ITEM NO. 1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
SPECIAL PUBLIC MEETING DATE: December 2, 2021

REGULAR __X__ CONSENT ____ EFFECTIVE DATE __________N/A__________

DATE: November 19, 2021

TO: Public Utility Commission

FROM: Zachariah Baker

THROUGH: Bryan Conway, JP Batmale, Kim Herb

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket No. UM 2166)
2021 All-Source RFP Final Draft.

STAFF RECOMMENDATION:

Grant expedited review and Approve PGE's Final Draft of the 2021 All-Source Request for Proposals with the modifications outlined in this memo.

DISCUSSION:

Issue

1. Whether the Commission should approve PGE's Final Draft of the 2021 All-Source Request for Proposals (RFP).
2. Whether to grant PGE's request for expedited review of the Final Draft RFP for good cause shown.

Applicable Rule or Law

The Commission's competitive bidding requirements in Oregon Administrative Rules (OAR) Chapter 860, Division 89 apply when an electric utility may acquire a resource or a contract for more than an aggregate of 80 megawatts and five years in length, as specified in OAR 860-089-0100(1).

Under OAR 860-089-0200(1), when an electric utility is subject to competitive bidding requirements, it must engage the services of an independent evaluator (IE) to oversee the RFP process. The duties of an IE are set forth in OAR 860-089-0450. In fulfilling its duties, the IE must be provided with full access to the utility's production cost and risk models and sensitivity analyses.

The competitive bidding rules require that a draft RFP utilize the RFP elements, scoring and any associated modeling described in a Commission-acknowledged IRP, and that the draft reference and adhere to the IRP section that describes the RFP design and scoring.[1] Or, prior to preparing a draft RFP, the utility must develop and file for approval an RFP proposal with scoring and any associated modeling in the IE selection docket.[2] In this instance, PGE sought and received initial approval of its RFP design, scoring and associated modeling for a draft RFP, not from a Commission-acknowledged IRP, but through the IE selection docket.

Requirements for RFPs are set forth in OAR 860-089-0250. Under OAR 860-089-0250(5), the Commission may approve an RFP with any necessary conditions if the Commission finds the RFP meets the requirements of the competitive bidding rules and will result in a fair and competitive bidding process.

The Commission will generally issue a decision approving or disapproving the draft RFP within 80 days after the draft RFP is filed.[3] An electric company may request an alternative review period when it files the draft RFP for approval including a request for expedited review upon a showing of good cause and any person may request an extension of the review period of up to 30 days upon a showing of good cause. [4]

<u>Analysis</u>

Application Background

On October 15, 2021, Portland General Electric (PGE or Company) filed a request for approval of its 2021 All-Source Request for Proposals (RFP) – Final Draft. The filing also included a request for expedited review. This filing came after approval of an Independent Evaluator (IE) for the RFP at the July 13, 2021, public meeting; and approval of the RFP scoring and modeling methodology at the October 5, 2021, public meeting.[5][6] Prior to filing its Final Draft RFP, PGE held a workshop on a draft of the RFP on October 11, 2021.

[1] OAR 860-089-0250(2).
[2] OAR 860-089-0250(2)(a).
[3] OAR 860-089-0250(6).
[4] OAR 860-089-0250(6).
[5] Order No. 21-235.
[6] Order No. 21-320.

The IE, Bates White, filed comments on the Final Draft RFP on October 20, 2021. Staff; Alliance of Western Energy Consumers (AWEC); Northwest & Intermountain Power Producers Coalition (NIPPC); Renewable Northwest (RNW); and Swan Lake North Hydro, LLC and the Goldendale Energy Storage Project (Swan Lake and Goldendale), submitted comments on PGE's Final Draft RFP. PGE filed Reply Comments on November 10, 2021.

This memo highlights issues from these comments for Commission consideration, but first provides some additional background on PGE's 2019 IRP and the 2021 RFP.

PGE's 2019 IRP and the 2021 RFP

PGE filed its 2019 Integrated Resource Plan (IRP) on July 19, 2019, in Docket No. LC 73. Action Items in the 2019 IRP action plan included an RFP for renewable resources as well as non-emitting capacity resources.[7] As memorialized in Order No. 20-152 filed on May 6, 2020, the IRP was acknowledged with conditions and additional directives on March 16, 2020, at a Special Public Meeting. One of the key items for PGE to clarify in its future RFP filing was whether PGE would pursue a two-vehicle procurement approach as it had proposed.[8] PGE filed an IRP Update that was acknowledged in Order No. 21-129 on May 3, 2021. The IRP Update contained no changes to its action plan, but indicated the Company intended to conduct a single solicitation, rather than the two-vehicle approach described in the 2019 IRP.

