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VIA ELECTRONIC AND U.S. MAIL

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148

Re: UM 1182 – 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 Prehearing Brief.

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

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Enclosures
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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1182

PHASE II

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation Regarding Competitive Bidding.	**Idaho Power Company's Prehearing Brief**

Pursuant to Administrative Law Judge ("ALJ") Traci Kirkpatrick's Prehearing Conference Memorandum of September 27, 2012, Idaho Power Company ("Idaho Power" or "Company") submits the following Prehearing Brief. The record developed in this case demonstrates that the current resource procurement process in Oregon is not biased in favor of utility self-build bids. Specifically, the Public Utility Commission of Oregon ("Commission") should reject the proposals set forth by the Northwest and Intermountain Power Producer's Coalition ("NIPPC") for bid adders that would introduce an artificial and significant bias into the Request for Proposals ("RFP") process that may well result in customer harm. To protect customers from Independent Power Producers ("IPPs") that are unable or unwilling to fulfill the terms of a Power Purchase Agreement ("PPA"), the Commission should require PPAs to include non-bypassable terms related to security.

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I. BACKGROUND

The Commission re-opened UM 1182 to "further examine issues related to [the Commission's] competitive bidding guidelines."[1] Competitive Bidding Guideline 10(d) requires the Independent Evaluator ("IE") to "evaluate the unique risks and advantages of utility benchmark resources."[2] In Order No. 11-001 the Commission assumed that a "bias exists in the utility resource procurement process that favors utility-owned resources over [power purchase agreements]" because utilities earn a return on utility-owned resources but do not earn a return on power purchase agreements.[3] While the Commission assumed the bias existed, it neither quantified the significance of the assumed bias nor concluded that the assumed bias resulted in customer harm.[4] To determine "whether the regulatory process has, in fact, failed to prevent the utilities from acquiring higher cost, utility-owned resources" due to the assumed bias, the Commission directed parties to provide the following in Phase II of UM 1182:

> We want a more comprehensive accounting and comparison of all of the relevant risks, including consideration of construction risks, operation and performance risks, and environmental regulatory risks. We also want more in-depth analysis of all of these risks. We invite comment on the analytic framework and methodologies that should be used to evaluate and compare resource ownership to purchasing power from an independent power producer.[5]

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[1] *Re Public Utility Commission of Oregon Investigation Regarding Performance-Based Ratemaking Mechanisms to Address Potential Build-vs.-Buy* Bias, Docket UM 1276, Order No. 11-001 at 6 (Jan. 3, 2011).

[2] Order No. 11-001 at 6.

[3] Order No. 11-001 at 5. In its Phase I Closing Comments (p. 5), Idaho Power noted its objection to this assumption, which was not based upon evidence in the record. Idaho Power continues to object to this premise based upon the evidence presented in Phase II of this docket.

[4] Order No. 11-001 at 5.

[5] Order No. 11-001 at 5-6.

Following a series of workshops the parties identified 12 potential issues (referred to as "Items" 1 through 12) for inclusion in Phase II.[6] Because a consensus could not be reached on which of the 12 Items should be included, the parties filed comments and ALJ Kirkpatrick issued a Ruling on May 30, 2012, adopting three Items for inclusion in Phase II: Item 1 (Cost Over- and Under-Runs), Item 11 (Counterparty Risk), and Item 12 (Heat Rate Degradation). Thereafter, the Commission affirmed ALJ Kirkpatrick's Ruling on the issues list.[7] However, the Commission also added a fourth issue for study in Phase II: Item 4 (Wind Capacity Factors).

