

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON**

UM 1182

PHASE 3

IN THE MATTER OF NORTHWEST)	NORTHWEST AND
AND INTERMOUNTAIN)	INTERMOUNTAIN POWER
POWER PRODUCERS COALITION)	PRODUCERS COALITION'S
PETITION FOR AN INVESTIGATION)	OPENING COMMENTS
REGARDING COMPETITIVE)	
BIDDING)	
_____)	

The Northwest and Intermountain Power Producer's Coalition ("NIPPC") hereby respectfully submits these Opening Comments in response to Order No. 13-204 by the Public Utility Commission of Oregon ("OPUC" or "Commission"). As explained below, NIPPC does not believe that additional "qualitative" adjustments to the Oregon independent evaluator's ("IE") Guideline 10(d) analysis will provide the assurance that is necessary to entice independent power producers ("IPP") to participate in Oregon utility procurements. NIPPC suggests adoption of one of two changes to Oregon request for proposals ("RFP") that would enhance the usefulness of qualitative changes in the IE's analysis: (1) a requirement that the utility submit the short list to the Commission for approval; or (2) a requirement that utilities procure certain resources through RFPs that do not include utility ownership options.

BACKGROUND

The Commission has repeatedly, "*accepted the premise that a bias exists due to the nature of ratemaking, which provides a utility the opportunity to earn return on plant investments but not PPAs.*" Order No. 13-204 at 1. In this docket, the Commission invited parties to comment on the analytic framework and methodologies that the IE could use under

Guideline 10(d) to evaluate and compare the unique risks and advantages of utility benchmark resources as compared to purchasing power from IPPs. The Parties identified twelve risk factors that may warrant analysis.¹ At Commission Staff's request, and at considerable expense, NIPPC retained expert consultants to develop a mechanism that adequately evaluates and compares cost-plus utility ownership bids to fixed-price IPP bids in Oregon RFPs. NIPPC provided testimony recommending quantitative bid adjustments related to the first four factors -- Construction Cost Overruns, Wind Capacity Factor Error, Heat Rate Degradation, and Credit. NIPPC's proposal focuses on these adders for utility bids because these four factors do increase costs to own and operate power plants. IPPs incorporate these risks into their fixed-price bids, and utilities do not. Under the current RFP structure, IPP and utility bids are inherently different and the IE cannot complete an apples-to-apples comparison or fairly compare the bids against each other.

In Order No. 13-204, the Commission declined to accept NIPPC's recommendation that the Commission require quantitative bid adjustments to account for the risk inherent in cost-plus utility ownership bids. The Commission determined, "Because the comparative risks associated with different resource options are generally dependent on the facts specific to each particular bid, we generally focus on improvements that are qualitative in nature." Order No. 13-204 at 9. After adopting further qualitative adjustments for construction cost overruns and requiring the use of an independent wind capacity factor expert, the Commission requested comments on the remaining factors. The Commission explained:

Parties should initially address whether the risk factor is related to resource ownership, and provide support for any conclusion reached. If a party believes

¹ The factors are Construction Cost Over-Runs; Environmental Regulatory Risk; Heat Rate Degradation; Increases in Fixed O&M Costs; Wind Capacity Factor Error; Capital Additions; Counterparty Risk; Changes in Allowed Return on Equity; Changes in Forced Outage Rates; Verify Output; Heat Rate and Power Curve; End Effects; and Construction Delays.

the risk factor is related to ownership, the party should provide recommendations to help the IE's comparative analysis of that risk item for utility benchmark resources and other resource options. The parties should focus on qualitative recommendations, rather than propose quantitative adjustments.

Order No. 13-204 at 11. NIPPC remains convinced that the remaining risk factors are related to utility resource ownership, they are not incorporated into utility REF bids, and that costs for these risk factors are eventually borne by ratepayers years later. However, the Commission has requested qualitative recommendations, so NIPPC's comments focus there, with a very important distinction; NIPPC's comments address the structure of the RFP process. NIPPC contends that the IE cannot properly utilize qualitative adjustments or perform adequate comparative analyses unless the RFP process is changed as described below.

COMMENTS

Structural changes are needed for qualitative changes to be truly useful. These include either:

(1) Require mandatory Commission acknowledgment of the utilities' RFP short list;

or,

(2) Require utilities procure certain resources through RFPs that do not include a utility ownership option and where IPPs will exclusively compete with one another.

1. REQUIRE ACKNOWLEDGEMENT OF SHORT LIST

The Commission adopted its original Competitive Bidding Guideline in this docket six years ago. Order No. 06-446. While characterized as "guidelines," Order No. 06-446 features requirements and stated expectations short of requirements. In Guideline 1, the utilities "must issue an RFP for all Major Resource acquisitions as identified in its last acknowledged RFP."

