BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1276

INVESTIGATION INTO PERFORMANCE-BASED RATEMAKING MECHANISMS	STAFF'S REPLY COMMENTS

The Commission held a workshop in this docket on August 15, 2007, and directed parties to work further on proposals by PacifiCorp and Northwest and Intermountain Power Producers Coalition (NIPPC) for mitigating the utilities' potential bias to own generating assets, rather than enter into power purchase agreements (PPAs).[1]

Parties held a workshop to further discuss these proposals. PacifiCorp and NIPPC filed modified proposals on September 13, 2007. Staff circulated a proposal to parties on November 6, 2007. Parties provided informal comments on December 4, 2007.

PacifiCorp, NIPPC, Northwest Energy Coalition (NWEC) and staff submitted final proposals on December 21, 2007. NIPPC's "Final Proposal" is a modification of staff's proposal. The Joint Utilities[2] filed modifications to staff's proposal that would enable their support.

Source and Magnitude of a Potential Utility Ownership Bias

NWEC states that "…the parties have not adequately described the bias that is at issue, including the drivers and magnitude of any such bias."[3] Staff agrees with NWEC that it is important to understand the source and magnitude of any bias in order to determine the appropriate remedy.

NWEC finds "…a *small* bias that is generated by: (a) internal management pressure and incentive to grow the utility and to generate extra profit (between rate cases) from good management of owned resources; and, (b) a limited amount of uncompensated risk that a utility would bear in administering a Power Purchase Agreement (PPA) — the imputed debt issue."[4] NWEC disagrees with staff's opening comments that the primary

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[1] For the purpose of this docket, parties include tolling agreements under the term "PPA." Under such an agreement, the utility provides the fuel and contracts for the right to generate electricity at a third party-owned plant. The utility also may provide fuel transportation.
[2] The Joint Utilities are PacifiCorp, Portland General Electric (PGE) and Idaho Power.
[3] *See* NWEC's December 21, 2007, comments at 1.
[4] *Id.*, emphasis in original.

barrier to PPAs is the utility's inability to earn a return on contracts. NWEC notes the utility's other investment opportunities. Staff is persuaded by NWEC's arguments.

As NWEC points out, staff previously stated that a utility's ability to earn profits through operational benefits of owned plants is a potential source of bias in favor of a utility owning its plants.[5] Staff also listed the two other potential sources of bias that NWEC highlights: 1) internal management pressure to engage in empire-building and 2) contract-related risks, which includes the imputed debt issue NWEC raises as well as counter-party risk. As in other cases, staff does not find the imputed debt issue compelling.

Upon reflection, staff returns to its earlier position that the most likely source of any utility ownership bias is its ability to earn profits between rate cases through operational benefits of generating assets. We agree with NWEC that empire-building also may play a role, and we note the linkage between these two potential sources of bias. Staff therefore agrees with NWEC that any incentive the Commission may wish to adopt should be small.

Staff now modifies its proposal filed December 21, 2007, to recommend the Commission consider a small incentive on a utility-specific basis. Determining the incentive on this basis recognizes that the source and magnitude of any bias may vary by utility and addresses the multi-state issues NWEC raises.

It is staff's understanding that parties were directed to *assume* a bias exists and to develop a mechanism to mitigate the bias. Staff's counsel advises that, in order to lawfully implement any mechanism other than a temporary pilot program, the Commission would be required to make the following determinations, based upon evidence submitted in the record, in this or another proceeding:

1. Does a utility ownership bias exist?
2. If so, what is its source and magnitude?
3. Does the mechanism proposed to mitigate the bias provide the appropriate remedy?

Staff acknowledges that, depending on the source of the bias, it may be difficult or impossible to determine its magnitude and therefore accurately calibrate the remedy.[6] As such, the Commission could consider implementing a pilot program to assess the impact of a mechanism designed to target the

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[5] *See* staff's opening comments at 1; *also see* staff's opening comments in Docket UM 1066 at 10-11.