PGE's 2019 Integrated Resource Plan (IRP) was the first IRP filed after the competitive bidding rules were adopted. Through the rulemaking process conducted in Docket No. AR 600, the Commission adapted the competitive bidding guidelines from Order No. 14-149 and established the competitive bidding rules now in effect in OAR Chapter 860, Division 089. The rules are designed to recognize the increasing overlap between IRP and RFP processes and to better integrate the RFP process with the IRP, in part by accelerating discussion of RFP design and its relationship to IRP analysis.[9]

The rules require initial RFP design and scoring methodology to be filed either in the IRP, or later in the IE proceeding.[10] PGE sought to satisfy this requirement with IRP Appendix J containing its RFP design and modeling methodology, but the Commission did not reach a conclusion on whether the design and modeling methodology satisfied the requirement and instead explained that the Commission would rely on substantive

[7] PGE 2019 Integrated Resource Plan. Pages 33-34.
[8] See LC 73, Order No. 21-152. Page 26.
[9] See LC 73, Order No. 20-152. Page 6.
[10] OAR 860-089-0250.

discussion of it in the IE docket.[11] The relevant discussion from Order No. 20-152 is included below:

> We do not reach a conclusion as to whether PGE provided the level of scoring and associated methodology that, under our new RFP rules, would enable them to move directly to filing an RFP. Under the circumstances, where PGE's procurement approach was a significant area of discussion in our acknowledgment decision and where external timelines do not force PGE to move to an RFP immediately, we will depend on substantive discussion of the RFP format, eligibility criteria, scoring and selection methodology, and transmission arrangements in the IE docket. For these procurements, we agreed with Staff that PGE will need to engage in a rigorous process to establish RFP details, clarify key attributes including dispatchability and transmission requirements. During the RFP process we will endeavor to provide more clarity on how we interpret OAR 860-089-0250. We will aim to explain what information about scoring and associated modeling is required in an IRP to avoid the extra step of a workshop on scoring and methodology in the IE selection docket.

The Commission continued to raise RFP issues during the IRP update for further discussion and those were noted in Order No. 21-129. To help facilitate conversation on the RFP details and scoring and modeling methodology moving forward, Staff provided a table of outstanding issues as Attachment A to its July 8, 2021, Staff Report regarding selection of an IE. Issues included the need for further conversation on the scoring and selection methodology, transmission arrangements, performance risk and the Production Tax Credits (PTCs), sensitivities, long lead time resources, and an updated needs assessment. The overall RFP format and energy cap were also identified as possibly needing further conversation.

Recognizing the need to comply with the requirements of the competitive bidding rules and engage in further conversation on the RFP details and scoring and modeling methodology as noted during the IRP process, PGE filed its proposed scoring and modeling methodology with its application for approval of an IE.

The initial RFP details and scoring and modeling methodology were the subject of significant Staff and stakeholder comment. In its September 29, 2021, memo, Staff outlined fifteen specific recommendations for modifications.[12] The Commission made one modification to Staff's recommendations and approved the initial RFP details and scoring and modeling methodology with the recommended modifications.[13] The

[11] LC 73, Order No. 20-152. Page 27.
[12] See Order No. 21-320, Appendix A – Staff Memo. Pages 29-30.
[13] See Order No. 21-320.

Commission also noted that Staff and stakeholders would review contract terms offered by PGE with the Final Draft RFP.[14]

Considerations weighing on the Final Draft RFP
The Final Draft RFP was the subject of significant Staff, IE, and stakeholder comment. Staff appreciates PGE's engagement with the comments and PGE offering a number of changes in its Reply Comments. Staff highlights many of these, as well as items that Staff thought were important to bring to the Commission's attention for further clarification or emphasis.

Staff organized the issues into four sections. Staff first addresses whether PGE made the changes to the scoring and modeling methodology required by Order 21-320. Second, Staff provides the analysis of the form contracts and term sheets in the Final Draft RFP that Order 21-320 noted would occur. Third, Staff discusses new issues that were brought to light by stakeholders and the IE upon review of the Final Draft RFP. Finally, Staff discusses a few forward-looking items regarding the docket. A brief outline of the sections, along with the main topics in each, is provided below to facilitate review.

