BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2166

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY Application for Approval of an Independent Evaluator for 2021 All-source Request for Proposals	NORTHWEST & INTERMOUNTAIN POWER PRODUCERS COALITION'S COMMENTS

I. INTRODUCTION

The Northwest & Intermountain Power Producers Coalition ("NIPPC")[1] respectfully submits these Comments for consideration by the Oregon Public Utility Commission ("Commission") on Portland General Electric Company's ("PGE") 2021 Application for Approval of an Independent Evaluator ("IE") for 2021 All-source Request for Proposals ("RFP"). NIPPC supports PGE moving forward with its RFP and proposes improvements to increase the number and quality of bids, and to ensure greater transparency and fairness. Furthermore, NIPPC looks forward to evaluating PGE's upcoming need for capacity in future dockets, including in relation to the clean energy targets set in HB 2021.

[1] NIPPC is a membership-based advocacy group representing electricity market participants in the Pacific Northwest. NIPPC members include independent power producers ("IPPs"), electricity service suppliers, and transmission companies. NIPPC's current member list can be found at http://nippc.org/about/members/.

II. TRANSMISSION COMMENTS

A bidder's transmission service is weighed three separate times in PGE's Proposal. The first hurdle is in eligibility to participate. First, a bidder must meet the Qualifications & Performance Screening Requirements set forth in Table 2 to even be considered. Second, for those bidders who have met the eligibility requirements in Table 2, the second element of the RFP that addresses transmission arrangements set forth in the bid is the RFP's proposed criteria for the bid's price score. The capacity value of a bid may be reduced depending upon the type of transmission service underlying their bid. Reducing a bidder's capacity value will increase its costs for purposes of the price scoring which "will be based on prices submitted by bidders, the forecasted performance of the resource, and the associated real-levelized cost and benefit of the bid."[2] Third and finally as a third element of the RFP, PGE proposes to apply transmission arrangements again in its non-price scoring criteria. Under PGE's Proposal, bids submitted using Conditional Firm Bridge Service will receive half the score of bids submitted using Long Term Firm Service. NIPPC supports consideration of transmission as part of the eligibility criteria, but has concerns with the proposed treatment of transmission as part of the price and non-price criteria.

A. BPA Transmission

NIPPC supports several elements of PGE's proposed treatment of bids delivered across BPA's transmission system. First, NIPPC supports the proposal to allow renewable resources to participate if they can demonstrate eligible transmission service

[2] Proposed RFP Scoring and Modeling Methodology at 18.

for at least 80% of the project's interconnection limit. NIPPC also endorses the ability of bidders to qualify for the RFP through participation in Bonneville Power Association's ("BPA's") 2022 Transmission Service Request Study and Expansion Process ("TSEP"). Allowing bidders to satisfy the RFP's transmission requirements through participation in BPA's TSEP process should substantially increase the number of projects who will be able to qualify.

NIPPC also agrees with PGE's decision regarding treatment of BPA's conditional firm reassessment product. PGE proposes to allow bidders to participate in the RFP using the conditional firm reassessment product but will attribute no capacity value for resources using that transmission service. NIPPC agrees that BPA's conditional firm reassessment product contains too much risk of future transmission capacity reductions and/or termination for both PGE and potential bidders to be awarded capacity value.

PGE, however, reserves the right to eliminate a bid from the solicitation if PGE determines that "a Bidder's proposed transmission plan cannot demonstrate an achievable plan for delivery."[3] NIPPC agrees that bidders must secure transmission service to be included in the solicitation. PGE's language is overbroad because it gives PGE the unilateral right to determine whether a bidder can – or cannot – demonstrate an achievable plan for delivery. The Commission should require PGE – in the event that PGE determines that a bidder has not demonstrated an achievable plan for delivery – to provide the bidder with a notice of its decision along with an opportunity for the bidder to cure the perceived deficiency.

[3] Proposed RFP Scoring and Modeling Methodology at 12.

B. The Capacity Value of Resources Using Conditional Firm Bridge Service Should Be Increased

NIPPC is concerned with the proposed Price scoring of bidder's demonstrating transmission deliverability using the Conditional Firm Bridge Service. Under Conditional Firm Bridge Service, BPA can curtail the service up to a specified number of hours per year. PGE proposes to assume: 1) that BPA will curtail those projects the maximum number of hours permitted under the transmission contract; and 2) that those hours of curtailment will be precisely the hours of PGE's highest need. The combination of these proposals results in a very conservative assumption regarding the project's ability to meet PGE's needs.

These proposals result in assumptions that are overly conservative, and unnecessarily penalize Bidders using Conditional Firm Bridge Service. First, there is no certainty that BPA will actually curtail a customer with conditional firm service the full number of hours permitted in the contract. Prior to the Commission approving the scoring methodology, PGE should be required to provide supporting information regarding how many hours BPA has historically curtailed customers so that a realistic estimate for future curtailments can be estimated.

Second, there is not necessarily any correlation between the specific hours that BPA will curtail conditional firm and the hours of PGE's greatest need. BPA will only curtail conditional firm when it experiences congestion on its system that would be relieved by curtailing the conditional firm service; but those periods of congestion may not necessarily coincide with PGE's hours of greatest need. For example, BPA may experience congestion on its system due to exports to California in the summer, while PGE's hours of greatest need may be its winter peak.

Accordingly, PGE should modify its assumptions to be more balanced. PGE should provide both BPA's historic curtailments of conditional firm service and BPA's estimate of conditional firm curtailments in the future compared to PGE's estimated hours of greatest need to yield more realistic assumptions. In the absence of better information, PGE should assume that 50% of the hours of conditional firm curtailment would coincide with PGE's hours of greatest need.

C. Use of Conditional Firm Bridge Should Not Reduce the Non-Price Score

1. OPUC's Rules Require that Non-Price Score Factor be Converted to Minimum Bid Criteria or Price Score Factor Where Possible

The Commission's rules require that non-price score factors be converted to minimum bidder requirements or price score factors where possible.[4] Thus, if PGE includes any non-price score factors that seek to require minimum thresholds for a successful bid, that could readily be converted into minimum bidder requirements or could be converted to price score factors, then PGE is required to convert those non-price score factors into price score factors. PGE fails to do this for at least Conditional Firm Bridge, and the Non-Price penalty should be eliminated.