[6] In this regard, assessing the magnitude of a potential utility bias to own generating plants is different than, for example, assessing a potential utility bias against demand-side management programs that reduce revenues collected for fixed utility costs by a quantifiable level.

identified bias. Staff's proposal includes both time- and dollar-based triggers for Commission review of the impact of the proposed incentive mechanism. The Commission could adapt these provisions to delineate a firm cut-off period for any pilot program it may wish to adopt.

Finally, staff recommends that any mechanism the Commission adopts in this or another proceeding be available only to new PPAs and renewals executed as of the date of its order.

The Role of the Commission's Competitive Bidding Process in Addressing Any Ownership Bias

The Commission opened Docket UM 1276 in August 2006 — the same month it issued updated guidelines for competitive bidding.[7] The new guidelines help ensure that any potential utility ownership bias does not cause actual harm to customers. In other words, the new guidelines make it more difficult for the utility to act on, or benefit from, any bias.

Utilities must now employ an Independent Evaluator approved by the Commission to oversee the Request for Proposals (RFP) process. Prior to receipt of market bids, the Independent Evaluator receives the cost estimates for any utility self-build options and the forward price curves used for initial short-list evaluation. The Independent Evaluator monitors the RFP process, participates in all communications with bidders, has timely access to all relevant information, verifies the utility's evaluation of self-build options and market bids, confers with staff as needed, provides written reports to the Commission on RFP design (at the time the utility files for RFP approval) and implementation (including a Closing Report), and participates in any proceeding for acknowledgment of the final RFP short-list.

Regarding imputed debt, noted by many of the parties as a source of ownership bias, the utility may consider this issue in the selection of its final short-list. The guidelines advise that the Commission may require the utility to substantiate the utility's analysis by providing an advisory opinion from a ratings agency.[8]

To date, the new guidelines have been applied only to one RFP, and that process has not yet concluded.[9] Further, staff and parties have not yet had the opportunity to apply the findings of the Independent Evaluator or the Commission in a proceeding where the utility seeks to include the resulting resource(s) in rates. It is premature to determine how far the updated

[7] *See* Order No. 06-446 (Docket UM 1182).
[8] *Id.* at 11-12.
[9] *See* Docket UM 1208, PacifiCorp's 2012 RFP for Base Load Resources. PacifiCorp recently filed an application in advance of another RFP it plans to file soon (Docket UM 1360). PGE also has filed an RFP for energy resources (Docket UM 1345).

competitive bidding process goes toward remedying any utility ownership bias that may exist.

Staff recommends the Commission clarify that the Independent Evaluator should evaluate the potential risk reduction benefits of any PPAs bid into the RFP. Specifically, staff recommends the Commission amend Guideline 10d by adding language such as the following: The IE also will evaluate the risks and advantages associated with any bids offered in the form of power purchase agreements, including the potential risk mitigation value to ratepayers of the specific bid.

Staff's Review of the Proposals

As instructed, parties have worked diligently and collaboratively to design a mechanism to mitigate perceived utility bias. The December 21, 2007, proposals reflect resolution of most design issues by submitting parties,[10] with the following major differences remaining:

- The incentive level, including whether it should be calculated on a pre- or post-tax basis, the absolute amount, and whether wind resources should be eligible for a higher incentive
- Whether the incentive should be available only for resources that are acquired through an RFP process that is conducted under the Commission's competitive bidding guidelines, including the involvement of an Independent Evaluator
- Whether the incentive should be available only for PPAs that compete against a utility self-build option

Below, staff comments on PacifiCorp's final Conservation Incentive Mechanism for Power Purchases (CIM/pp) proposal, explains staff's own proposal, and addresses parties' recommended modifications to staff's proposal. First, however, staff comments further on NIPPC's earlier proposal[11] to discount the PPA price in competitive bidding evaluation.

NIPPC Proposal: Discount for PPAs in Competitive Bidding Evaluation

The original NIPPC proposal would add a requirement to the Commission's competitive bidding guidelines to explicitly recognize the risk avoidance benefits of PPAs, rather than provide an incentive to the utility to acquire them. Under the proposal, the Commission would establish a rebuttable

[10] While staff believes Renewable Northwest Project similarly agrees based on its formal and informal comments to date, staff makes no assumptions regarding the current position of other active intervenors in this proceeding — the Citizens' Utility Board of Oregon and Industrial Customers of Northwest Utilities (ICNU).