- Consistency with Order 21-320 modifications
    - Effective Load Carrying Capacity (ELCC)
    - Availability of benchmark bid transmission
    - Overall price and non-price scoring
    - Permitting
    - Miscellaneous PGE revisions
- Commercial performance risk
    - Term sheets and form contracts
    - Scoring
- Newly-argued issues
    - Final short list selection
    - Best and final offer (price refresh)
    - Labor requirements
    - Affiliate bid
    - Long-lead-time resources
    - Miscellaneous minimum bid requirements
- Looking ahead
    - HB 2021
    - Sensitivities
    - Docket schedule
    - Potential future clarification of the competitive bidding rules

[14] See Order No. 21-320.

Each of these items is discussed in turn below.

Consistency With Order No. 21-320

The Commission approved the initial RFP details and scoring and modeling methodology with modifications in Order No. 21-320. These modifications are summarized below and include:

- Incorporate an alternative procurement scenario that would have PGE procure one-third of the estimated renewables needed to meet the 2030 HB 2021 target
- Adjust the qualification and performance screening (i.e. minimum bidding requirements) to:
  - Allow for the participation of existing resources, including bids that would repower existing facilities
  - Provide additional clarity regarding permitting requirements
- Adjust the price/non-price scoring in multiple ways:
  - Use a price/non-price scoring weighting of 70/30
  - Conduct a 60/40 and an 80/20 price/non-price score weighting sensitivity
  - Make specific changes to the non-price scoring including scoring for the Commercial Operation Date, Transmission Plan Attributes, Commercial Performance Risk, and Level Capacity Ratio elements
  - Change the treatment of conditional firm bridge curtailment in capacity value calculations for price scoring
- Address the concern that PGE may not be considering making transmission arrangements controlled by PGE available to all bidders in the case that the Benchmark bid relies upon transmission rights controlled by PGE

Staff reviewed the Final Draft RFP to determine whether it reflects the modifications outlined above.[15] Staff finds that it does – except for one issue. Staff first discusses that issue - the Effective Load Carrying Capacity (ELCC) calculation. Staff then highlights a few places where there were differences or noteworthy explanations on other items. These include the availability of benchmark bid transmission arrangements, overall price and non-price scoring, permitting, and other miscellaneous PGE revisions. Specific Staff recommendations for Commission consideration are contained in the ELCC and availability of benchmark bid transmission arrangements sections.

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[15] While not discussed here as modifications, the Commission also requested PGE provide additional information with the draft RFP regarding the updated needs assessment (which PGE did). Similarly, The Commission also directed PGE to provide additional analysis and updates over the course of the RFP timeline regarding HB 2021 compliance and the Northwest Power Pool's Western Resource Adequacy Program. See Recommendations 3-4, 2, and 5 respectively in Appendix A of Order No. 21-320.

- *Effective Load Carrying Capacity (ELCC)*

The ELCC is a key input into the level capacity ratio non-price scoring element of the RFP. The level capacity ratio non-price score allocates points based on the ratio of the resource's capacity contribution to its expected energy production. The measure intentionally favors resources that best support reliability while recognizing PGE's portfolio energy load-resource-balance limitations.[16]

In Staff's memo recommending Commission approval of the scoring and modeling methodology, Staff noted concerns about the ability of bidders to self-score this element using the ELCC calculated in PGE's Sequoia model.[17] In response to those concerns, Staff recommended that PGE provide bidders a detailed description of how to calculate the ELCC using the information from the 2019 IRP and 2019 IRP Update and a sample calculation as part of the RFP materials.[18] Staff based this recommendation on PGE's assurance that bidders would be able to readily estimate their bid's ELCC. Staff did not elevate this recommendation for specific Commission approval, as it seemed to be a simple fix.