The transmission plan attributes is an example where the non-price score factors is unnecessary.[5] Under the price score factors, the capacity value price score is adjusted depending on if the transmission product associated with the bid is long-term firm,

4 OAR 860-089-0400(2); -0400(2)(c).

5 Proposed RFP Scoring and Modeling Methodology at 25.

conditional firm bridge, or conditional firm reassessment.[6] Additionally, under the minimum bidder requirements, only long-term firm, conditional firm bridge, or conditional firm reassessment transmission products are eligible bidders.[7] However, the transmission plan attributes non-price score factor is also adjusted depending on if the transmission product associated with the bid is long-term firm, conditional firm bridge, or conditional firm reassessment.[8] Thus, PGE is including transmission requirements in the minimum bidder requirements as well as in the price and non-price score factors. This violates OAR 860-089-0400(2) and (2)(c). Thus, NIPPC recommends revising the Proposed RFP Scoring and Methodology to remove the non-price score factor related to transmission plan attributes.

2. Including Conditional Firm Bridge as a Non-Price Score Results in a Double Penalty

In addition to being inconsistent with the Oregon rules, PGE's proposal to consider a bidder's transmission service details in its Non-Price scoring is inappropriate because PGE is already weighing a bid's transmission attributes in the capacity value of the Proposal's Price scoring. Therefore, it results in a double penalty. It is unnecessary and counterproductive to evaluate a bid's transmission attributes again in the bid's non-Price scoring. The result would be a significant pair of hurdles to bids relying on Conditional Firm Bridge Service.

Even if the Commission agrees that transmission attributes should be evaluated in both Price and Non-Price scoring, PGE's proposal would still be overly conservative and

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6 Proposed RFP Scoring and Modeling Methodology at 21-22.
7 Proposed RFP Scoring and Modeling Methodology at 17.
8 Proposed RFP Scoring and Modeling Methodology at 25.

unnecessarily limiting of bids based on Conditional Firm Bridge Service. In evaluating a bidder's Transmission Product Risk as part of its Non-Price scoring, PGE proposes to award bids with Long Term Firm transmission "4" points, while awarding only "2" points to bids with Conditional Firm Bridge Service.

PGE's proposed scoring of transmission risk ignores the "Bridge" component of Conditional Firm Bridge Service. In order to obtain Bridge Conditional Firm Service, BPA transmission customers must agree to support the construction of new transmission facilities.[9] Upon energization of these transmission upgrades, the "condition" is removed, and the service becomes fully firm. This contract acts as a "bridge" from the existing system which requires occasional curtailments to the future system where no curtailments are required, and the service is fully firm.

If Conditional Firm Bridge is not removed from the Non-Price score, then PGE should modify its weighting of conditional firm service to include only the period where the service is actually conditional.[10] For example, a bidder with conditional firm service that will be fully bridged in 2023 should score higher than a bidder with conditional firm service that will not be fully bridged until 2028.

Accordingly, PGE should at a minimum modify Table 6 *Non-Price Score Allocation Based on Transmission Plan* to provide a score of "4" for Long Term Firm

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[9] BPA Transmission Service Options for Delivery to PGE https://oregonpuc.granicus.com/MetaViewer.php?view_id=2&clip_id=435&meta_id=23341

[10] In fact, PGE recognizes the temporary nature of Conditional Firm Bridge service when it calculates Impacts to Capacity Value Based on Transmission Products in Table 3 where PGE notes "upon the forecasted completion of transmission upgrades necessary to convert conditional firm bridge service into long term firm service, a resource's forecasted curtailment conditions will be removed."

and Conditional Firm Bridge where the term of the bridge is five years or less; "3" for Conditional Firm Bridge where the term of the bridge is five to ten years; and "2" for Conditional Firm Bridge where the term of the bridge is more than 10 years.

III. RFP Scoring and Modeling Methodology

A. The Price/Non-Price Score Split Should Be 80/20

The Proposed RFP Scoring and Methodology scores bids 60/40 on price and non-price factors.[11] NIPPC recommends no more than an 80/20 price/non-price allocation. If the Commission does not adopt an 80/20 split, then NIPPC recommends that the Commission require PGE to utilize a 70/30 split, with a sensitivity analysis at 80/20 to determine which resources would have been selected if an 80/20 split had been used.

Non-price factors are inherently subjective and allow for the opportunity to unfairly bias the evaluation of bids. Further, non-price factors limit the IE from applying a mostly quantitative analysis. NIPPC understands that there will always be certain factors or characteristics of a specific resource proposal that cannot be fully reflected in the bidders proposed pricing, but non-price factors should be eliminated as much as possible because of the potential bias in results.

The key principles that should inform what are appropriate non-price scoring factors to include in an RFP are:

- The weighting of any specific non-price scoring factors should reflect the magnitude of costs or benefits of that factor relative to the price evaluation score, so that the weighting of evaluation factors reflects PGE's best estimate of the actual costs or benefits to ratepayers of any non-price factor relative to the total costs and benefits of the resource.
- Non-price Scoring Factors should not result in double-counting costs or savings that have already been captured in the Price Scoring Evaluation

[11] Proposed RFP Scoring and Modeling Methodology at 19.

(i.e., no double-counting of costs or benefits already embedded in the bidder's bid price and contracting requirements). To do otherwise will distort the true cost and value of the proposed resource to the detriment of PGE ratepayers.

- The assignment of non-price "points" to any resource in the evaluation process should be explained and justified based on a clear nexus between the direction (i.e., cost or benefit) and magnitude of the non-price cost or benefit to ratepayers, and the assignment of non-price points added or subtracted from the price score assigned to each bid must be directionally correct (i.e., non-price evaluation factors that represent costs not embedded in the bid price should be subtracted from the price score and benefits that are not captured in the bid price score should result in points added to the bid price score.
- All non-price scoring factors should be applied uniformly and objectively to all ownership types in a non-discriminatory manner.