[11] As modified on September 13, 2007.

presumption that a bid priced no higher than 110 percent of the cost of the utility benchmark resource "wins" if the PPA demonstrates sufficient risk avoidance.[12] In making that determination, the Commission would rely on the counsel of the Independent Evaluator.

In opening comments, staff requested a "robust accounting for how NIPPC derived the 10 percent value" for discounting the bid price in the resource selection process. NIPPC explains that the value is similar to the 10 percent discount applied to conservation resources when compared to supply-side resources. Further, it is a proxy value for the risk avoidance benefits of purchases, instead of an actual value.[13]

Staff finds NIPPC's proposal incompatible with multi-state utilities that are required to choose least-cost, risk-adjusted resources without such a rebuttable presumption in other states. Further, it would be difficult for the Independent Evaluator to determine whether the risk avoidance benefits of a specific PPA warrant the rebuttable presumption. Similarly, it would be difficult for the Commission to reach such a conclusion in acknowledging the final RFP short-list, and in a subsequent rate case.

PacifiCorp's Conservation Incentive Mechanism for Power Purchases

Under PacifiCorp's CIM/pp proposal, the utility would capitalize the net present value of the "pre-determined expenditures" (generally, the capacity portion) of the PPA, subject to a cap of 50 percent of total PPA costs.

In opening comments, staff said the CIM/pp proposal was the strongest of the proposals submitted.[14] Staff explained that the purpose of the 50 percent cap was to mitigate the ability of a utility to structure PPAs toward capacity rather than energy, in order to maximize the portion of the PPA that would receive an incentive under the proposed mechanism. Further, the 50 percent value was derived from Standard & Poor's method of determining a proxy capacity component for energy-only contracts.

The spreadsheets filed by PacifiCorp on September 13, and revised on October 1, 2007, show how the incentive would be calculated and the resulting incentive amounts. The utility would first compute the "return of" (depreciation) and "return on" Oregon's share of the pre-determined expenditures (up to 50 percent of the total contract amount). The utility would

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[12] The resources are to be consistently and comparably evaluated. The 10 percent discount is for bid evaluation purposes only; it does not affect PPA payments or utility customers' rates.
[13] *See* NIPPC's opening comments at 7-8, and September 13, 2007, filing at 2.
[14] In addition to proposals by NIPPC, PacifiCorp and NWEC, PGE and ICNU submitted straw proposals, all of which staff reviewed in opening comments.

then subtract the expected PPA payments associated with these costs. This is the incentive amount, which would be levelized over the contract period using the utility's after-tax rate of return.

Staff has further reviewed the rationale and proposed incentive mechanism based on the company's final proposal, the example spreadsheets and parties' comments. Following are staff's final comments on the proposal:

1) **Incentive level** – As stated above, it is difficult, if not impossible, to determine the level of incentive needed to mitigate potential utility ownership bias, or to quantify the value of PPAs with the risk mitigation provisions NIPPC recommends. No analysis has been provided in this proceeding to demonstrate whether PacifiCorp's proposed PPA incentive is set at the appropriate level. Moreover, the rationale for PacifiCorp's capitalization approach is flawed. It assumes the company, in addition to receiving full cost recovery for the PPA, also should receive a return on up to 50 percent of the present value of the contract payments, even though the utility has not put a dime of its own capital in.

   When a utility makes a prudent investment in owned assets, it has the opportunity to earn a return in order to pay debt service and acquire equity that the utility otherwise would not need. The Commission has similarly applied this rationale for a utility's investments in conservation, where the utility uses its capital to acquire that energy resource. Such is not the case when a utility makes payments under a PPA.

   Further, staff notes that if the Commission were to apply the policy goals in its order on conservation incentive mechanisms,[15] the CIM/pp approach fails on two counts — rewards and penalties are not symmetrical, and they are not proportional. In fact, under the CIM/pp proposal, there are only rewards.