Both Staff and NIPPC noted that the additional information was not provided in the Final Draft RFP.[19,20] Staff attempted to further the conversation in the Staff Comments, noting that when Staff tried to calculate the ELCC using the IRP information, it resulted in a wide range of values in certain cases.[21] Staff offered the example that a bidder offering solar plus 6-hour duration storage equal to 50 percent of the solar nameplate would have an ELCC in the range of 21.3 percent to 92 percent, which is a range that is not particularly instructive. Therefore, Staff requested PGE provide a tool that would also allow more accurate calculation.[22] In addition, Staff submitted Information Requests regarding the issue.[23]

In addition to providing information to bidders up front regarding calculating the ELCC, NIPPC also recommend that PGE report the ELCC value ultimately assigned to the bids.[24] Swan Lake and Goldendale expressed support for the ELCC value that PGE attributes to pumped storage resources.[25]

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16 PGE's Final Draft RFP. Page 16.
17 See Order No. 21-320, Appendix A – Staff Memo. Page 25.
18 Order No. 21-320, Appendix A – Staff Memo. Page 26.
19 See Staff Comments on the Final Draft RFP. Page 7.
20 NIPPC's Comments on the Final Draft RFP. Pages 24-25.
21 Staff Comments on the Final Draft RFP. Page 7.
22 Staff Comments on the Final Draft RFP. Page 7.
23 Staff Information Requests No. 02-05
24 NIPPC's Comments on the Final Draft RFP. Page 25.
25 Swan Lake and Goldendale Comments on the Final Draft RFP. Pages 1-2.

PGE confirmed that it did not include any additional methodologies to approximate bidders' capacity contribution in the Final Draft RFP.[26] But, PGE tried to address the issue in its responses to Staff's Information Requests as well as in their Reply Comments.[27] PGE explained that it plans to provide each bid's forecasted annual energy and forecasted capacity contribution on an anonymous basis at the initial shortlist stage.[28] PGE noted that this information will allow all bidders to self-score their bid for those bid scoring elements dependent on PGE's forecasted ELCC.[29]

For bidders looking to calculate their ELCC prior to bidding, PGE noted that it would offer a newly created tool to facilitate calculating the ELCC based on the 2019 IRP Update information.[30]

PGE went on to explain that short of running Sequoia (the resource adequacy model to be used in this RFP) with both the most current forecast of PGE's existing and contracted generation assets and load as well as the precise parameters associated with the particular bid, any intermediate calculation method would only produce a high-level estimate of the bid's capacity contribution.[31] Finally, PGE noted that it is planning to further refine the ELCC calculation as part of the 2023 IRP.[32]

Staff Analysis and Recommendation
Staff believes the information provided by PGE is still not sufficient for bidders to reasonably estimate their ELCC in certain cases. The calculator tool, while helpful, packages the same information that was available in the 2019 IRP Update – which Staff raised a concern about in its recent comments. With that said, the calculator tool is a marked improvement in terms of accessibility of the information and Staff thanks PGE for providing it.

In addition, Staff appreciates that PGE plans to provide each bid's forecasted annual energy and forecasted capacity contribution on an anonymous basis at the initial shortlist stage.[33] This will allow bidders to be more informed in future RFPs. But, Staff does not agree that this meets the requirement for a bidder to be able to self-score as PGE asserted. This would come after bidders have already submitted their bids. The

[26] See PGE's Response to OPUC Information Request No. 02.
[27] See PGE's Responses to Staff's Information Requests No. 02-05. See also PGE Reply Comments on the Final Draft RFP. Pages 19-21.
[28] PGE's Reply Comments on the Final Draft RFP. Pages 19-20.
[29] PGE's Reply Comments on the Final Draft RFP. Page 20.
[30] PGE's Reply Comments on the Final Draft RFP. Page 20.
[31] PGE's Reply Comments on the Final Draft RFP. Page 20.
[32] PGE's Reply Comments on the Final Draft RFP. Page 20.
[33] PGE's Reply Comments on the Final Draft RFP. Pages 19-20.

ability for bidders to self-score is important from the start so that they can design their bids to be the most competitive or focus their time bidding into a different utility's RFP instead.

Staff continues to be concerned with what information PGE is providing to bidders with the Final RFP to most accurately calculate the ELCC. PGE assured Staff in PGE's prior comments during the scoring and modeling methodology that it was easy enough to estimate the ELCC noting that "bidders can readily estimate their bid's ELCC through a simple review of PGE's 2019 IRP and 2019 IRP Update thereby allowing a bidder to reasonably estimate a self-score for PGE's non-price scoring criteria."[34] PGE is now saying that short of running Sequoia (the resource adequacy model to be used in this RFP) with both the most current forecast of PGE's existing and contracted generation assets and load as well as the precise parameters associated with the particular bid, any intermediate calculation method would only produce a high-level estimate of the bid's capacity contribution.[35]

Providing the benefit of the doubt, PGE's statements above are not necessarily at odds, but they do continue to underscore the question of whether the ELCC can be reasonably estimated (and therefore whether the level capacity ratio non-price scoring element which relies on the ELCC can be reasonably self-scored).