As noted further below, PGE has not provided sufficient clarity on how PGE and the IE will score bids with regards to non-price factors in all of the non-price scoring categories.

NIPPC believes that if the RFP non-pricing scoring framework is revised consistent with these principles, that actual weighting of price to non-price factors will be empirically based and supportable, and most likely result in a lower weighting of price factors relative to non-price. Specifically, the Commission should require PGE to increase the scoring percentage for price factors should be increased from 60% to 80% and the non-price factors should be reduced from 40% to 20%.

PGE's non-price factors are too subjective and should be limited. As non-price factors are inherently subjective, this could allow PGE the opportunity to unfairly bias the evaluation of bids. NIPPC made these same arguments before the Commission during

PGE's 2016 and 2018 RFPs.[12] PGE continues to over rely on non-price factors. This current Proposed RFP Scoring and Methodology still fails to provide sufficient protection from manipulation of non-price factors or adequately constrain the ability to sway the ultimate result based upon non-price points. It is possible to rely on an 80/20 split as PacifiCorp's 2017 RFP did.[13]

PGE's proposal provides the Company with far too much discretion to reject lower cost resources in favor of utility owned options that the Company believes offer greater shareholder value and/or have other desirable characteristics. The non-price factors included in the Proposed RFP Scoring and Methodology are commercial performance risks, transmission plan attributes, level capacity ratio, and online date certainty.[14] The degree to which each non-price factor can affect and/or distort the overall score should be commensurate to the significance of each non-price factor. It is equally important, however, that the bid evaluation framework monetizes non-price factors commensurate with the relative overall price. Stated another way, non-price factors taken as a whole, must also be commensurate to the significance of the overall price and score. Given the inherent subjectivity in analyzing non-price factors and the lack of clarity that PGE has provided to date, PGE should not retain this level of discretion.

B. PGE's Proposed Non-Price Scoring Criteria Are Not Subject to Self-Scoring

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12 *See* Docket No. UM 1773, NIPPC Comments (June 6, 2016); Docket No. UM 1934, NIPPC Comments (Mar. 30, 2018).

13 *Re PacifiCorp 2017R RFP*, Docket No. UM 1845, PacifiCorp Draft RFP at 21 (Aug. 4, 2017); *Re PacifiCorp 2017R RFP*, Docket No. UM 1845, Order No. 17-345 (Sept. 14, 2017) (approving RFP without changing price/non-price ratio).

14 Proposed RFP Scoring and Modeling Methodology at 24-26.

The Commission's administrative rules require that all non-price scoring criteria be subject to self-scoring by the bidders. The rules state:

> Non-price scores must, when practicable, primarily relate to resource characteristics identified in the electric company's most recent acknowledged IRP Action Plan or IRP Update and may be based on conformance to standard form contracts. Non-price scoring criteria must be objective and reasonably subject to self-scoring analysis by bidders.[15]

Notably, in the rulemaking where this rule was adopted, PGE and the other utilities advocated for removal of the requirement in Staff's proposed rules that non-price scoring criteria be subject to self-scoring by bidders, but the Commission rejected the utilities' argument and adopted the requirement for objective self-scoring.[16] The Commission explained: "Staff's language allows utilities two options when reviewing non-price attributes: convert the attribute into a characteristic that can be objectively scored, or make the attribute a minimum threshold."[17]

PGE's non-price scoring criteria are not subject to self-scoring because PGE has not supplied a detailed score card that identifies the requirements to achieve full or partial points for all four categories of non-price scoring proposed. Instead, PGE provides a very cursory score card for two of the four categories as follows:

1. Commercial Performance Risk:

    Points: 270 points for dispatchable or renewable bids

    - PGE's Description: Points are allocated based on adherence to commercial terms and conditions that focus on

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15 OAR 860-089-0400(2)(b).

16 *In the Matter of Rulemaking Regarding Allowances for Diverse Ownership of Renewable Energy Resources*, Docket No. AR 600, Order No. 18-324 at 12-13 (Aug. 30, 2018).

17 *Id.*

performance guarantees and limitations of liability and remedies with the following further breakdown:Resource performance guarantees – adherence to provisions including scheduling commitments, forecasting commitments, remedies of non-performance, and output, availability factor, and/or performance guarantees will determine the allocation of 135 non-price points for dispatchable and renewable resources.

- Limitations of liability and remedies – adherence to provisions including indemnification, default and termination, security and collateral will determine the allocation of 135 non-price points for dispatchable and renewable resources.[18]

2. Level Capacity Ratio

Points: 0 points for dispatchable/ 65 points for renewable bids

PGE's Description: Points are allocated based on the ratio of the resource's capacity contribution to its expected energy production.[19]

Aside from the other flaws with PGE's non-price scoring proposal, the score card provides insufficient information for at least these two of the four categories to allow the bidders to self-score their bid. Far more detail is needed to allow for self-scoring. In the case of the "Commercial Performance Risk" (which is discussed further below), no bidder can anticipate how PGE will deduct points for certain edits to the contract forms because PGE provides no real guidance on the subject. If not corrected, PGE will conduct a purely subjective evaluation of the bidder's edits on this subject. With respect

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[18] Proposed Scoring and Modeling Methodology at 25, 31.

[19] Proposed Scoring and Modeling Methodology at 31; *see also id.* at 26 (providing an equation for the calculation based on the facility's ELCC calculated by PGE).

to the "Level Capacity Ratio," the bidders may not be able to self-score this element of the non-price score because it turns on PGE's calculation of the bid's effective load carrying capacity ("ELCC") value. The bidders cannot self-score their ELCC value as proposed by PGE because it is calculated in PGE's models. This calls into question the merits of including this element as a non-price scoring element because it is not subject to self-scoring and is more properly considered a price scoring factor that accounts for the value of the capacity supplied.

For comparison, NIPPC is providing the final non-price scoring matrix from PacifiCorp's RFP in Docket No. UM 2059, which demonstrates the type of detail required to enable bidders to self-score the bid.[20] Each category on the scoring matrix identifies the maximum score, the specific requirements to achieve the maximum points, and multiple levels of point reduction for a bid that fails on specific points. Without that type of detailed scoring matrix, bidders cannot self-score their own bids and understand what changes to their projects may be most valuable to PGE and successful in the RFP. The act of completing such a scoring matrix forces the utility to ensure that the criteria are reasonably objective.