II. ARGUMENT

A. The Evidence in the Record Does Not Demonstrate that Utilities are Acquiring Higher Cost, Utility-Owned Resources.

The purpose of this docket is to investigate whether the utility self-build bias assumed by the Commission has resulted in utilities acquiring higher-cost resources.[8] While the Commission has assumed that a bias exists due to the fact that utilities earn a return on utility-owned resources,[9] the Commission has not concluded that this bias has resulted in an unfair RFP process. Indeed, the Commission specifically noted in Order No. 11-001 that it knows "little about the scope and impact of this bias" and did not know whether the bias resulted in utilities acquiring higher cost resources.[10] The record in this case demonstrates that even if the Commission's assumed bias exists, the bias has not

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[6] *See* PGE/100, Outama-Bettis-Mody-Hager/2, ll. 4-19.

[7] *Re Northwest and Intermountain Power Producers Coalition Petition for an Investigation Regarding Competitive Bidding*, Docket UM 1182, Order No. 12-324 (May 30, 2012).

[8] Order No. 11-001 at 5.

[9] Order No. 11-001 at 5.

[10] Order No. 11-001 at 5.

adversely impacted the RFP process and utilities are not acquiring higher cost resources simply because they are self-build projects.[11]

NIPPC argues that the RFP process is unfair and has proposed significant bid adders that would artificially drive up the bid prices associated with utility-owned projects.[12] According to NIPPC, the proposed bid adders are necessary to "level the playing field between [independent power producers] and UOG bids."[13] However, Staff concluded that the record lacks any facts supporting NIPPC's implicit assumption that IPP bids are treated unfairly in the RFP process.[14] Specifically, Staff testifies that NIPPC failed to "demonstrate that the existing RFP-related bid evaluation methods used by any of the three jurisdictional electric utilities are biased against bids from IPPs."[15] Thus, Staff concluded that it is "premature to recommend modifying the Commission's competitive bidding Guideline 10(d)."[16]

Similarly, Idaho Power concluded that NIPPC provided no evidentiary support for its assumption that the evaluation method used in the RFP process is biased.[17] Indeed, NIPPC's testimony does not even address Idaho Power's bid evaluation methodology.[18] And the evidence related to Idaho Power demonstrates that the Company has not acquired higher cost resources because the record does not demonstrate that Idaho

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[11] *See* Staff/200, Proctor/20, l. 15 – 23, l. 11; Idaho Power/100, Stokes/3, l. 3 – 4, l. 24.

[12] *See, e.g.*, NIPPC/100, Monsen/3, ll. 9-13.

[13] NIPPC/100, Monsen/4, l. 17 – 5 l. 2.

[14] Staff/200, Proctor/6, ll. 4-7.

[15] Staff/200, Proctor/4, ll. 10-12.

[16] Staff/200, Proctor/1, l. 20 – 2, l. 3.

[17] Idaho Power/200, Stokes/2, ll. 7-16.

[18] Idaho Power/200, Stokes/2, ll. 7-16.

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Power's RFP process is biased.[19] In fact, for Idaho Power's recently acquired UOG projects, the actual costs paid by customers have been well below the Company's bid price that was successful in the RFP process.[20]

While the record does not demonstrate that the current RFP process has resulted in the acquisition of higher cost resources, the introduction of bias into the RFP process through artificial bid adders may well result in utilities acquiring higher cost resources.[21] The use of bid adders to bias the RFP process in favor of IPPs would incent IPPs to increase their bid price to account for the bid adders applied to the self-build project.[22] In UM 1276 the Commission rejected proposals intended to address the assumed self-build bias because it was unclear whether the proposals would mitigate the bias without unfairly harming customers.[23] Here, the Commission should likewise reject NIPPC's proposed bid adders because NIPPC has failed to demonstrate that the adders would mitigate the bias (because no party has demonstrated that a bias exists) and the introduction of a bias in favor of IPPs would unfairly harm customers.[24]

B. Cost Over- and Under-Runs.

The issue of cost over- and under-runs is intended to examine the difference in risk between a utility self-build bid and an IPP bid related to the possibility that the ultimate costs of either project will be over or under the estimated costs used to develop the bid. If

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[19] *See* Idaho Power/100, Stokes/3, l. 2 – 4, l. 24.

[20] Idaho Power/201.