Staff is most concerned with the wide range that some bidders could be left with in using the calculator. That primarily appears to be an issue if they are not offering resources comparable to PGE's IRP Update proxy resources. As two specific examples, wind plus storage is not a proxy resource in PGE's IRP Update (it was in PAC's 2019 IRP) and solar plus storage larger than 25 percent of the solar nameplate (such as many of the bids received in PAC's most recent RFP) is also not a proxy resource. The latter example is particularly what prompted Staff's concern.

When Staff attempted to calculate the ELCC for a bidder offering solar plus 6-hour duration storage equal to 50 percent of the solar nameplate (higher than PGE's IRP proxy resource), it found that it would have an ELCC in the range of 21.3 percent to 92 percent.[36] Further refining the calculation for this combination of resources is particularly important because the actual bids PAC received in its RFP included solar paired with larger storage than the IRP proxy resource. Therefore, PGE RFP bidders are likely also contemplating offering solar paired with either larger storage or longer duration storage. The ELCC of the solar plus storage IRP proxy resource does not provide enough information to these potential bidders.

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[34] PGE's Reply Comments on the Proposed Scoring and Modeling Methodology. Page 21.
[35] PGE's Reply Comments on the Final Draft RFP. Page 20.
[36] See Staff's Comments dated November 1, 2021. Footnote 23.

As a path forward, Staff recommends that PGE, before publishing the Final RFP, compute and publish the ELCC of solar plus longer duration and capacity storage Staff identified above so that bidders do not have to work with such a large range. This would satisfy Staff's concern.

Staff would also recommend that PGE seek to provide an analysis of the bids that would address what the ELCC estimation would have been using the calculator tool as compared to the actual ELCC values PGE publishes for the bids with the initial short list. PGE could potentially do this by collecting ELCC estimations from bidders as part of their bid submission or PGE could calculate the estimations internally based on the bid. This would help inform future use of the ELCC in PGE's RFPs as well as other RFPs. Staff has recommended PacifiCorp use the level capacity ratio scoring element in its current RFP.[37]

Finally, PGE noted that further refinement of the ELCC calculation will occur as part of the 2023 IRP as the Sequoia model and associated load forecast inputs are updated.[38] Staff asks that as part of this refinement, PGE consider ways to allow bidders to most accurately calculate the ELCC for self-scoring bids in future RFP processes (assuming PGE continues to use the level capacity ratio non-price scoring element or another element that relies on the ELCC).

In summary, **Staff recommends the Commission require PGE to:**

1) **Prior to publication of the Final RFP, compute and publish the ELCC for a solar plus 6-hour duration storage resource equal to 50 percent of the solar nameplate and include that in the ELCC calculator tool it provides with the Final RFP.**

2) **Provide an analysis comparing each bid's ELCC estimation using the calculator tool, as compared to the actual ELCC values PGE publishes for the bids with the initial short list.**

3) **Consider ways to allow bidders to most accurately calculate the ELCC for self-scoring bids in future RFP processes (assuming PGE continues to use the level capacity ratio non-price scoring element or another element that relies on the ELCC).**

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[37] See Staff's Memo dated October 11, 2021 in Docket No. UM 2193. Page 8.
[38] PGE's Reply Comments on the Final Draft RFP. Page 20.

- *Availability of benchmark bid transmission*

The Commission asked PGE to address the concern that, in the case that the benchmark bid relies upon PGE-controlled transmission rights, that PGE may not be considering making said transmission arrangements available to all bidders.[39] Not only did PGE address the specific concern about transmission rights, but it also addressed the broader concern about the availability of utility-owned components (not just transmission) of a benchmark bid.

PGE introduced in its Final Draft RFP that there would be four benchmark bids as well as an affiliate bid.[40] PGE explained that these benchmark resources and affiliate bids will not rely on utility-controlled transmission rights to meet the RFP bid requirements.[41] As a result, no transmission rights would be made available. However, PGE did note that there was a possibility that Colstrip-associated transmission rights could be made available at a later date.[42] This would depend on developments in the removal of Colstrip from PGE's portfolio as well as PGE's determination that the transmission rights could improve the long-term economics of a benchmark bid or other bid.[43] If PGE made them available, PGE would make them available to all bidders subject to the same constraints and limitations.[44]