Therefore, in addition to the other problems identified in these comments for PGE's non-price scoring criteria, the Commission should improve the RFP by requiring PGE to submit a detailed score card that allows for bidders to self-score all of the non-

[20] See Attachment No. 1, containing PacifiCorp's 2020 All-Source Request for Proposals Resources, Docket No. UM 2059, Appendix L (June 1, 2020) (attached to PacifiCorp's Reply Comments).

price scoring categories or delete such categories from the non-price scoring criteria as improperly included as non-price scoring criteria.

C. The Commission Should Require Revisions to PGE's Allocation of 27 Percent of the Overall Score to the Bidder's Adherence with PGE's Contract Forms

Another problematic aspect of PGE's non-price scoring proposal is the very heavy reliance on the subjective evaluation of the bidder's edits to PGE's contract forms. As explained below, the Commission should not approve this aspect of PGE's scoring methodology without significant further review by parties of such contract forms and revision by PGE to ensure this aspect of the evaluation is objective and limited to five percent or less of the overall score.

PGE proposes to allocate 270 out of the 400 total non-price points, and 1,000 overall points, to a bidder's "adherence" to PGE's form contracts.[21] PGE describes this scoring category as "Commercial Performance Risk," but it appears to be nothing more than the bidder's willingness to agree to PGE's form contract provisions. PGE states that 135 points will be allocated to the bidder's adherence to PGE's proposed performance guarantees (e.g., output and availability guarantees after commercial operation), and PGE states an additional 135 points will be allocated to the bidder's adherence to PGE's proposed limitations on liability and remedies (e.g., indemnification, default and termination, security and collateral provisions).[22] There are several problems with this proposal that should preclude the Commission from approving it.

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21 Proposed RFP Scoring and Modeling Methodology at 24-25.
22 Proposed RFP Scoring and Modeling Methodology at 25.

First, without access to PGE's proposed contract forms, it is not possible to agree that it is reasonable to require adherence to such contract forms, much less to allocate 27 percent of the overall bid score to this issue. PGE has not yet provided the draft form contracts, and therefore no such analysis or comments can be made on the subject. The Commission should not approve this scoring allocation without first allowing parties to comment on the form contracts.

Second, PGE has not explained how it will interpret "adherence" with the contract provisions, which is itself an inherently subjective exercise. Even assuming PGE's proposed contract provisions are reasonable (which we cannot do at this point), certain edits to a form contract will presumably be reasonable alternatives to the proposal on the form. To make such evaluation process objective rather than subjective, PGE must make the contract forms available and identify what types of edits would result in scoring penalties and the magnitude of such penalties. At this point, PGE has not done so, and thus nobody could conclude the issue will be subject to objective self-scoring by bidders.

Third, allocating so many points to adherence with the form contracts inherently biases the RFP against the Power Purchase Agreement ("PPA") bidders because the PPA form will contain ongoing performance guarantees that are not included in the Build Transfer Agreement ("BTA") and Asset Purchase Agreement ("APA") agreements. As PGE's initial scoring criteria suggests, the PPA will include performance guarantees applicable after operation of the facility and throughout the 15-year to 25-year term of the

PPA, such as an output guarantee or an availability guarantee.[23] Such guarantees provide liquidated damages payments to PGE in the case where the resource does not perform as promised, and are thus over and above the typical guarantees that the project will achieve commercial operation by a scheduled commercial operate date in the contract.

Although PGE has not yet supplied the form BTA and APA agreements, those types of agreements typically contain no ongoing performance guarantees after initial operation. Indeed, PGE describes the BTA in this RFP as an agreement where "the Bidder develops the project and then transfers the assets(s) to PGE upon achieving Commercial Operation Date (COD)."[24] Thus, a BTA will likely include a commercial operation guarantee, but after that point the operational performance and risk of underperformance would be up to PGE. An APA would include even fewer protections than a BTA because it is only an asset sale; PGE describes the APA as merely "involve[ing] PGE purchasing development rights from another entity and PGE contracting the outsourcing for construction of the resource."[25] In the APA, PGE is the party taking on the risk of project failure both before and after commercial operation, and there is no ongoing performance guarantee for the 25-year life of the resource.

Thus, the PPA form will contain provisions on material points that are not applicable to the BTA or APA and thus subject the PPA bidders to points deductions that could not apply to any BTA or APA bid. Indeed, it is not clear that *any* of the "Resource

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23 Proposed RFP Scoring and Modeling Methodology at 25 (discussion allocation of 135 points to "Resource Performance Guarantees", which include "output, availability factor, and/or performance guarantees").

24 Proposed RFP Scoring and Modeling Methodology at 7.

25 Proposed RFP Scoring and Modeling Methodology at 7-8.

performance guarantees" allocated 135 points would apply to a BTA or an APA.[26] Given that the PPA bidders will provide additional protections through such contractual performance guarantees, the PPA bidders should be *credited* in the non-price scoring or through a contingency pricing adder to the forecasted revenue requirement for the utility-ownership structures in the price score. Instead, PGE appears to have proposed an RFP that will *penalize* PPA bids for making edits to performance guarantees that do not apply whatsoever to any BTA or APA bid PGE would own. Without the contract forms, it is difficult to comment further on this point, but it is clear that allocating so many points to an issue that will result in scoring penalties only for PPA bids is a clear bias against PPA bids in the RFP.

The contrast between PGE's proposal in this RFP and the final approved RFP issued by PacifiCorp in 2020 in Docket No. UM 2059 is striking. There, the Commission and the IE specifically agreed with NIPPC's concerns regarding the potential for bias due to the extra performance guarantees supplied with a PPA as opposed to the utility-ownership bids.[27] The Commission's concern in PacifiCorp's UM 2059 RFP is particularly significant because in that RFP the adherence with the pro forma PPA or

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[26] Proposed RFP Scoring and Modeling Methodology at 25 (stating: "Resource performance guarantees – adherence to provisions including scheduling commitments, forecasting commitments, remedies of non-performance, and output, availability factor, and/or performance guarantees will determine the allocation of 135 non-price points for dispatchable and renewable resources.").

