric facilities. Together PGE's contracts represent over 1,600 MW of generating capacity. Clearly, the number of contracts held by PGE far outnumbers the facilities that PGE owns and operates. Moreover, PGE's most recent competitive solicitation resulted in the selection of two resources developed by independent project developers and ultimately financed and owned by PGE.

C. The Most Recent Changes to the Guidelines Provide Additional Tools for the Evaluation of Competitive Bidding Processes that Allow for Diverse Ownership of Renewables and Have Yet to be Used in an RFP in Oregon.

The Commission adopted several changes to the Guidelines in docket number UM 1182 – an investigation of the competitive bidding guidelines which began in December of 2004. Many of these changes will assist in providing for the evaluation of RFPs that allow for diverse ownership of renewable resources. For example, on April 30, 2014, the Commission issued Order 14-149 in the third phase of docket number UM 1182 revising Guideline 10d to explicitly direct the IE to consider seven risk items the parties identified for comparing the acquisition of a utility-owned resource to purchasing power from an IPP. These items are construction cost overruns (considering contractual guarantees, cost and prudence of guarantees, remaining exposure to

ratepayers for cost over-runs, and potential benefits of cost under-runs); reasonableness of forced outage rates; end effect values; environmental emissions costs; reasonableness of operation and maintenance costs; adequacy of capital additions costs; reasonableness of performance assumptions for output, heat rate, and power curve; and specificity of construction schedules or risk of construction delays. These factors provide the IE with guidance and flexibility to ensure a thorough and fair evaluation of utility and IPP ownership options but have yet to be implemented in an Oregon RFP.

In Order 14-149 the Commission also adopted a requirement, requested by NIPPC, that the utilities file an application with the Commission seeking acknowledgement of their final shortlist of bidders. This was incorporated in Guideline 13 which previously included acknowledgement of the final short-list at the discretion of the utility. This provides an additional process and tool by which the Commission can ensure that resources with a diversity of ownership options have been fairly evaluated. It also allows the Commission an additional opportunity to weigh in on the comparison of resources or PPAs of unequal duration.

The changes to the Guidelines were made after years of debate and comment by stakeholders. They have yet to be used in an Oregon RFP. PGE urges the Commission to allow the changes to be implemented and tested before determining whether any additional revisions are warranted.

D. The Existing Guidelines Address the Issues Raised in Staff's Report

Staff recommends that the Commission consider changes to the Guidelines in the following four categories: 1) the RFP development process 2) Comparing Resources or PPAs of Unequal Durations 3) Access to Bid Evaluations and Documentation of Communication and 4)

Exceptions and Requests for Waivers.² As discussed below, the existing Guidelines are broad enough to address the issues identified by Staff.

i. The RFP Development Process

The Guidelines provide a robust process for review and approval of the RFP design and allow for considerable input from Staff, the IE, and stakeholders prior to issuance of a Commission-approved RFP. Guideline 7 directs the Commission to solicit comments on the draft RFP that focus on the following issues:

- (1) the alignment of the 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.

This process has historically resulted in lengthy regulatory process and the issuance of thoroughly vetted RFPs. For example, PGE's 2011 RFP regulatory process took more than a year to complete, from docket opening to RFP issuance, and resolved numerous issues related to RFP design and implementation that were raised by parties.³ Order 11-371 was issued September 27, 2011, a full five months after the initial draft RFP was available to stakeholders and bidders. The order required PGE to combine the Capacity and Energy RFPs. The Commission agreed with NIPPC and ICNU that bidders could potentially build both resources at a single site in order "to take advantage of economies of scale."⁴ Other issues raised throughout the process included:

- requests to delay the RFPs for a new wind integration study
- requirements related to gas storage and intraday scheduling
- requirements pertaining to dynamic transfer transmission rights
- the use of frame SCCT technology for meeting flexible capacity need

² Staff Report at 13. It is unclear whether Staff is recommending changes to guidelines consistent with the proposed scope or the establishment of rules. While, as we discuss *infra*, Staff's recommended changes are unnecessary, they also likely include details that would be overly proscriptive for administrative rules. Rules are mandatory and harder to change. Guidelines allow for flexibility which is important when dealing in a rapidly evolving industry.

³ The entire RFP process from docket opening to selection of final bid took 2 ½ years.