Furthermore, PGE explained that certain other assets controlled by the utility and under consideration for use in support of benchmark resources or an affiliate bid can be made available to third-party bidders at market value. These include specific land in Northeast Oregon as well as in the Hillsboro area.[45] The Hillsboro area land would only be available to third-party developers under a utility-owned commercial structure given physical and cybersecurity risks associated with co-location on that particular piece of land.[46]

Staff noted in its comments on the Final Draft RFP that it did not have enough information to know the extent of the risks associated with the Hillsboro land or whether the risks could be adequately mitigated. Staff submitted an Information Request to better understand the risks involved.[47] Staff also asked PGE to provide any additional

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[39] Order No. 21-320, Appendix A – Staff Memo. Recommendation 13.
[40] PGE's Final Draft RFP, Appendix P – Benchmark Submission. Page 2.
[41] PGE's Final Draft RFP, Appendix P – Benchmark Submission. Page 3.
[42] PGE's Final Draft RFP, Appendix P – Benchmark Submission. Page 3.
[43] PGE's Final Draft RFP, Appendix P – Benchmark Submission. Page 3.
[44] PGE's Final Draft RFP, Appendix P – Benchmark Submission. Page 3.
[45] PGE's Final Draft RFP, Appendix P – Benchmark Submission. Page 2.
[46] PGE's Final Draft RFP, Appendix P – Benchmark Submission. Page 2.
[47] OPUC Information Request No. 05.

information the Company was able to share to inform an understanding of the reasonableness of this limitation and PGE's attempts to mitigate the associated risks.

Stakeholders also commented on the explanation PGE provided. NIPPC recommended that PGE be required to provide further assurances or detailed descriptions regarding how the transmission rights the benchmark bids are relying on are not held by PGE and not funded by ratepayers.[48] RNW recommended that PGE remove the contingencies regarding Colstrip transmission rights such that if Colstrip transmission rights become available to PGE, PGE would make those rights available to all bidders.[49] Further, Swan Lake and Goldendale suggested that PGE could make other PGE transmission rights available to support the RFP.[50]

In response to Staff's request, PGE further outlined the risks regarding the Hillsboro land both in its Reply Comments as well as in its response to Staff's Information Request.[51,52] PGE cited examples of the challenges that occurred with other large-scale battery energy storage projects, as well as a white paper from the U.S. Energy Storage Association outlining best practices for secure operation of utility-scale battery energy storage systems.[53] PGE went on to explain that due to the need to mitigate operational risks, ensure sufficient monitoring and response, and to ensure that safety and security best-practices are followed, PGE determined that multi-entity operations would not be possible at the Hillsboro land being evaluated.[54]

In response to the additional items stakeholders raised, PGE explained that it does not have excess transmission rights to offer for use.[55] Finally, PGE noted that there is still uncertainty surrounding the Colstrip transmission rights and declined to remove the contingencies.[56]

Staff Analysis and Recommendation
Staff finds that PGE has currently adequately addressed the concern regarding making benchmark bid transmission rights available for all bidders. At this point, PGE has explained that it is not using any of its transmission rights for the benchmark bids. Therefore, it is a moot point whether they also would make those rights available to all bidders.

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[48] NIPPC's Comments on the Final Draft RFP. Pages 34-35.
[49] RNW's Comments on the Final Draft RFP. Pages 5-6.
[50] Swan Lake and Goldendale Comments on the Final Draft RFP. Pages 5-6.
[51] PGE's Reply Comments on the Final Draft RFP. Pages 33-35.
[52] PGE's Response to Information Request No. 5.
[53] PGE's Reply Comments on the Final Draft RFP. Pages 34-35.
[54] PGE's Reply Comments on the Final Draft RFP. Page 35.
[55] PGE's Reply Comments on the Final Draft RFP. Pages 4-5.
[56] PGE's Reply Comments on the Final Draft RFP. Pages 5-6.

With that said, PGE noted that it may make Colstrip transmission rights available for the benchmark bid at a later date depending on ongoing conversations around removal of Colstrip from its portfolio exit. But, PGE also said that it if it did, it would make those transmission rights available to all bidders and with the same conditions and limitations. As a result, PGE is not proposing to limit the availability of benchmark bid transmission rights to other bidders.

Further, PGE is planning to make other utility-owned elements of the benchmark bids (and the affiliate bid for that matter) available to all bidders, with one exception. That exception is the Hillsboro area land. As requested by Staff, and consistent with OAR 860-089-0300(3), PGE provided analysis explaining this decision to limit the availability of the land. Staff was not able to initially determine if the limitation was reasonable, but finds the additional information provided satisfactory to support PGE's decision to limit the availability of that land.