[27] *In the Matter of PacifiCorp, dba Pacific Power, Application for Approval of 2020 All-Source Request for Proposal*, Docket No. UM 2059, Order No. 20-228, at 6 (July 16, 2020).

BTA provisions was only allocated five percent of the overall scoring weight.[28] And, partly in response to comments from NIPPC, the final non-price score card's line item for "Contract Progression and Viability" made clear that PacifiCorp's points allocation would not allow subjective analysis of the bidder's proposed redline to the form contract, but rather was limited to an objective analysis of whether the bidder provided any mark-up of the documents at all.[29] PGE's proposal to allocate 27 percent of the score to the same category should be categorically rejected as unreasonable and likely to result in bias against PPA bids.

In sum, NIPPC recommends that the Commission reduce the proposed 27-percent point allocation to adherence with PGE form contracts to five percent or less of the

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28 *PacifiCorp Application for Approval of 2020 All-Source Request for Proposal*, Docket No. UM 2059, PacifiCorp Reply Comments at 29 (June 1, 2020) (attached to PacifiCorp's Reply Comments).

29 *Id.* at Appendix L. PacifiCorp explained as follows in its final comments:

> "PacifiCorp clarifies that non-price scoring points in this area are provided based on completion of a requested task, not the content of the comments and/or redline revisions. This non-price scoring area also addresses a bid's viability, readiness, and deliverability for several reasons. First, the company wants bidders to fully review the terms of the pro-forma agreement in that they are aware of what terms the company is expecting for any bid selected. Second, if their bid submittal is contingent on the modification of one or more proposed contract term(s), the company requests to know that at this stage in the bid review. Third, if a bidder wishes to propose changes providing additional clarity, understanding or improvement of certain term(s), the company requests to know that at this stage of the process. Ultimately, PacifiCorp is looking for bidders prepared to address and complete a definitive agreement. The non-price scoring in this section will be conducted on a binary, objective basis. In other words, did the bidder complete the task of providing written comments and or redlines to the company's proposed terms, yes or no? PacifiCorp has changed the total allocated scoring of the Contracting Progression and Viability section from ten percent to five percent."

PacifiCorp Application for Approval of 2020 All-Source Request for Proposal, Docket No. UM 2059, PacifiCorp's Reply Comments at 11 (June 1, 2020).

overall bid score. To ensure this scoring metric is objective and subject to self-scoring, the Commission should limit the points allocation to evaluation of whether the bidder provided a mark-up as opposed to subjective evaluation of the level of risk created by such mark-up. Further, prior to approval of the scoring methodology, the Commission should require PGE provide the form contracts and a detailed description and scorecard of how this element of the scoring will be subject to objective self-scoring, as well as another opportunity for parties to comment on PGE's revised proposal.

D. PGE's Controversial ELCC Analysis Is Likely to Bias the RFP Against Solar Resources

PGE proposes to build off of the ELCC methods it used in PGE's 2019 IPR Update to calculate each bid's capacity value, which impacts both price and non-price scores under PGE's proposed scoring methods.[30] PGE indicates that it has made a number of changes to the use of its Sequoia model for this purpose since the 2019 Integrated Resource Plan ("IRP") Update, and that it will calculate capacity value for individual bids.[31] However, the Commission and IE should carefully scrutinize PGE's capacity value modeling in the RFP because this was a very controversial aspect of PGE's 2019 IRP Update and its subsequent avoided cost rate update in addition to a topic of significant discussion in the Commission's ongoing generic capacity investigation, UM 2011.

In the IRP and avoided cost update proceedings, a number of parties expressed concerns that PGE's analysis and assumptions undervalued the capacity contribution of

[30] Proposed RFP Scoring and Modeling Methodology at 20-22.
[31] Proposed RFP Scoring and Modeling Methodology at 20-22.

Oregon solar and solar-plus-storage facilities.[32] Those concerns included PGE's use of stale assumptions about solar technology and project design, lack of consideration for geospecific locations and diversity benefits, lack of transparency into PGE's vendor-supplied data, concerns over PGE's solar outage assumptions, and inconsistency with self-reported generation data from operating solar projects. Parties expressed concern that PGE's treatment of each of those issues tended to unreasonably reduce the capacity contribution of solar and solar-plus-storage resources. As a result of these objections, PGE's avoided cost rates were only approved by the Commission after PGE agreed to increase the ELCC resulting for solar from the 2019 IRP Update and to conduct additional modeling and analysis for the capacity value in the next IRP to better forecast qualifying facility success rates and solar proxies used.[33]

It is not entirely clear if PGE has made meaningful improvements to the ELCC modeling for the RFP from the information supplied thus far. Although not entirely certain, PGE appears to propose to use each bid's project specific data – as opposed to a proxy – to model its capacity value.[34] If that is the case, some of the concerns raised in these prior proceedings related to the limited proxy used may be mitigated, but the Commission should require PGE to clarify it does intend to use the bid's project-specific capacity value calculated through the model and not to use a proxy at another location.

32 *In the Matter of Portland Gen. Elec. Co., Updates to Schedule 201, Qualifying Facility Avoided Cost Information*, Docket No. UM 1728, Order No. 21-215, Appendix A at 4 (July 6, 2021).

33 *In the Matter of Portland Gen. Elec. Co., Updates to Schedule 201, Qualifying Facility Avoided Cost Information*, Docket No. UM 1728, Order No. 21-215, Appendix A at Attachment A (July 6, 2021).

34 Proposed RFP Scoring and Modeling Methodology at 20-21.

However, PGE's failure to properly consider advancements in solar technology in the 2019 IRP update and its forecast of qualifying facility ("QF") contract success rates remain issues of concern that have not been finally resolved. The RFP scoring document provides only conclusory statements regarding how PGE might address these issues and does not allow for meaningful comments. This is a complicated, but very important, issue in the RFP. In a recent Puget Sound Energy RFP, the Washington Utilities and Transportation Commission ("WUTC") required the utility to hold a workshop addressing concerns with its ELCC methodology before approving the RFP's scoring methods where parties voiced concern in the IRP and RFP regarding transparency on this issue.[35] In this case, such a workshop may allow the IE and interested parties the opportunity to better understand the changes PGE now proposes to its ELCC method in the time since acknowledgement of the 2019 IRP Update before commenting on the merits of the ELCC method.