Order No. 06-446 Appendix A at 1. While exceptions may be made, the utilities are required to

competitively procure new resources. Similarly, Guidelines 6 and 7 spell out requirements for the conduct of a workshop on the draft RFP, which the Commission must ultimately “approve.” Order No. 06-446 Appendix A at 2. Notably, the guidelines do not require the utility to bring its short list of final bidders to the Commission for acknowledgment. Order No. 06-446 Appendix A at 4.

NIPPC respectfully suggests that leaving acknowledgment of the bidders’ short list as optional has eroded the integrity of the entire process and omits an important opportunity for the IE to demonstrate to the Commission and Staff how short-listed companies compare with the Benchmark Resource and with one another and whether they are all being evaluated evenly. Using a recent example, many concerns raised by bidders in PGE’s just-concluded thermal RFPs would have been addressed if the short list were acknowledged by the Commission and if the IE’s recommendations for PGE to negotiate with competitive bidders were fulfilled.

NIPPC recognizes one of the Commission’s stated goals is that it does not intend to “unduly constrain utility management’s prerogative to acquire new resources.” Order No. 06-446. However, leaving submittal of the utilities’ short list as optional erodes the companion goal that the entire process “be understandable and fair.” *Id.* at 2. NIPPC maintains that by presenting their short lists to the Commission, the utilities would provide perspective on what the market was offering to them in the RFP. The enhanced transparency would, as demonstrated in previous RFPs conducted by PacifiCorp, increase the credibility of the overall process.

NIPPC suggests that if acknowledgement of the short list were required, again referencing PGE’s just concluded RFP, the Company would be more likely to have followed Accion Group’s counsel and negotiated with the short list parties with likely consequential

benefits to the ratepayers as a result. Finally, requiring acknowledgment of the short list would provide the Commission with important information by which to assess the progress of the RFP and the quality of resources being offered to the utilities. The resulting high-level assessment would build confidence that the RFP will, in fact, deliver least cost, least risk resources to Oregon consumers.

2. SET ASIDE

In adopting its IRP Guidelines in Order No. 07-002 and its Competitive Bidding Guidelines in Order No. 06-446, the Commission intended the product of the former to inform the outcome of the latter. The Commission arrived at its policy to manage investor-owned utilities' bias toward building and owning generation resources and to assure that utilities acquired the least cost, least risk resources for ratepayers.²

NIPPC proposes that the Commission use the current examination of its Competitive Bidding Guidelines as the opportunity to underscore the importance of the linkage of Guideline 13 in its "IRP Guidelines" to utility resource acquisitions in such a way to require utilities to provide substantial and meaningful notice to the Commission, their ratepayers and independent power producers considering participating in forthcoming RFPs. IRP Guideline 13 in Order No. 07-002 directs electric utilities to:

Identify its proposed acquisition strategy for each resource in its action plan,

[and]

Assess the advantages and disadvantages of owning a resource instead of purchasing power from another party.

² NIPPC offered this recommendation previously in the Commission's consideration of Portland General's most recent RFP in LC 48 NIPPC Supplemental Opening Comments.

The Commission intended these disclosures to accompany the identification of “Benchmark Resources” utilities plan to consider in future IRPs.

NIPPC suggests that recent events have underscored the importance of the utilities meaningfully responding to Guideline 13 in all future IRPs. In our view, insisting on significantly more detail from utilities in preparing their IRPs as they “identify [their] proposed acquisition strategy for each resource in [their] action plan,” is a reasonable and productive application of existing Commission policy worthy of rigorous implementation. NIPPC’s proposal is consistent with the Commission’s guidance to the electric utilities to “assess the advantages and disadvantages of owning a resource instead of purchasing power from another party” and to “identify any Benchmark Resources it plans to consider in competitive bidding.”

NIPPC respectfully suggests that the Commission require the utilities to clearly identify the *actual amount of nameplate megawatts* of new thermal and renewable capacity they believe is required to meet their resource requirements. The utilities should do so based on their best informed judgment of their needs for utility owned generation (“UOG”) to reliably serve their customers. At the same time, NIPPC recommends requiring the utilities identify the *actual amount of nameplate megawatts* that they plan to secure through purchases of power generated by unit contingent resources that they do *not intend to build or subsequently acquire*.

In effect, NIPPC proposes a “set aside” which would explicitly identify and reserve, *in advance*, a percentage of resources to be allocated between UOG and that developed and operated by IPPs. Furthermore, NIPPC recommends the Commission allow the utilities to proceed outside the Commission’s RFP Guidelines to acquire its UOG capacity as acknowledged

by the Commission in the utilities' most current IRP.³ IPPs would continue to compete against one another, only now exclusively amongst one another, for the specific megawatt set aside for third party development, ownership and operation under PPAs.

CONCLUSION

NIPPC submits that each of the remaining risk factors is related to resource ownership, and NIPPC suggests adoption of one of two changes to Oregon RFPs that would enhance the usefulness of qualitative changes in the IE's analysis: (1) a requirement that the utility submit the short list to the Commission for approval; or (2) a requirement that utilities procure certain resources through RFPs that do not include utility ownership options.