Regarding the stakeholder concerns raised, Staff does not read OAR 860-089-0300(3) to require PGE to make transmission rights available unless they are used in the benchmark bid. And, even then, PGE can propose to limit their availability. As a result, PGE is not required to make other transmission rights not associated with the benchmark bids available as Swan Lake and Goldendale urged nor is PGE required to offer benchmark bid transmission rights unencumbered as RNW urged for the Colstrip transmission rights. Staff's position on the latter point would likely be different if PGE were planning to offer the benchmark bid transmission rights with different conditions and limitations for other bidders as compared to the benchmark bid.

However, Staff encourages PGE to make any other transmission rights available to bidders that could result in better outcomes for customers. Staff understands that PGE does not feel it has any additional transmission rights to make available currently.

Similarly, Staff encourages PGE to make the Colstrip transmission rights available with the least conditions and limitations necessary to maximize benefits for customers, if PGE ultimately makes them available for the benchmark bid and other bidders. Staff expects that if PGE places conditions and limitations on those transmission rights, it would explain the conditions and limitations and how the conditions and limitations would be applied similarly for the benchmark bid as well as the other bidders. Further, Staff would want to make sure that the timing and rollout of how and when PGE decides to make the rights available does not in effect prevent or hinder other bidders from availing themselves of them (e.g. making them available the day before bids are due).

Given the discussion above, **Staff recommends the Commission require PGE to:**

4) **Inform the Commission as soon as possible if it decides to make Colstrip transmission rights available for a benchmark bid and provide an explanation of any conditions and limitations on the transmission rights; how those conditions and limitations would be applied similarly for the other bidders; as well as how and when PGE would inform other bidders of the transmission rights being made available.**

➢ *Permitting*

The Commission directed PGE to provide additional clarity on its permitting requirements and associated permitting matrix. While PGE did make some changes, the IE suggested that PGE also allow a bidder to provide a narrative explanation for a situation where a permit will be required, but not be acquired in alignment with the timeline suggested in the RFP.[57] The IE believes this will allow bidders more flexibility to account for and justify the actual permitting pace of their particular project, rather than meeting a theoretical schedule offered by PGE.[58]

Staff supported the addition. NIPPC did as well, but also noted that PGE should not have the unilateral ability to reject a bid or lower bid score based on the narrative explanation.[59]

PGE agreed to the change and noted it would be working with the IE on assessing the narratives.[60]

➢ *Overall price and non-price scoring*

The Commission directed PGE to use a price/non-price scoring weighting of 70/30 for this RFP.[61] To achieve this split, Staff had adjusted the scoring to within half a percentage point of a 70/30 split. Staff asked PGE to adjust the numbers with minimal changes to achieve an exact 70/30 split.

PGE adjusted the scoring in the Final Draft RFP to achieve the exact 70/30 split. But unlike Staff's adjustments, which only adjusted the non-price scoring, PGE adjusted both the price and non-price scoring. As a result, the overall price and non-price point scoring, as well as the numbers for specific non-price scores are different than what

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[57] IE Report. Pages 13-14.
[58] IE Report. Page 14.
[59] NIPPC's Comments on the Final Draft RFP. Pages 26-27.
[60] PGE's Reply Comments on the Final Draft RFP. Pages 21-22.
[61] See Order No. 21-320, Appendix A – Staff Memo. Recommendation 8.

Staff had presented. However, the changes PGE made do not materially change the scoring outcomes.

Instead of a total of 855 points split between 600 price points and 255 non-price points as Staff had presented, PGE's adjusted scoring includes a total of 1000 points split between 700 price points and 300 non-price points. The specific non-price point categories were proportionally increased to achieve the 300 non-price points. PGE summarized the updated scoring in Appendix N, Exhibit B of its Final Draft RFP and Staff provides Table 1 below to illustrate the minor difference between Staff's recommendations and PGE's adjusted weighting. Staff also noted a couple of typo-like inconsistencies in the description of the scoring adjustments throughout the Final Draft RFP, which Staff presumes PGE will correct for the Final RFP.[62]