Therefore, NIPPC recommends that more information should be provided for the IE and parties to fully evaluate this complicated modeling issue before the Commission endorses PGE's proposed capacity value method. After additional information and description is provided by PGE through a workshop or otherwise, the Commission should provide a further opportunity for parties to comment and propose alternative ELCC methods before approving the scoring methodology.

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[35] *In the Matter of Petition for Puget Sound Energy, For an Order Approving Proposed Request for Proposals*, WUTC Docket UE-210220, Order 01, at ¶¶ 12, 13, & 36 (June 14, 2021); *see also* Staff Memorandum, WUTC Docket UE-210220 (June 11, 2021), available at https://www.utc.wa.gov/casedocket/2021/210220/docsets.

E. Hybrid Resources Should Generally Be Considered Dispatchable

In PGE's Proposed RFP Scoring and Modeling Methodology, PGE differentiates between renewable resources and non-emitting dispatchable resources. PGE categorizes non-emitting dispatchable resources as being able to be called upon by PGE to dispatch at controlled times to include energy storage facilities such as battery storage and pumped hydro.[36] PGE states that hybrid resources that combine storage and a renewable resource will be considered renewable resources instead of non-emitting dispatchable resources.[37] These hybrid resources should be treated as non-emitting dispatchable resources, subject to their specific technical parameters and operational limitations.

Under PGE's categorization of a non-emitting dispatchable resource, the resource needs to be able to dispatch when PGE calls upon it. A hybrid resource, such as solar plus storage, can do that just that. The energy produced from the solar panels can charge the battery storage system accompanying the solar facility. Then, PGE can call upon the battery storage system to discharge or dispatch whenever PGE needs extra energy. Thus, a hybrid resource can be considered a non-emitting dispatchable resource. Providing more flexibility regarding what a resource qualifies as will be beneficial to bidders as well as ratepayers.

If PGE disagrees with this recommendation, then PGE should provide a detailed explanation regarding why hybrid resources cannot be treated as non-emitting dispatchable resources. While NIPPC does not know the basis for PGE's position, if PGE has concerns about the dispatchability of solar plus storage, then a thorough

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36 Proposed RFP Scoring and Modeling Methodology at 6.
37 Proposed RFP Scoring and Modeling Methodology at 6.

justification should be provided for PGE's proposal, and why these resources should not be considered at least dispatchable in part for a certain length of time.

F. PGE Should Clarify What "Good Faith Commitment from a Financial Institution or Leader" Means

In PGE's Proposed RFP Scoring and Modeling Methodology, a "good faith commitment from a financial institution or lender" is required before a bidder is placed on PGE's final short list.[38] This is required for bidders that do not finance the project themselves. NIPPC seeks more clarification regarding what PGE is expecting to require as a "good faith commitment from a financial institution or lender." In addition, PGE should provide more explanation on what type of documentation would be necessary. NIPPC reserves the right to comment at the next stage of the proceeding once PGE provides more explanation and clarification regarding what it means by "good faith commitment from a financial institution or lender."

G. PGE Should Allow Bonds to Meet Credit Requirements and Clarify What Credit is Acceptable

In PGE's Proposed RFP Scoring and Modeling Methodology, a letter of credit or guaranty, in a form acceptable to PGE, is required for a non-investment grade bidder to be eligible for the final short list.[39] NIPPC seeks clarification regarding what is a "form acceptable to PGE." PGE should also allow bidders to post a bond instead of a letter of credit to meet the credit requirements. While a letter of credit may not be unduly burdensome on large developers, it could be on smaller companies. A bond should be sufficient, especially considering PGE already requires bidders that do not finance the

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38 Proposed RFP Scoring and Modeling Methodology at 14.

39 Proposed RFP Scoring and Modeling Methodology at 15.

project themselves to "provide evidence of a good faith commitment from a financial institution or lender prior to placement on PGE's final short list."[40]

H. PGE Should Clarify the Labor Requirements

PGE's Proposed RFP Scoring and Modeling Methodology requires a bid to use union labor for major construction activities and a Project Labor Agreement ("PLA") in any related to agreements.[41] NIPPC seeks clarification regarding what the bidders are expected to provide to PGE and when during the timeline the bidder is expected to provide the information. In these comments, NIPPC is not challenging PGE's requirement, but is simply seeking information so that bidders can submit conforming bids that will receive full credit for meeting this requirement. NIPPC reserves the right to comment at the next stage in the proceeding once more information is provided by PGE.

I. Existing Projects Should Be Eligible to Participate in the RFP

In PGE's Application for Approval of Proposed 2021 All-Source RFP Scoring and Modeling Methodology ("Proposed RFP Scoring and Methodology"), it states "resources must be new resources or expansions of existing facilities. Bids for existing resources will not be accepted."[42] Thus, existing resource bids, even if the resource would meet the minimum term requirement, are not allowed. This is contrary to PGE's 2018 RFP in Docket UM 1934 in which PGE would consider bids from existing resources.[43]

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40 Proposed RFP Scoring and Modeling Methodology at 14.
41 Proposed RFP Scoring and Modeling Methodology at 18.
42 Proposed RFP Scoring and Modeling Methodology at 15.
43 *PGE's 2018 RFP for Renewable Resources*, Docket No. UM 1934, PGE RFP – Final Draft at 13 (Mar. 9, 2018); Docket No. UM 1934, Redline Version of PGE RFP – Final Draft at 13 (May 11, 2018); *See generally* Docket No. UM 1934, Order No. 18-171 (May 21, 2018) (approving PGE's RFP with no changes to PGE accepting bids from existing resources).

