

# McDowell Rackner & Gibson PC



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November 1, 2013

## VIA ELECTRONIC AND U.S. MAIL

PUC Filing Center  
Public Utility Commission of Oregon  
PO Box 1088  
Salem, OR 97308-1088

**Re: UM 1182 (Phase II) – In the Matter of PUBLIC UTILITY COMMISSION OF OREGON,  
Investigation Regarding Competitive Bidding.**

Enclosed for filing in Docket UM 1182 are an original and five copies of Idaho Power Company's Reply Comments.

A copy of this filing has been served on all parties to this proceeding as indicated on the attached certificate of service.

Very truly yours,

Wendy McIndoo  
Office Manager

Enclosures  
cc: Service List



1 I. DISCUSSION

2 A. NIPPC's Recommendations are Outside the Scope of this Docket.

3 In Order No. 13-204, the Commission provided the parties with "guidance and  
4 instruction . . . to allow a more focused discussion of [the eight remaining comparative risk]  
5 items and an expedited resolution of this docket."<sup>2</sup> NIPPC disregarded the Commission's  
6 guidance and instruction and instead filed comments that address the overall structure of  
7 the RFP process.<sup>3</sup> NIPPC recommends: (1) that the Commission require  
8 acknowledgment of RFP short lists; and (2) that the Commission require utilities to procure  
9 certain resources through a "set aside" that would prohibit a benchmark resource from  
10 competing with independent power producers ("IPPs") in the bidding process.<sup>4</sup> NIPPC's  
11 recommendations fail to address the eight comparative risk items and are entirely outside  
12 the scope of the issues for this phase of the docket. Further, the record in this case is  
13 insufficient to support such dramatic changes to the competitive bidding process.  
14 Therefore, on this basis alone, the Commission should reject both of NIPPC's  
15 recommendations.

16 B. Requiring Mandatory Acknowledgement of RFP Short Lists is  
17 Unnecessary.

18 RFP Guideline 13 states that the "utility *may* request that the Commission  
19 acknowledge the utility's selection of the final short-list of RFP resources."<sup>5</sup> Arguing that

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20 <sup>2</sup> Order No. 13-204 at 11. The Commission directed the parties to "initially address whether  
21 the risk factor is related to resource ownership, and provide support for any conclusion  
22 reached." If a "risk factor is related to ownership, the party should provide  
23 recommendations to help the IE's comparative analysis of that risk item for utility  
benchmark resources and other resource options." The Commission also made clear that  
recommendation should be for qualitative, rather than quantitative, adjustments.

24 <sup>3</sup> NIPPC Opening Comments at 3.

25 <sup>4</sup> NIPPC Opening Comments at 3.

26 <sup>5</sup> *Re Investigation Regarding Competitive Bidding*, Docket UM 1182, Order No. 06-446, App. A at 4  
(Aug. 10, 2006) (emphasis added).

1 the current guideline is unfair, NIPPC recommends that the Commission amend RFP  
2 Guideline 13 to *require* Commission acknowledgement of the RFP’s short list.<sup>6</sup> In support  
3 of this position, NIPPC relies heavily on Portland General Electric Company’s (“PGE”)  
4 recently concluded RFPs, and claims that if the Commission required acknowledgement of  
5 PGE’s final short list “many concerns raised by bidders” would have been addressed.<sup>7</sup>  
6 However, in making this argument, NIPPC ignores the fact that in response to the  
7 “concerns raised by bidders,” the Commission reviewed PGE’s RFP process and  
8 confirmed the Independent Evaluator’s (“IE”) conclusion that the “RFP was conducted in a  
9 fair and unbiased manner and that the Final Shortlist accurately identified Bids with the  
10 most value for PGE customers.”<sup>8</sup> Indeed, neither the IE, nor Staff, nor the Commission  
11 identified a procedural or substantive deficiency in the PGE process that warranted further  
12 investigation. In the end, NIPPC has not identified any instance where mandating  
13 Commission acknowledgement of a final short list would have remedied a deficiency in the  
14 RFP process or provided a customer safeguard that was otherwise lacking. Therefore, the  
15 Commission should reject NIPPC’s recommendation to modify RFP Guideline 13.

16 **C. The Commission Should Reject NIPPC’s Recommendation to Subsidize**  
17 **IPPs through an IPP “Set Aside.”**

18 NIPPC’s second recommendation in this case is to “[r]equire utilities to procure  
19 certain resources through RFPs that do not include a utility ownership option and where  
20 IPPs will exclusively compete with one another.”<sup>9</sup> NIPPC’s proposed “set aside” for IPPs

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22 <sup>6</sup> NIPPC Opening Comments at 3.

23 <sup>7</sup> NIPPC Opening Comments at 4.

24 <sup>8</sup> *Re Portland General Electric Company Request for Proposals for Capacity Resources*, Docket  
25 UM 1535, Order No. 13-345, App. A at 14 (Sept. 20, 2013); *see also Re Troutdale Energy Center, LLC Petition for Declaratory Ruling*, Docket DR 46, Order No. 13-346, App. A. at 18 (Sept. 20, 2013).

26 <sup>9</sup> NIPPC Opening Comments at 3.

1 amounts to an unreasonable subsidy for IPPs and frustrates the basic purpose of  
2 competitive bidding—identifying and procuring the least cost/least risk resources to serve  
3 customers.

4 The Commission has observed that the “main advantage of bidding is that it provides  
5 a means to identify and acquire least-cost resources which are available in the  
6 increasingly competitive electric generation marketplace.”<sup>10</sup> If benchmark resources are  
7 categorically excluded from a competitive bidding process, *i.e.*, the process is made non-  
8 competitive, then there will be no way of knowing whether that process has identified the  
9 least cost/least risk resource. It is only when *all* resources compete against one another in  
10 a fair and unbiased process that utilities, customers, and the Commission can be confident  
11 that the acquired resource is least cost/least risk. The Commission has found repeatedly  
12 that the current competitive bidding process has been conducted in a fair and unbiased  
13 manner.<sup>11</sup> Therefore, NIPPC’s recommendation to move away from competitive bidding  
14 and towards non-competitive bidding should be rejected out of hand.

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23 <sup>10</sup> *Re Competitive Bidding by Investor-Owned Electric Utility Companies*, Docket UM 316, Order  
24 No. 91-1383 (Oct. 18, 1991); *see also* Order No. 06-446 at 2 (competitive bidding goals intended to  
“Provide the opportunity to minimize long-term energy costs . . .”).

25 <sup>11</sup> *See* Order No. 13-345, App. A at 14; Order No. 13-346, App. A. at 18; *Re PacifiCorp Request for*  
26 *Approval of Final Draft 2011 All Source Request for Proposals*, Docket UM 1540, Order No. 12-111,  
Appendix A at 3, 7, and 10 (Mar. 27, 2012).

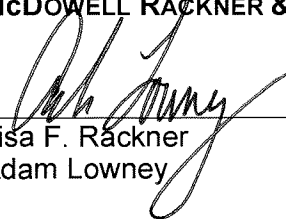
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**II. CONCLUSION**

Idaho Power recommends that the Commission reject both of NIPPC's proposals and affirm the fairness of the current competitive bidding process.

DATED: November 1, 2013.

**McDOWELL RACKNER & GIBSON PC**



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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing document in  
3 Docket UM 1182 on the following named person(s) on the date indicated below by email  
4 addressed to said person(s) at his or her last-known address(es) indicated below.

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