[21] PGE/100, Outama-Bettis-Mody-Hager/6, ll. 7-9; PAC/200, Kusters/3, ll. 16-19; PAC/200, Kusters/10, ll. 7-14.

[22] PAC/200, Kusters/10, ll. 7-14, 15, l. 18 – 16, l. 10; PGE/200, Outama-Bettis-Mody-Hager/4, ll. 6-10.

[23] Order No. 11-001 at 5.

[24] *See* Staff/200, Procter/24, l. 21 – 25, l. 3.

an IPP contractually guarantees a construction cost for a project, then customers are likely insulated from the risk of a cost over-run and customers will not receive the benefit of a cost under-run. For utility self-build resources, however, this issue assumes that the actual, prudently incurred costs, rather than the bid costs, are included in rates. Thus, customers bear the risk that a utility self-build project will exceed the estimate that was used to develop the winning bid and conversely customers receive the benefit in the event that the project's actual costs are less than the bid amount.

1. Idaho Power's Current Methodology Adequately Accounts for Potential Cost Over-Runs.

When comparing IPP and self-build bids, Idaho Power utilizes the "total cost of ownership approach," which examines the estimates for ongoing operating and maintenance costs and future capital expenses for the self-build option to allow for a fair comparison of the total cost of ownership between the UOG and the non-utility-owned proposals.[25] In addition, when Idaho Power develops a self-build bid, the Company includes in that bid a contingency amount to account for unforeseen expenses, like construction change orders.[26] This approach ensures that the bid evaluation process properly compares all reasonably estimated costs. In addition, Idaho Power is required by Idaho law to obtain from the Idaho Public Utilities Commission ("IPUC") a Certificate of Public Convenience and Necessity ("CPCN")[27]—a process that requires Idaho Power to provide a commitment estimate of its anticipated construction costs, which is taken directly from the Company's self-build bid included in the RFP process.[28] Thus, the CPCN

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[25] Idaho Power/200, Stokes/3, ll. 13-25.

[26] Idaho Power/200, Stokes/6, ll. 11-15.

[27] Idaho Code §§61-526 thru -528.

[28] Idaho Power/100, Stokes/6, ll. 4-16.

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process allows regulators to review the commitment estimates and any variance from these estimated costs can be heavily scrutinized when the Company seeks the inclusion of the UOG in rate base.[29]

In addition, it is common in today's market for utilities to enter into fixed price Engineering, Procurement, and Construction ("EPC") contracts.[30] Doing so largely mitigates the risk that customers will be exposed to construction cost over-runs, if they occur.[31]

2. NIPPC's Proposed Bid Adders for Cost Over-Runs Should be Rejected.

NIPPC assumes that utilities systematically under-estimate the construction costs used to develop self-build bids and therefore proposes that the IE apply a 7 percent bid adder to the construction costs for any project that would result in utility ownership after the plant is commissioned.[32] NIPPC's proposed adder should be rejected because there is no evidence that Oregon utilities systematically underestimate construction costs and NIPPC's bid adder was developed using a flawed methodology.

a. There is no Evidence that Oregon Utilities Systematically Under-Estimate Construction Costs.

NIPPC's entire approach to the cost over-run issue is based on its flawed assumption that utilities systematically under-estimate construction costs when developing self-build bids.[33] Contrary to NIPPC's assumption, the evidence demonstrates that the most recent self-build projects developed by Idaho Power (Bennett Mountain, Danskin 1,

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[29] Idaho Power/100, Stokes/7, ll. 10-15.

[30] Idaho Power/100, Stokes/5, ll. 22-24; PGE/100, Outama-Bettis-Mody-Hager/20, ll. 11-20.

[31] Idaho Power/100, Stokes/5, ll. 22-24; PGE/100, Outama-Bettis-Mody-Hager/20, ll. 11-20.

[32] NIPPC/100, Monsen/3, ll. 9-13.