   The only purpose of PacifiCorp's capitalization approach is to calculate an incentive the utilities would receive for acquiring PPAs. If the Commission continues with the premise under which this docket is being conducted, that an ownership bias exists, and the Commission finds the bias should be addressed through a utility incentive payment, staff recommends the Commission simply approximate a value to assign to PPAs, an approach similar to NIPPC's PPA discount proposal. Staff sees no benefit in adopting the calculation PacifiCorp's proposal requires, because no rate-basing actually occurs. Further, the Commission previously has rejected proposals that it should address in a proceeding other than a rate case[16]

[15] Order No. 92-1673 (Docket UM 409), as referenced by PacifiCorp in support of its proposal.
[16] The Commission addresses cost of capital issues in a rate case. Staff notes earlier in these comments how the Commission addresses the issue under its competitive bidding guidelines.

the imputed debt that credit rating agencies may assign to pre-determined expenditures associated with PPAs.

We also note that with the Annual Update and Transition Adjustment Mechanism, PGE and PacifiCorp at worst[17] have a one-year lag in recovering in rates the carrying costs for capacity payments associated with PPAs. Idaho Power has requested a similar mechanism. Such rate-making treatment should be looked upon favorably by rating agencies.

2) **Self-build option and formal competitive bidding process** - Staff agrees with NIPPC[18] and CUB[19] that any PPA incentive should be available only to resources selected under the Commission's competitive bidding guidelines. We also agree with NIPPC that the Independent Evaluator should weigh in on the value of the PPA that the utility proposes should receive the incentive.

   Further, if the Commission is addressing a utility bias to own the resource, then staff agrees with CUB that the utility must have a self-build option.[20] Specifically, to be eligible for the incentive, staff recommends that the PPA must be *in lieu of* a utility self-build option.[21]

   Staff agrees with PacifiCorp that the costs of any utility incentive should not be considered in determining the short-list in an RFP. To do so might knock the PPA from the short-list, rendering the incentive moot. We also agree with PacifiCorp that the Commission should consider the incentive, however, in acknowledgment of the RFP final short-list. The Joint Utilities and NIPPC agree with these recommendations.

3) **Risk mitigation measures** - To be eligible for the incentive, NIPPC proposes that the PPA demonstrate that the seller is absorbing certain risks during project development (if the PPA is for a facility not yet completed), as well as certain performance and operational risks.[22] Staff and CUB agree that there is little reason for customers to pay an incentive to the utility for acquiring PPAs unless those contracts assign these types of risks to the seller. In its final proposal, PacifiCorp proposes to use Financial Accounting Standards Board Financial Interpretation (FIN) 46(R), *Consolidation of Variable Interest Entities*, to demonstrate that the

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[17] Assuming the contract began on December 31st of the previous year.
[18] *See* NIPPC's December 21, 2007, Final Proposal at 1.
[19] *See* CUB's opening comments at 7.
[20] Staff notes that a Build-Own-Transfer arrangement also presents an ownership bias. However, such arrangements do not typically assign the risks to the seller following construction and initial operation.
[21] Note that the term "Benchmark Resource" under Order No. 06-446 does not necessarily mean a self-build option, which is what staff intends here. For example, the utility may use its forward price curve as the benchmark.
[22] *See* NIPPC's version of the CIM/pp proposal filed September 13, 2007, at 2.

PPA absorbs asset ownership risks such that consolidation on the utility's balance sheet is not required.

Staff finds this a useful tool in assessing whether the PPA mitigates utility ownership risk. However, unlike PacifiCorp (and the Joint Utilities), staff does not recommend that the utility's assessment under FIN 46(R) *substitute* for staff's proposed requirements for the incentive: 1) a self-build option, 2) an RFP conducted under the Commission's competitive bidding guidelines, and 3) a recommendation from the Independent Evaluator that the specific PPA should be eligible for the incentive.

4) **Minimum contract size and length** – In opening comments, CUB proposes minimums of 100 MW and five years, matching the definition of "Major Resources" in the Commission's competitive bidding guidelines. However, staff agrees with PacifiCorp[23] that it is reasonable to apply the incentive mechanism to contracts 25 MW or greater with a delivery term of three years or longer.