Existing projects may be the most cost-effective resources that are available because they are already operating or, for an expansion of an existing project, more likely to come to fruition due to fewer permitting challenges. Additionally, existing projects could provide more accurate forecast production based on past production. Not allowing existing projects to bid deprives ratepayers of potentially lower-cost and lower-risk resources with no countervailing justification. Thus, PGE should follow its previously approved RFP and allow bids from existing resources if the existing resource meets all the other qualifications and performance screening requirements.

J. PGE Should Explain How Different Term Lengths Will Be Scored Against Each Other

NIPPC requests clarification regarding how different term lengths, including PPA term length, will be evaluated.[44] Specifically, PGE should provide clarification regarding how PPA bids of different year terms will be scored against each other as well as against BTAs and APAs, or utility-owned. Because different bids in an RFP will typically include different term lengths for which each bid's revenue requirement must be calculated to compare price scores, an RFP must properly account for such varying term lengths in a fair manner. For example, a 15-year PPA bid will only have 15 years of PPA prices to use for its revenue requirement to develop its price score, whereas a utility ownership bid for the same type of resource may have an assumed life depreciable of 30-

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[44] PGE's original filed Proposed RFP was inconsistent regarding terms for PPA bids. On page 7 of the Proposed RFP Scoring and Methodology it states the minimum term length for PPA bids is 20 years, but on page 15 it states the minimum term length is 15 years. Proposed RFP Scoring and Modeling Methodology at 7, 15. PGE clarified that 15 would be the minimum term length for PPA bids. PGE's Errata to Page 7 (June 15, 2021).

years that the utility may wish to use for purposes of developing its revenue requirement for developing its price score in the RFP. During past RFP workshops and investigations, it has been revealed that utilities in Oregon have sometimes used "generic fill" to develop the revenue requirement for the price score of the PPA bids that have a term length shorter than the longest utility-owned resource's assumed depreciable life (e.g., the 15 years after expiration of the 15-year PPA bid in the case where a 30-year revenue requirement is depreciable life of the utility-ownership bids). The use of such generic fill to develop a price score for the PPA bids has been controversial because, instead of using the PPA price, the generic fill may use other assumed costs or prices and allocate those generic costs to the bid – potentially disadvantaging shorter term PPA bids as compared to utility-ownership bids. Thus, this is an issue that requires careful scrutiny in the RFP.

However, PGE's Proposed RFP Scoring and Methodology does not describe how it will develop comparative price scores for bids of varying term lengths, much less whether or how it will use generic fill to develop such price scores. There is no explanation how a PPA bid with a term-length shorter than the utility-ownership bids for a BTA or APA will be scored. Indeed, PGE's scoring methodology does not even describe the assumed term length that will be used to develop the revenue requirement for the utility-ownership bids. Thus, PGE should provide additional clarification regarding how these various types of bids and various term length bids will be scored against each other. NIPPC also reserves the opportunity to comment at the next stage in the proceedings regarding this issue once PGE provides more clarification.

K. Storage Tolling Agreements Should Be Allowed

The Proposed RFP Scoring and Methodology does not appear to allow bids for a tolling agreements for stand-alone storage.[45] The only proposal types PGE is considering are PPAs, BTAs, APAs, and bids with a shared ownership structures that incorporates PPAs, BTAs, and APAs from a single development. PGE should also consider tolling agreements for stand-alone storage.

A stand-alone storage tolling agreement is another mechanism for the utility, or off taker, to access energy resources. The bidder would be responsible for developing, owning, operating, and maintaining the storage project, while the utility would exercise full authority to charge and discharge the battery subject to any previously agreed restrictions. Basically, the utility operates as a scheduling coordinator to manage the storage's usage. Typically, the utility will pay the bidder a fixed capacity charge for the right to use the battery.

Stand-alone storage tolling agreements provide flexible opportunities to meet PGE's resource demands. If the tolling arrangement is cost-effective compared to other bids and meets PGE's minimum bidding requirements, then there is no reason why the tolling agreement should not be allowed. If a tolling agreement helps PGE provide "clean, reliable, and affordable service"[46] to its customers, then ratepayers should not be penalized by disallowing an appropriate proposal type. Therefore, PGE should consider stand-alone storage tolling agreements in addition to the PPAs, BTAs, APAs, and bids with shared ownership structures that incorporates PPAs, BTAs, and APAs from a single development.

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[45] Proposed RFP Scoring and Modeling Methodology at 7-8.
[46] Proposed RFP Scoring and Modeling Methodology at 5.

L. Renewable Resources Should Also Be Allowed a Commercial Operation Date of December 31, 2027

The Proposed RFP Scoring and Methodology allows different commercial operation dates ("COD") depending on the type of resource.[47] All resources must have a COD no later than the end of 2024, except pumped hydro which has a COD by the end of 2027.[48] All resources should have the option for a COD of the end of 2027.

Three years is not always enough time for a project to go through the interconnection process and come online. Interconnection timelines are only increasing in the number of years it takes to complete the process, and requiring all renewable resources to come online by the end of 2024 will reduce the number of eligible bids. Bidders often do not have any control over how long this process takes. For example, BPAs 2020 transmission Cluster Study concluded there was sufficient transmission capacity for 380 MW of resources with no further requirements, but 3,491 MW of the interconnection requests require infrastructure additions.[49] This demonstrates the grid is constrained, and PGE's RFP demonstrates heavy reliance on BPA's system in particular. It is taking longer to become interconnected because infrastructure additions are likely needed. Thus, a COD by end of 2027 for all resources is more appropriate.

Resources with an end of 2027 COD should not be treated the same as resources that can guarantee an earlier COD; however, PGE has already proposed a process in which it will provide a lower score to longer lead time resources with later CODs. PGE

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47 Proposed RFP Scoring and Modeling Methodology at 15.
48 Proposed RFP Scoring and Modeling Methodology at 15.
49 BPA, Transmission Service Request Studies (last visited Aug. 19, 2021), https://www.bpa.gov/transmission/Reports/PerformanceMetrics/Pages/Transmission-Service-Request-Studies.aspx.

could simply use this approach for other resources or build upon it for renewable resources. The Commission should direct PGE to allow all bidders to propose later CODs, and, if PGE proposes a different manner of decrementing their value than other long-lead time resources, then also provide stakeholders an opportunity to comment on PGE's proposed approach.