[33] NIPPC/100, Monsen/100, Monsen/17, l. 8 – 18, l. 10.

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and Langley Gulch) were all constructed for less than the amount reflected in the self-build bid included in the RFP process.[34] In fact, the actual construction costs of these projects included in rates were on average 6.72 percent *less* than the bid amounts.[35] Similarly, Portland General Electric Company ("PGE") testifies that for its Port Westward and Biglow Canyon plants the actual installed costs were less than PGE's cost estimates.[36] PacifiCorp also provided evidence that the historical evidence does not support NIPPC's claim that PacifiCorp systematically under-estimates construction costs.[37] While NIPPC claims that PacifiCorp has historically experienced cost over-runs for UOGs,[38] NIPPC's conclusions are based on its misunderstanding of key regulatory filings, NIPPC's improper comparison of costs taken from different regulatory filings, and NIPPC's reliance on the wrong construction cost estimates.[39]

Staff's independent analysis corroborated the historical evidence presented by Idaho Power, PGE, and PacifiCorp. Based on its review of IE reports from various RFP dockets, Staff concluded that [begin confidential] "[redacted]." [end confidential].[40] Because the fundamental assumption underlying NIPPC's proposed bid adder lacks any evidentiary support in the record, the bid adder should be rejected.

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[34] Idaho Power/201.

[35] Idaho Power/201.

[36] PGE/100, Outama-Bettis-Mody-Hager/23, l. 19 – 24, l .10.

[37] PAC/200, Kusters/16, l. 11 – 22, l. 9; 23, ll. 11-18.

[38] *See* NIPPC/100, Monsen/17, ll. 1-7.

[39] PAC/200, Kusters/16, l. 11 – 22, l. 9.

[40] Staff/200, Procter/5, l. 20 – 6, l. 3, 17, ll. 10-13.

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b. **NIPPC's Methodology is Fatally Flawed.**

NIPPC's proposed 7 percent bid adder was developed using historical data for eight UOG plants in California.[41] NIPPC claims that these eight projects developed by California utilities over the last ten years demonstrate that Oregon utilities systematically under-estimate construction costs when developing self-build bids. However, NIPPC's methodology is flawed and rendering its results, essentially meaningless.

First, it is unreasonable to assume that historic cost over-runs in California are evidence that future utility projects developed by Oregon utilities will experience comparable cost over-runs.[42] NIPPC's analysis relies, in part, on an Edison Foundation study from 2007 that concluded that utility construction costs were rising at that time and that these increasing costs were resulting in unexpected cost over-runs.[43] However, market conditions in 2007 are not representative of market conditions today or in the future. Indeed, since 2007 electricity demand has decreased and this has resulted in fewer new generation projects and fundamentally different market conditions.[44]

Moreover, the use of only California data is problematic because the California market is not necessarily representative of the Pacific Northwest market. Indeed, even NIPPC admits that it would be better to use Oregon data[45] and, as discussed above, the

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[41] NIPPC/100, Monsen/12. Mr. Monsen's testimony presents his analysis as if it were based on 11 projects. However, four of the plants (Barre, Center, Grapeland, and Mira Loma) are properly viewed as a single project for purposes of this analysis because the cost estimate used by Mr. Monsen to determine the claimed over-run was a combined estimate for all four plants.

[42] *See* PGE/100, Outama-Bettis-Mody-Hager/6, ll. 10-19; PGE/200, Outama-Bettis-Mody-Hager/3, ll. 11-12.

[43] NIPPC/100, Monsen/7, l. 18 – 8, l. 7.

[44] PAC/200, Kusters/13, l. 17 – 14, l. 13.

[45] NIPPC/100, Monsen/24, ll. 4-9.

Oregon data does not support NIPPC's assumption that Oregon utilities systematically under estimate construction costs.

Second, NIPPC's analysis relies on an inadequate sample of utility projects and is therefore statistically meaningless.[46] The sample size used by NIPPC to develop the 7 percent bid adder, which consisted of only 8 projects developed in California, "should not be used to extrapolate future trends and apply those trends to future RFPs issued by an Oregon utility."[47] Without a more robust sample, NIPPC's conclusions are entirely without merit.