Staff notes that the Commission's competitive bidding guidelines do not preclude the utilities from specifying contract sizes and terms less than 100 MW and five years. These are simply the minimum resources that the Commission expects the utilities to acquire under its guidelines.[24]

Staff is concerned that a five-year minimum term would provide a disincentive to procure certain intermediate-term (three- or four-year) PPAs. Besides the benefits associated with having PPAs with diverse supply terms, shorter-term PPAs are part of the bridging strategy the Commission wants the utilities to evaluate in resource planning and acquisition, considering the costs, risks and uncertainties of long-term commitments to fossil-fuel plants.[25] Further, the Commission's resource planning guidelines emphasize the value of maintaining flexibility, including evaluation of resource duration.[26] While the Commission's resource planning order does not explicitly address the value of smaller resources, such resources clearly fall within the Commission's emphasis on optionality.[27] In various proceedings and reports, staff has noted the benefits of acquiring resources in a modular fashion, as needed, rather

[23] NIPPC and the Joint Utilities also agree with these eligibility criteria.
[24] The minimum size for Qualifying Facilities is 10 MW.
[25] *See* Order Nos. 06-029 and 07-018 (Dockets LC 39 and UM 1208).
[26] *See* Order No. 07-002. Guideline 1a states in part, "Utilities should compare different resource fuel types, technologies, lead times, in-service dates, *durations* and locations in portfolio risk modeling." [Emphasis added] Guideline 1c states in part, "The plan should include analysis of current and estimated future costs for all long-lived resources such as power plants … as well as all short-lived resources such as … short-term power purchases."
[27] "We conclude that the lead-time and duration of a resource is important and should be examined during the IRP process. Such analysis will help the utility to determine the value of maintaining flexibility versus committing to long-term resources." *See* Order No. 07-002 at 4.

than all at once as lumpy additions the utilities need to grow into.

5) **Specific assets** – Staff agrees with NIPPC that the incentive should apply only to specific assets by unit, and the seller (or an identified third party) must be the owner of the asset for the duration of the contract. This appropriately would exclude system sales, part of normal utility practice. A specific asset and ownership path provides transparency for the Independent Evaluator and the Commission to assess the value of the PPA. The Joint Utilities agree with this approach.[28]

   In addition, requiring that the power come from a specific asset is more likely to achieve the Commission's aim of making wholesale power markets more robust, through expansion of plants or construction of new facilities. Further, carbon dioxide regulations under development in parts of the Western Electric Coordinating Council region may require, or ultimately lead to, contracting with specific assets. The Commission's incentives should be aligned with such trends.

6) **No incentive on must-take contracts** – The utilities should not be eligible to earn an incentive on contracts they are required to execute by law, including contracts required by the Public Utility Regulatory Policies Act (PURPA) with Qualifying Facilities (QFs). For equity, a PPA with a generating plant certified as a QF, but negotiated outside of the PURPA process, would be eligible for the incentive if it met the other criteria. The Joint Utilities and NIPPC agree with this approach.

7) **Wind PPAs** – Wind PPAs are structured as energy only (dollar per megawatt-hour — MWh) payments based on actual production. This payment structure is aligned with the intermittent nature of the resource (primarily energy, not capacity) and the way wind projects receive the federal Production Tax Credit (based on actual MWh production). Because the portion of a wind PPA associated with fixed costs is minimal, PacifiCorp, NIPPC and Renewable Northwest Project propose to capitalize 95 percent of the net present value of wind PPAs, instead of applying a 50 percent cap on total PPA costs.[29]

   For the same reasons discussed above, staff objects to this approach. If the Commission adopts PacifiCorp's proposal and is concerned about an insufficient incentive for wind PPAs, staff recommends two options for the Commission's consideration: a) Allow a utility to file a request with the Commission to propose a higher incentive for a specific wind PPA with further justification, or b) Review the issue further in this docket.