M. PGE Should Clarify Its Requirement that Bidders Demonstrate Authorization to Sell Power

The Proposed RFP Scoring and Modeling Methodology states "[a]s applicable, entities must be authorized under the law to sell power, and be able to schedule power and operate under industry standards…."[50] In many cases of a PPA bid, the bidding entity will not necessarily be the contracting party under the PPA. Instead, the contracting party will likely be a special purpose entity that the meets the requirements of the RFP for security guarantees. NIPPC believes PGE meant the bidder must only demonstrate that the contracting party under the PPA will be authorized to sell power at the time of commercial operation. However, clarification is necessary to ensure that was PGE's intent. Thus, PGE should clarify that the requirement that bidders demonstrate authorization to sell power under the law.

N. PGE's Should Clarify How It Will Calculate Energy Value

The Proposed RFP Scoring and Modeling Methodology states "PGE will forecast resource production and utilize the reference case market price forecast from the 2019 IRP Update" to calculate the energy value.[51] Further, it states "production value will be

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50 Proposed RFP Scoring and Modeling Methodology at 14.
51 Proposed RFP Scoring and Modeling Methodology at 20.

based on bidder provided generation information, and in the instance of storage resources, PGE will simulate resource dispatch using the Aurora production cost simulation tools deployed in with IRP."[52] NIPPC interprets this to mean PGE will use bidder forecasts to calculate energy value, but in the case of a storage resources PGE will supplement it with the Aurora model to determine when the energy would be dispatched. If NIPPC's interpretation is correct, then PGE's plan to calculate the energy value appears to be reasonable. If NIPPC's interpretation is incorrect, then PGE should provide clarification on how the energy value is calculated. NIPPC reserves the right to comment at the next stage in the proceeding if NIPPC's interpretation is incorrect and PGE provides clarification.

O. PGE Should Provide Clarification on How Two Proxies Will Be Used for Avoided Capacity Costs

The Proposed RFP Scoring and Modeling Methodology states PGE will use both a simple-cycle combustion turbine ("SCCT") as depicted in PGE's 2019 IRP Update and the average cost of dispatchable capacity from bids in the RFP as a proxy for avoided capacity costs.[53] Important details are unclear, including how both proxies will be used, which is more important when evaluating bids, and how the proxies will be weighed against each other. The RFP appears to be inconsistent as PGE plans to use these two proxies for avoided capacity costs when evaluating bids. Thus, PGE should provide more detail and clarification regarding how both proxies will be used. NIPPC reserves

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[52] Proposed RFP Scoring and Modeling Methodology at 20.
[53] Proposed RFP Scoring and Modeling Methodology at 20-21.

the right to comment on the use of both proxies at the next stage in this proceeding once PGE provides clarification.

IV. CONCLUSION

NIPPC appreciates the effort that PGE has put into the preparation of its RFP's proposed scoring criteria, and urges PGE to make revisions and provide the clarifications requested in these comments. If necessary, the Commission should direct PGE to make all changes and clarifications identified in these comments.

Dated this 23rd day of August 2021.

Respectfully submitted,

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Attachment #1

PacifiCorp’s 2020 All-Source Request for Proposals Resources,

Docket No. UM 2059, Appendix L (June 1, 2020)

APPENDIX L
Non-Price Scoring Matrix

Assigned Bid #:		
PPA or BTA		
Bidder		
Project Name		
County/State		
MW		
Non-Price Factor	**Max Score**	**Bid Score**
1. Bid Submittal Completeness	**5%**	
Bids provided all required RFP information pursuant to RFP instructions for PPA and BTA, including accuracy of such information including the specific Appendices listed below; • Appendix B-2 Information required in Proposal • Appendix C-2 Bid Summary and Pricing Input Sheet • Appendix C-3 3rd Party Performance Report including site data • Appendix D Bidder's Credit Information	Multiple RFP bid submittal documents missing requested information = 1% One or two RFP bid submittal documents missing requested information = 2% All documents complete = 3%	
Bid in compliance with technical or operating specifications as outlined in **Appendix A** as applicable to resource type and bid structure	Major components out of compliance = 0% Some major components in compliance = 1% All major components in compliance = 2%	
2. Contracting Progression and Viability	**5%**	
Bidder provided Appendix E-2 PPA document redline and comments Bidder provided Appendix E-3 battery storage document redline and comments Bidder provided Appendix F-2 BTA termsheet redline and comments	No written comments or redlines provided, or bid states that redline and comments will be provided upon selection = 0% Completed task of providing either written comments or redlines, but not both = 3% Both written comments and redlines provided = 5%	
3. Project Readiness and Deliverability	**15%**	
Bidder's development and construction experience related to large energy and/or storage projects including O&M plan and financing plan.	No operating projects = 0% < 300 MW operating projects = 1% > = 300 MW operating projects = 2%	
Bids demonstrated site control consistent with PacifiCorp Transmission's Site Control definition.	< 50% under lease or purchase option = 0% Lease option on full site = 2% Lease or purchase for full site = 3%	
Bid provided sufficient detail, including schedule(s) and documentation, to demonstrate the ability of meeting all of the project's environmental compliance, studies, permits such that the December 31, 2024 COD is met (or a potential later date in the case of pump storage hydro resources)	Major studies & permits not started = 0% 50% of major studies & permits complete = 3% 100% of major studies & permits complete = 6%	
Bid provided sufficient detail, including schedule(s) and documentation, to demonstrate the ability of meeting equipment procurement needs and managing supply chain risks such that the December 31, 2024 COD is met (or a potential later date in the case of pump storage hydro and nuclear resources)	No documentation provided = 0% Detail provided without addressing management of supply chain risks = 1% Detail provided including addressing management of supply chain risks = 2%	
Bid included documentation that projects qualify for and would receive the full or partial value of the federal tax credit as interpreted by applicable guidelines and rules of the Internal Revenue Service at commercial operation.	No documentation = 0% Qualification through construction = 1% Documentation of safe harbor equipment = 2%	
TOTAL	**25%**	