RESPECTFULLY SUBMITTED this 30th day of September, 2013.

RICHARDSON ADAMS, PLLC



Peter J. Richardson (OSB 06668)
Gregory M. Adams (OSB 101779)
515 N. 27th Street
PO Box 7218
Boise, Idaho 83702
(208) 938-7904 Tel
(208) 938-7904 Fax
peter@richardsonadams.com
greg@richardsonadams.com

Attorneys for the Northwest and Intermountain
Power Producers Coalition

³ The RFP Guidelines do not require inclusion of a self-build or utility benchmark resource. *See* Order No. 06-446, at 5 – 6 (setting forth Guideline 4, which allows but does not require a utility self build option for use as a potential cost comparison).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of September, 2013, a true and correct copy of the within and foregoing **PHASE 3 OPENING COMMENTS OF THE NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION IN DOCKET UM 1182**

G. Catriona McCracken (C)
Robert Jenks (C)
CITIZENS' UTILITY BOARD OF OREGON
610 SW Broadway Ste 400
Portland OR 97205
catriona@oregoncub.org
bob@oregoncub.org
dockets@oregoncub.org

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

S. Bradley Van Cleve (C)
Irion Sanger (C)
Davison Van Cleve
333 SW Taylor Ste 400
Portland OR 97204
las@dvclaw.com
bvc@dvclaw.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Michael Parvinen
Cascade Natural Gas
8113 W Grandridge Blvd
Kennewick WA 99336
michael.parvinen@cngc.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Aster Adams (C)
PUBLIC UTILITY COMM. OF OREGON
PO Box 1088
Salem OR 97308
aster.adams@state.or.us

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

John W. Stephens
Esler Stephens & Buckley
888 SW Fifth Ave Ste 700
Portland OR 97204-2021
stephens@eslerstephens.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

PacifiCorp DBA Pacific Power
Oregon Dockets
825 NE Multnomah St Ste 2000
Portland OR 97232
oregondockets@pacificcorp.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Megan Walseth Decker
Renewable Northwest Project
421 SW 6th Ave #1125
Portland OR 97204-1629
megan@rnp.org

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Stefan Brown (C)
Portland General Electric
121 SW Salmon St – 1WTC1711
Portland OR 97204
stefan.brown@pgn.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Patrick G Hager (C)
Portland General Electric
121 SW Salmon St 1WTC-0702
Portland OR 97204
pge.opuc.filings@pgn.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Michael T Weirich (C)
Business Activities Section
Department of Justice
1162 Court St NE
Salem OR 97301-4096
michael.weirich@doj.state.or.us

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Kacia Brockman
Matt Krumenauer
Oregon Department of Energy
625 Marion St NE
Salem OR 979301
kacia.brockman@state.or.us
matt.krumenauer@state.or.us

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Renee M France (C)
Oregon Department of Justice
1162 Court St NE
Salem OR 97301-4096
renee.m.france@dog.state.or.us

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Ann L Fisher
AF Legal & Consulting Services
PO Box 25302
Portland OR 97298-0302
ann@annfisherlaw.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

David J Meyer
Patrick Ehrbar
Avista Corporation
PO Box 3727
Spokane WA 99220-3727
david.meyer@avistacorp.com
pat.ehrbar@avistacorp.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Lisa D Nordstrom (C)
Regulatory Dockets
Idaho Power Company
PO Box 70
Boise ID 83707-0070
lnordstrom@idahopower.com
dockets@idahopower.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Lisa A. Rackner (C)
McDowell Rackner & Gibson PC
419 SW 11th Ave Ste 400
Portland OR 97205
lisa@mcd-law.com
dockets@mcd-law.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

David E Hamilton
Norris & Stevens
621 SW Morrison St Ste 800
Portland OR 97205-3825
davidh@norrstev.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Alex Miller
Director Regulatory Affairs
Northwest Natural Gas Company
220 NW Second Ave
Portland OR 97209-3991
alex.miller@nwnatural.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Wendy Gerlitz
NW Energy Coalition
1205 SE Flavel
Portland OR 97202
wendy@nwenergy.org

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Mary Wiencke (C)
Pacific Power
825 NE Multnomah St Ste 1800
Portland OR 97232-2149
mary.wiencke@pacificorp.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Robert Kahn
Executive Director
NW Independent Power Producers
1117 Minor Ave Ste 300
Seattle WA 98101
rkahn@nippc.org
rkahn@rdkco.com

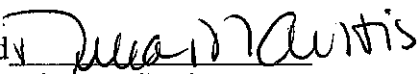
Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

David F White (C)
Portland General Electric Company
121 SW Salmon St 1WTC1301
Portland OR 97204
david.white@pgn.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

William A Monsen (C)
MRW & Associates LLC
1814 Franklin St Ste 720
Oakland CA 94612
wam@mrwassoc.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Signed 
Nina M. Curtis