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[28] *See* Joint Utilities' Version of Staff Proposal filed December 21, 2007, at 3.
[29] For other renewable resources, NIPPC proposes to capitalize PPA expenditures proportionate to the relative level of fixed costs to total costs typical for that resource type.

8) **Allowance for Funds for PPAs** (AFPPA) – PacifiCorp proposes an AFPPA "for [the] capitalized portion of new PPAs before costs are reflected in rates."[30] As we stated earlier in these comments, the annual net variable power cost update should ensure little if any lag in rate recovery for PPAs. Staff therefore recommends the Commission reject this concept.

9) **Annual Reporting** – Staff agrees with PacifiCorp that any utility receiving a PPA incentive should report annually on their financial metrics and provide documentation demonstrating discernible effects on any imputed debt calculations and credit ratings.

10) **Review of mechanism** – Staff agrees with PacifiCorp that the Commission should review any mechanism three years from the time it first is included in the utility's rates. However, staff proposes earlier review if the incentive reaches 1 percent of the utility's authorized retail revenues in the previous calendar year.

Staff's Incentive Proposal

Staff filed a proposal on December 21, 2007, that attempted to remedy the problems with PacifiCorp's CIM/pp proposal, identified above.

Incentive Level - Staff proposed a simple mechanism for calculating a utility incentive to mitigate potential ownership bias — a 10 percent *pre-tax* adder on Oregon's share of total PPA costs, excluding fuel costs. As in NIPPC's original proposal, the 10 percent adder would serve as a proxy for the risk mitigation value of the PPA, based on a similar value applied to conservation resources for determining cost-effectiveness.[31] The Commission explicitly recognized that the 10 percent discount accounts for the value of conservation in reducing risk and uncertainty.[32] However, as in PacifiCorp's proposal, the utility would actually receive an incentive in rates.

The incentive level staff proposed is less than the amount the utility would receive under PacifiCorp's CIM/pp proposal.[33] In its "Standard PPA" example, the company's proposed mechanism would provide an incentive representing about 25 percent of Oregon's share of the total PPA costs.[34] At the same

[30] *See* PacifiCorp's CIM/pp proposal, December 21, 2007, at 2.
[31] *See* ORS 469.649(3).
[32] *See* Order No. 94-590 (UM 551) at 14.
[33] Staff's earlier proposal for a 10 percent utility incentive on eligible PPAs on a *pre*-tax basis equates to approximately a 6 percent incentive on a *post*-tax basis.
[34] $175 million (sum of Levelized Pre-Tax Incentive) / $657 million (sum of Total Payments). Under PacifiCorp's other example, Long-Term Tolling, the incentive level represents about a third of the total PPA costs: $216 million / ($324 million * 2). PacifiCorp re-filed the spreadsheet examples on October 1, 2007, in part to clarify that the total PPA cost in this

time, the incentive staff recommends would be higher than the incentive the utility would receive under NIPPC's PPA discount proposal (zero).

In comments on staff's proposal, the Joint Utilities and NIPPC recommend the 10 percent incentive be on a *post-tax* basis, consistent with rate-making for owned resources. As stated earlier in these comments, upon reflection, staff agrees with NWEC that the incentive likely should be lower — and also determined on a utility-specific basis.

Requirements Related to Competitive Bidding – The Joint Utilities recommend that staff's proposal "should require PPA acquisition through a competitive solicitation only when the Commission's RFP Guidelines in Order No. 06-446 so dictate."[35] The utilities go on to assert that staff's proposal effectively mandates RFPs for all PPAs 25 MW and larger and three years or longer.

Giving a utility an incentive for a PPA is neither a requirement nor standard practice. If the utility wishes to have the PPA considered for such treatment, the company can allow smaller and shorter-term resources to compete alongside larger and longer-term resources. Staff acknowledges that renewable resource acquisition poses unique issues. However, the utility can request modifications of the guidelines when it files a request for RFP approval. In addition, the utility is not obligated to request final short-list acknowledgment and can simply proceed to executing contracts after the utility completes its evaluation.