Third, the examples used by NIPPC are atypical and are not representative of a normal self-build project that would be included in a competitive bidding process.[48] Indeed, the projects with the largest cost over-runs (Barre, Center, Grapeland, Mira Loma, Gateway, and Mountainview) were not subject to competitive bidding, were developed in response to emergency market conditions present at the time, and were recognized by both the utilities and regulators as unique projects.[49] NIPPC's failure to take into consideration the actual market conditions in effect at the time these resources were developed and NIPPC's failure to consider the methodologies used to develop the construction cost estimates render the analysis fatally deficient.[50]

Moreover, removing these projects from NIPPC's analysis changes the results from a bid adder of 7 percent to a bid *deduction* of 0.5 percent.[51] This fact demonstrates that

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[46] Idaho Power/200, Stokes/7, ll. 16-24; Staff/100, Procter/11, l. 17.

[47] PAC/200, Kusters/22, ll. 17-19.

[48] Idaho Power/200, Stokes/8, ll. 1-3.

[49] Idaho Power/200, Stokes/8, l. 1 – 10, l. 16.

[50] PAC/200, Kusters/22, ll. 19-21; PGE/300, Jacobs/31, l. 15 – 33, l. 4.

[51] Idaho Power/200, Stokes/10, ll. 19-20.

NIPPC's proposal relies heavily on these projects even though these projects are properly considered outliers and are not representative of typical projects that would be developed in Oregon pursuant to a Commission-conducted RFP.

c. NIPPC's Bid Adder for Capital Additions During the Life of the Plant is outside the Scope of Phase II.

In addition to proposing a bid adder for construction cost over-runs, NIPPC also proposes a bid adder for capital additions that occur during the first five years of plant operations.[52] However, the risk associated with capital additions made during the life of a plant was a separate issue (Item 8) that was specifically not included in Phase II of this docket.[53] Therefore, NIPPC's testimony and proposal related to this issue should be rejected as outside the scope of Phase II.

However, even if the Commission considers NIPPC's testimony it should nonetheless reject NIPPC's proposed adder. *First*, NIPPC's bid adder is based on the unsupported assumption that all capital investments made during the first five years of the plant's life are deferred construction costs.[54] In fact, capital investments during the first five years may be unrelated to construction (*e.g.*, spare parts).[55] *Second*, NIPPC's use of the first five years of plant operations is arbitrary and lacks any statistical or analytic support.[56] In addition, reviewing NIPPC's data makes clear that the data from year 5 are not representative of the first four years of operations, which further undercuts NIPPC's

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[52] NIPPC/100, Monsen/19, ll. 1-13.

[53] *See* Ruling at 2 (May 30, 2012); Order No. 12-324.

[54] Idaho Power/200, Stokes/12. ll. 1-18; PGE/300, Jacobs/35, ll. 13-15; Staff/200, Procter/17, ll. 14-21.

[55] Idaho Power/200, Stokes/12. ll. 1-18.

[56] PGE/300, Jacobs/36, ll. 13-18.

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claim that these investments are deferred construction costs.[57] *Third*, NIPPC's results are driven largely by plants that are outliers (Barre, Center, Grapeland, and Mira Loma) that were developed on an expedited basis pursuant to an order from the California Public Utilities Commission.[58] Indeed, given that these plants were developed on an expedited basis it is not surprising that additional investments were made after the plants were operational. *Fourth*, correcting NIPPC's analysis to properly account for depreciation results in a substantially smaller bid adder.[59] So even if the Commission adopts a bid adder, it should be substantially smaller than the one proposed by NIPPC.