⁴ OPUC Order NO. 11-371 at 2.

- allocation of transmission costs
- access to PGE sites
- use of imputed debt in scoring

In addition to a robust review process, the Guidelines also allow Staff and the IE (who reports to Staff) great latitude in the review of RFP design, including issues related to need and scoring.⁵ The authority and process allowed under the current Guidelines provide ample flexibility to address the issues raised by Staff.

ii. Comparing Resources or PPAs of Unequal Durations

As with RFP design, the current Guidelines provide several tools for addressing the comparison of resources of unequal duration. For example, at the beginning of the RFP design process, the Company works with the Commission-approved IE (who reports to Staff) to develop scoring models. The IE reviews the scoring models to ensure that the proposed methods are reasonable, and attests as such to the Commission in the report required to be submitted by Guideline 6 in the proceeding governing the review and approval of the final draft RFP. Guideline 9 discusses the RFP scoring requirements, with Guideline 9a focusing on selection of an initial short list. Price scoring is required to “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.” By using a cost to benefit ratio, price scoring is agnostic to bid term length. Guideline 9b requires review of the final shortlist to be based on portfolio modeling to evaluate a resource’s impact “on overall system costs and risks.” In a recent technical workshop in this docket, PGE described its portfolio modeling methodology. While no party has recommended an alternative portfolio modeling methodology in this docket, the Commission, Staff and stakeholders would

⁵ For example, in PGE’s last capacity RFP, the Commission asked the IE to review “whether the products sought in the RFP would still be able to meet PGE’s needs as they have changed since the issuance of the IRP.” Addendum to the Final Report of the Independent Evaluator dated January 31, 2013 and filed on February 14, 2013 in Docket UM 1535.

have the opportunity to recommend alternative portfolio modeling methodologies as part of the RFP development process in an RFP docket.

iii. Access to Bid Evaluations/Documentation of Communication

The current Guidelines provide ample flexibility and opportunity for access to bid evaluations and documentation of communication between or among the utility, IE, and bidders. Guidelines 8 and 9 call for extensive IE involvement in bid scoring and require the utility to provide access to all utility production cost and risk models. Guideline 12 requires detailed bid scoring and evaluation results to be made available to the utility, Commission staff, and non-bidding parties, subject to the terms of a protective order. In PGE's most recent RFPs, the IE, Staff, and the Commission had full access to all bid materials, including evaluations. In discussing PGE's last capacity RFP, Staff stated unequivocally that "Staff has access to the bid evaluation and scoring details for PGE's RFP."⁶

Providing bidders with access to detailed bid evaluations is problematic in that the scoring is based on a comparison with the least-cost bid. Thus, in order for a bidder to understand its score, it would need to also see the bid and score of the least-cost bid. Such information is proprietary to the least-cost bidder and confidential under the non-disclosure agreements typically required in RFPs. In past RFPs, PGE in conjunction with the IE offered to speak with bidders after the conclusion of the RFP to discuss the bidder's scores in a manner that did not require the disclosure of proprietary information. In PGE's view, the current Guidelines allow for these types of discussions.

With regard to documentation of communication between or among the utility, IE and bidders, Guideline 5 calls for the IE to confer with Staff regarding their duties. This guideline

⁶ Re Portland General Electric Company, Request for Proposals for Capacity Resources, Docket No. UM 1535, Order No. 13-345, attached Staff Report at 7 (Sept. 19, 2013)

allows staff to determine how communications between the various parties are documented. In PGE's most recent RFPs, all communication with bidders prior to selection of a final bid were required to go through the IE to ensure equal treatment for all bidders. The IE provided a website to document all communications.

iv. Exceptions and Requests for Waivers

In informal comments provided earlier in this docket, PGE joined with the other utilities in making suggestions to clarify waiver requirements and timelines. The Company believes an investigation to clarify resources eligible for waivers, as well as setting time limits for the waiver decision would be productive.

IV. CONCLUSION

The Company supports Staff's Option 1 to restrict the scope of the rulemaking to establish rules that reflect the current competitive bidding guidelines. If the Commission decides on a less restrictive scope, such as Option 2, the Company believes the current Guidelines cover all of Staff's suggested topics, with the exception of requests for waivers. As such the Company requests that the scope of any resulting investigation be limited to that topic.

DATED this 12th day of May, 2017.

Respectfully submitted



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