For reasons similar to those CUB lays out in its opening comments, staff proposes the incentive be available only to PPAs that compete directly against a utility self-build option and are selected through an RFP process conducted under the Commission's competitive bidding guidelines. We do not understand how the Commission would determine whether ratepayers should bear the cost of the incentive for a given PPA unless its costs, risks and uncertainties can be compared to the expected costs and unique risks and advantages of the alternative — a utility-built plant. Further, staff sees no benefit in rewarding utilities for staying below the radar of the Commission's competitive bidding guidelines. A 99 MW project, for example, does not necessarily provide the appropriate economy of scale.

The Independent Evaluator would provide a recommendation to the Commission regarding whether the PPA should be eligible for the incentive. The Commission is not bound by a recommendation for or against. Staff incorporates in its proposal the FIN 46(R) test proposed by the Joint Utilities as a tool to demonstrate whether the PPA mitigates ownership risk. However,

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example is twice the sum of the Demand Payments, consistent with the 50 percent cap eligible for the proposed incentive.

[35] Joint Utilities ' Version of Staff Proposal, December 21, 2007, at 2.

that test does not provide sufficient information on whether the PPA, considering the cost of the incentive, is a good deal for ratepayers.

Final Short-List Evaluation – The Joint Utilities object to staff's provision to require that PPAs whose price does not exceed 110 percent of the forward price curve, and which otherwise qualify under the RFP, be considered in final short-list evaluation.[36] As staff notes in its proposal, the utilities may already do this in practice in order to ensure the final analysis is over a sufficient number of bids and resource amounts and types. Moreover, only bid price and non-price factors such as site control are considered in the initial short-list evaluation. *Risk* analysis is not considered until the final short-list evaluation. Therefore, the potential risk mitigation value of the PPA — compared to turnkey options, or to utility self-build options *which automatically pass through to final short-list evaluation* — is not uncovered unless the PPA continues through to final evaluation. Staff recommends the 110 percent value in line with the proxy value we assigned to PPA risk mitigation.

Trigger for Commission Review – The Joint Utilities object to staff's proposed review trigger based on total annual incentive payments. They believe the 25 MW/three-year threshold for PPAs eligible for the incentive is adequate protection for customers, even assuming an expanded pool of eligible PPAs under the utilities' more lenient eligibility requirements related to PPA acquisition. The Joint Utilities go so far as to eliminate a proposed review of the mechanism after three years.[37]

If the Commission adopts some type of PPA incentive mechanism, it would be new and untested. As such, the Commission should review the mechanism as soon as it has had time to demonstrate initial results. For the same reason, we recommend a dollar cap that would trigger a review of the mechanism prior to three years. Once the mechanism accounts for 1 percent of the utility's authorized retail revenues for the previous calendar year, it is time to take stock.

NIPPC's Comments – Staff explained earlier in these comments its recommendation that, to be eligible for any incentive, the PPA compete directly against a self-build option, a feature NIPPC (and the Joint Utilities) do not support.

Under Eligibility Criteria 2, NIPPC recommends the Commission advise that, "The utility may fulfill its RFP requirement by using expedited or resource-specific RFPs." Order No. 06-446 does not prohibit resource-specific RFPs. The order also does not preclude a request for an expedited RFP process. Such requests should be made on a case-by-case basis.

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[36] The forward price curve is used in pricing evaluation for the *initial* short-list.
[37] However, the three-year review is included in PacifiCorp's CIM/pp proposal.

Under Eligibility Criteria 3, NIPPC recommends the explicit language that staff only referenced in its proposal. Staff agrees with the proposed language.

Under Other Elements of the Proposal, staff recommends against combining its utility incentive proposal with NIPPC's original proposal to discount PPAs in RFP evaluation. NIPPC deletes this provision. If the Commission decides to implement NIPPC's original proposal, it could lead to the selection of a resource whose price is up to 10 percent higher than the expected cost of a utility-built option. A utility incentive on top of that would simply increase rates with no additional benefit.

Dated at Salem, Oregon, this 29th day of January, 2008

Lisa Schwartz
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CERTIFICATE OF SERVICE

UM 1276

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 29th day of January, 2008.

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