NIPPC also supports its proposed bid adder by referencing Idaho Power's Bennett Mountain plant.[60] NIPPC claims that a latent defect at the plant, which caused substantial damage after the plant was operational, supports the inclusion of a bid adder for capital additions made after the plant is operational. NIPPC's argument assumes that the costs associated with this defect were passed onto customers and are therefore demonstrative of the risks customers face related to UOGs.[61] However, NIPPC's claims are simply wrong. In fact, the costs to repair the latent defect, which was caused by the IPP that constructed the plant, were never passed onto customers.[62] Thus, customers were never at risk to bear the costs associated with the IPP's error.

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[57] PGE/300, Jacobs/40, ll. 1-5.

[58] PGE/300, Jacobs/39, l. 114-15; Idaho Power/200, Stokes/8, l. 3 – 9, l. 4.

[59] PGE/300, Jacobs/37, l. 4 – 39, l. 10.

[60] NIPPC/100, Monsen/19, ll. 5-10.

[61] NIPPC/200, Monsen/5, ll. 3-11.

[62] Idaho Power/200, Stokes/13, ll. 2-4.

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C. Heat Rate Degradation.

This issue is intended to examine the comparative risks of heat rate degradation at thermal plants. The assumptions underlying this issue are that (1) for utility-owned resources, customers bear the additional costs when the plant's heat rate degrades over time; while, (2) PPAs for gas-fired resources include a guaranteed heat rate, so customers are insulated from the risk of heat rate degradation.

1. Idaho Power's Methodology Adequately Accounts for Heat Rate Degradation.

When developing a self-build bid, Idaho Power assumes that the plant's heat rate will degrade consistent with the unit manufacturer's specifications.[63] This approach appears to be consistent with the methods used by both PGE and PacifiCorp.[64] Idaho Power recommends that the Commission find that the use of the manufacturer's specified heat rate degradation is reasonable.

2. The Commission should Reject NIPPC's Heat Rate Adder.

NIPPC proposes that whenever ratepayers are at risk for the costs associated with heat rate degradation, the IE should assume that the utility's self-build option will experience an 8 percent increase in heat rate over the bid evaluation period.[65] NIPPC developed its 8 percent adder by examining a data base of UOG resources for the years 1981 to 1999.[66] NIPPC assumed that the minimum recorded heat rate was equivalent to the "initial heat rate" experienced by the plant upon commencing operations and then determined a weighted average of the difference between the actual heat rates and this

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[63] Idaho Power/100, Stokes/12, ll. 9-16.

[64] PGE/100, Outama-Bettis-Mody-Hager/17, ll. 1-4; PAC/100, Kusters/11, ll. 19 – 12, l. 9.

[65] NIPPC/100, Monsen/27, ll. 7-15.

[66] NIPPC/100, Monsen/25, ll. 6-8.

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proxy "initial heat rate."[67] Further, NIPPC erroneously compared the high heat value of fuels with the low heat value to impose an improper burden on utility generation.[68] Examining NIPPC's analysis demonstrates that the NIPPC analysis is riddled with errors and arbitrary assumptions which lead to incorrect conclusions. The NIPPC analysis is unreliable and should be rejected.

First, NIPPC's data set is flawed because it includes plants with commercial operation dates going back to 1915 and NIPPC has not demonstrated that the plants in this data set are comparable to plants that would actually be constructed today.[69] Indeed, the record in this case provides no evidence that the plants included in NIPPC's data set were similar to modern plants in either design or the technology used.[70] Likewise, NIPPC has not demonstrated that the maintenance practices applied to the plants in the data set are comparable to modern maintenance practices.[71]

Second, NIPPC's analysis utilizes the wrong baseline for determining the heat rate degradation because it assumes that the lowest recorded heat rate is the proxy for the initial heat rate.[72] This assumption is problematic because NIPPC did not determine the underlying reason that a particular year may have the lowest heat rate. Without understanding why a particular year has the lowest heat rate, which may be due to many factors, is it impossible to determine that that particular year is a reasonable proxy for the plant's initial operations.

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[67] NIPPC/100, Monsen/25, ll. 10-15.

