

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1182

In the Matter of)
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PUBLIC UTILITY COMMISSION OF)
OREGON)
)
Investigation Regarding Competitive)
Bidding)

**COMMENTS OF THE
CITIZENS' UTILITY BOARD OF OREGON**

March 19, 2012



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I. Introduction

After years of talking about the build versus buy bias, the regulatory system in Oregon is still struggling to identify solutions to this bias. CUB believes that NIPPC’s proposal to use rigorous analytical methods to identify the actual cost to customers caused by this bias offers a potential solution to this problem.

II. Background

The build vs. buy issue grows out of Oregon’s energy policy. While other states moved to deregulate retail electric sales in the late 1990s, Oregon decided instead to keep a regulated electric system, but to bring the benefits of wholesale competition to customers. This was a prudent and conservative step by Oregon. Retail competition for smaller residential and commercial customers was theoretical and unproven. Wholesale competition in electric markets was not theoretical. In fact, at the time PGE was buying a large amount of its electricity on the wholesale market.

In order to ensure wholesale competition, Oregon considered requiring utilities divest themselves of much of their generation and procure new power supplies on the wholesale market. In an attempt to be prudent and conservative in a power marketplace that was in turmoil, Oregon rejected tying its electricity supply directly to the wholesale marketplace.

Instead, Oregon decided to attempt to ensure that if there were benefits from the wholesale market, those benefits would be passed through to customers without placing all our bets on the existence of a vibrant wholesale market. Oregon did this by requiring utilities to look to the wholesale market whenever making a major resource procurement. This was done by requiring competitive bidding and ensuring that utilities test their own proposals to develop resources against the competitive wholesale market.

The actual results of Oregon's experience with competitive bidding have not been entirely satisfactory. Charges of bias in the process have existed from the beginning. The Commission itself has weighed in on this issue:

We too accept the premise that a bias exists in the utility resource procurement process that favors utility-owned resources over PPAs. This bias is really a logical inference drawn from an understanding of ratemaking practices and the effectiveness of incentives. . . .

Although we accept this premise, we share the concern raised by NWECA, CUB, ICNU, and others that, even after this lengthy proceeding, we know little about the scope and impact of this bias. We have identified its existence, but are not able to quantify its significance. We do not know whether the current regulatory process has, in fact, failed to prevent the utilities from acquiring higher cost, utility-owned resources.

Due to this uncertainty, we are unable to determine whether any of the proposals in this docket would mitigate the bias without improperly rewarding the utilities and unfairly harming customers.¹

¹ Order No. 11-001, page 5.

However, overcoming that bias is not easy. UM 1276 investigated the feasibility of overcoming this bias by offering the utilities an incentive to purchase from the wholesale market. Finding a basis for such an incentive proved difficult. Since utilities already purchase some power from the wholesale market, this incentive approach could raise the cost of those contracts without causing any additional purchases. Ultimately, the Commission concluded that while the bias was real, they were “unwilling to adopt any mechanism that would increase customer rates with no assurance of offsetting risks and costs to the ratepayer.”²

III. NIPPC’s Proposal

NIPPC has proposed a new methodology in this proceeding for dealing with the aforementioned bias. Under the NIPPC proposal, the bias is offset not by providing an incentive to the utility, but by providing an advantage to the independent power producer in the bidding process. Unlike the proposals to provide an incentive to utilities, the advantage provided to IPPs would be based on real analysis with actual data that reflects the actual costs that can be anticipated based on historic practices.

Without getting too far into the weeds of NIPPC’s proposal, CUB believes the idea has merit. To the degree that it can be proven that a utility project will likely have cost overruns, and actual results can be used to forecast those cost overruns, it seems entirely consistent with good ratemaking principles to account for these.

CUB suspects that utilities and NIPPC will have different views on the size and likelihood of such cost overruns. Unlike the incentive proposals that were considered in

² Order No. 11-001, page 6.

the earlier docket, the size and likelihood of cost overruns are factual issues that can be determined analytically. Just as parties are allowed to have contested disagreements over forced outage rates and future fuel costs, the likely cost overrun on a baseload natural gas plant can be quantified, debated, and forecast. These issues should therefore not prevent the establishment of a framework to address build/buy bias.

CUB participated in UM 1276, a docket that attempted to quantify the incentive necessary to the utility to overcome the build/buy bias. That docket ultimately failed to resolve the issue, but because the bias raises costs to customers, other approaches to solving the underlying problem still make sense. NIPPC's approach that begins with identifying the expected cost of the bias to customers with respect to a specific project has a great deal of merit. It seems to CUB that it is worth trying to quantify what the actual cost of this bias is and to offset these costs in the RFP. CUB therefore endorses NIPPC's proposal in this docket and looks forward to the Commission taking a step towards resolving this long-running issue.

Respectfully submitted,



Bob Jenks
March 19, 2012

UM 1182– CERTIFICATE OF SERVICE

I hereby certify that, on this 19th day of March, 2012, I served the foregoing **COMMENTS OF THE CITIZENS' UTILITY BOARD OF OREGON** in docket UM 1182 upon each party listed in the UM 1182 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and one copy by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service)

(C denotes service of Confidential material authorized)

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