[68] Idaho Power/200, Stokes/16, l. 11 – 17, l. 12.

[69] PAC/200, Kusters/27, ll. 13-15; PGE/300, Jacobs/10, ll. 7-14, 14, ll. 13-15.

[70] PGE/300, Jacobs/10, ll. 7-14.

[71] PGE/300, Jacobs/10, ll. 7-14.

[72] PAC/200, Kusters/29, ll. 10-19.

In addition, NIPPC's baseline is conceptually incorrect because it is not related in any way to the heat rate that was estimated for the plant at the time the plant was proposed.[73] To be meaningful, NIPPC would need to compare the actual heat rates to the heat rate that the utility assumed would occur when the utility proposed the construction of the plant. Simply demonstrating that heat rates change over time does not prove that utility RFP processes are biased for failure to properly forecast heat rate degradation.

Third, NIPPC's analysis also assumes, without support, that all variations in heat rate are due to degradation.[74] In fact, as even NIPPC admits,[75] variations in heat rate can be caused by any number of factors including ambient conditions, plants operating at partial load, the level of duct firing, and the numbers of start-ups.[76] NIPPC's analysis also fails to account for the plant's dispatch, which can have a substantial effect on the heat rate.[77]

Fourth, NIPPC's analysis includes artificial and arbitrary adjustments to the data set that further undermine NIPPC's results. For example, NIPPC removed all plants with heat rates below 7,000 Btu/kWh because pre-1999 plants were unlikely to achieve heat rates below this level.[78] However, typical modern CCCT plants have heat rate curves that are below 7,000 Btu/kWh even when fully degraded.[79] Therefore the data set used by NIPPC includes none of the technologies that will be built in the future.[80] In other words, NIPPC's

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[73] PGE/300, Jacobs/11, ll. 12-23.

[74] PAC/200, Kusters/27, l. 16 – 28, l. 2.

[75] NIPPC/300, Monsen/29, ll. 18.

[76] PAC/200, Kusters/27, l. 16 – 28, l. 2.

[77] PGE/300, Jacobs/10, ll. 16-23.

[78] PAC/200, Kusters/28, ll. 10-21.

[79] PAC/200, Kusters/28, ll. 10-21.

[80] PAC/200, Kusters/28, ll. 10-21.

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analysis erroneously assumes that modern plants will experience the same heat rate degradation as pre-1999 plants that used technology that is now out-of-date.

Fifth, NIPPC's analysis ignores the actual generation of the plants in the data set.[81] Weighting the degradation by actual generation, which accounts for the actual size of the plant and how much it generates, results in a negligible degradation of 0.11 percent.[82]

In addition to NIPPC's numerical analysis, NIPPC also claims that Idaho Power's Danskin plant has experienced substantial heat rate degradation greater than the amount included in Idaho Power's estimates and therefore this plant is indicative of the bias associated with heat rate degradation.[83] However, NIPPC's analysis erroneously compares two different heat rates—the "low" and "high" heat rates—each of which are calculated differently.[84] Thus, NIPPC's comparison wrongly suggests that the plant's heat rate degradation has been greater than expected.

D. Counterparty Risk.

This issue focuses on the concern that whenever the utility enters into a PPA there are risks associated with whether the IPP will be able and willing to follow through with the terms of the PPA. In the event that the IPP either cannot or simply chooses not to fulfill the terms of the PPA, customers are potentially harmed. This risk is particularly acute when, as is often the case, the IPP bidding into an RFP forms a special purpose entity with limited assets and potentially limited financial backing from a parent company.[85]

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[81] NIPPC/100, Monsen/25, l. 16 – 26, l. 2.

[82] Staff/100, Procter/20, ll. 8-21.

[83] NIPPC/100, Monsen/28, ll. 4-11.

[84] Idaho Power/200, Stokes/16, l. 11 – 17, l. 12.

[85] Idaho Power/100, Stokes/10, ll. 15-22.

Idaho Power accounts for counterparty risk primarily by conducting credit assessments at the time that the final shortlist is prepared.[86] These assessments use quantitative financial ratio analysis to determine creditworthiness, *i.e.*, liquidity ratios, leverage ratios and trends, payment trend, profitability ratios, revenue trends and industry/peer ratio comparisons. The Company assigns each bid either a "pass" or "fail" rating and this rating is then used as part of the overall selection criteria.

Idaho Power supports the proposals of PGE and PacifiCorp that would require PPAs to include non-bypassable terms related to security to ensure that utility customers are protected in the event that an IPP is unable or unwilling to fulfill the terms of the PPA.[87]

E. Wind Capacity Factors.

This issue is similar to the heat rate degradation issue and is intended to examine the risk associated with a utility-owned wind plant experiencing a lower capacity factor than was assumed when the plant was developed. NIPPC proposes a capacity factor adder that it argues should be applied to the estimated capacity factor used in the development of utility self-build bids.[88] NIPPC developed its adder by examining historical data from PacifiCorp's wind plants.[89] Like NIPPC's other proposed adders, this too should be rejected.

First, NIPPC's reliance on historical data to develop its adder is problematic because current methodologies for forecasting wind plant capacity factors have improved

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[86] Idaho Power/100, Stokes/9, ll. 5-21.

[87] *See e.g.,* PGE/100, Outama-Bettis-Mody-Hager/33, ll. 14-16; PAC/100, Kusters/30, ll. 9-11.

[88] NIPPC/100, Monsen/30, ll. 1-4.

[89] NIPPC/100, Monsen/30, ll. 1-4.

dramatically.[90] Therefore, it is unreasonable to assume that forecasting errors made using out-of-date methodologies will continue to occur going forward.

Second, the data set used by NIPPC is too small because it relied on data from only a few years of actual production.[91] It is unreasonable to assume that the measured capacity factor for a variable resource over only a handful of years is representative of the capacity factor over the entire life of the resource.[92] The use of a limited data set is even more problematic because two of the years relied on by NIPPC were outliers and far below normal.[93]

Third, NIPPC's analysis did not account for seasonality.[94] Instead, if a plant became operational in a particular year NIPPC assumed the plant was operational for the entire year. This skewed NIPPC's results because some of the plants were operational for only the seasons with the lowest capacity factor.

Fourth, NIPPC's analysis fails to account for the fact that the plants analyzed are located in three distinct regions with distinct wind profiles.[95] Developing a single capacity factor adder applicable to all wind plants regardless of location is unreasonable.

III. CONCLUSION

The Commission should reject all of NIPPC's proposals because NIPPC's methods are fundamentally flawed. Even if one accepts the Commission's assumption[96] that

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[90] PGE/100, Outama-Bettis-Mody-Hager/26, ll. 9-20; PGE/200, Outama-Bettis-Mody-Hager/7, ll. 6-23.

[91] PGE/200, Outama-Bettis-Mody-Hager/6, l. 21 – 7, l. 5.

[92] PGE/200, Outama-Bettis-Mody-Hager/6, l. 21 – 7, l. 5.

[93] PAC/200, Kusters/35, l. 21 – 36, l. 20.

[94] PGE/200, Outama-Bettis-Mody-Hager/8, l. 15 – 9, l. 7.

[95] PGE/200, Outama-Bettis-Mody-Hager/9, ll. 10-15.

utilities inherently favor UOGs because they earn a return on these investments, it does not necessarily follow that the RFP process is also biased. And the evidence here indicates that the RFP process conducted pursuant to the Commission's current guidelines is not biased and therefore the guidelines should not be modified except to adopt counterparty risk proposals that protect customers from IPPs that cannot or will not perform as required by PPAs.

DATED: February 1, 2013.

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[96] As previously indicated, Idaho Power continues to object to this assumption, which is not supported by the evidence in this docket.

CERTIFICATE OF SERVICE

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

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