Table 1: Price and non-price scoring weighting comparison

	Staff Recommended		PGE Adjusted	
Scoring Component	**Dispatchable Capacity**	**Renewables**	**Dispatchable Capacity**	**Renewables**
Price Points	**600**	**600**	**700**	**700**
Non-Price Points	**255**	**255**	**300**	**300**
Commercial Performance Risk	**180**	**180**	**212**	**212**
Transmission Plan Attributes	**N/A**	**25**	**N/A**	**29**
Level Capacity Ratio	**N/A**	**50**	**N/A**	**59**
Commercial Operation Date	**75**	**N/A**	**88**	**N/A**
TOTAL POINTS	**855**	**855**	**1000**	**1000**
Price/Non-Price Split	**70/30***	**70/30***	**70/30**	**70/30**

* Staff's recommended scoring proposal was within half of a percentage point of an exact 70/30 split and asked that PGE adjust the numbers with minimal changes to achieve an exact 70/30 split.

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62 See Staff's Comments on the Final Draft RFP. Pages

- *Miscellaneous PGE revisions*

Staff noticed PGE made a few changes to the approved scoring and modeling methodology which were not specifically directed by Staff or the Commission. These include updates to the description of how ROSE-E will be used in the portfolio analysis as well as a change to the cost containment screen description. Each of these are discussed below.

PGE revised its description of its ROSE-E modeling, including adding capacity fill resources.[63] Staff requested additional information on what PGE was attempting to achieve with the change. In response, PGE explained that it had initially proposed to limit capacity expansion actions following PGE's procurement actions but now proposes to allow ROSE-E to perform its capacity expansion methodology consistent with IRP practice.[64] The change is driven by PGE's desire to be in position to describe for the Commission how procurement actions taken through this solicitation increase/decrease costs while specifically accounting for the long-term implications associated with HB 2021 compliance.[65] Staff was satisfied with PGE's explanation and thinks the change will improve the information the Commission will have available in considering the final short list.

Regarding the cost containment screen, PGE is now describing it as a "value-to-cost evaluation."[66] Staff was unclear if PGE was making a substantive change here and requested further explanation from PGE.[67] As of the time of the writing of this memo, PGE had not responded to Staff's request. Staff therefore requests that PGE inform Staff in writing prior to the December 2, 2021, Special Public Meeting if a substantive change is intended.

Commercial Performance Risk - Term Sheets, Form Contracts, and Scoring

While approving the scoring and modeling methodology, the Commission noted that further review of the reasonableness of the contracts and associated scoring would occur during review of the Final Draft RFP.[68] As anticipated, PGE provided detailed contract term sheets and form contracts as part of the Final Draft RFP. Power Purchase Agreement (PPA), Storage Capacity Agreement (SCA), Asset Purchase Agreement

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[63] See PGE's Final Draft RFP, Appendix N – Scoring and Modeling Methodology. Pages 16-17.
[64] PGE's Reply Comments on the Final Draft RFP. Page 26.
[65] PGE's Reply Comments on the Final Draft RFP. Page 26.
[66] PGE's Final Draft RFP, Appendix N – Scoring and Modeling Methodology. Page 12. Compare with PGE's Application for Approval of an Independent Evaluator for 2021 All-Source Request for Proposals, June 15, 2021, Appendix A, pages 23-24.
[67] Staff Comments on the Final Draft RFP. Page 8.
[68] See Order No. 21-320. Page 1.

(APA), and Engineering Procurement and Construction Agreement (EPC) term sheets and form contracts were provided.[69] These raised multiple comments from the IE and NIPPC.

The comments centered on the terms of the contracts as well as the overall scoring. In its Order approving the scoring and modeling methodology, the Commission tied these two together, noting that the "scoring may be reasonable if the overall terms of the contract are reasonable."[70] As a result, each of these are taken in turn below, starting with the terms of the contracts and ending with a discussion of the scoring.

Term Sheets and Form Contracts

The IE found that "for the most part, these term sheets reflect reasonable terms and conditions."[71] It did identify one item that looked "out of line" – the higher liquidated damages for commercial delay for the storage resource.[72] For the storage resource PPA, PGE proposed damages that range from $150 to $350 per MW while other agreements in the Final Draft RFP range from $100 to $300 per MW.[73] The IE asked that PGE adjust the liquidated damages for commercial delay for the storage resource to match the other agreements.[74] The IE also noted that the pre-Commercial Operation Date (COD) credit requirement for a PPA is somewhat high, but bidders have the ability to propose a lower rate.[75]

To further improve the Final Draft RFP, the IE also suggested adding limits on liability for the Power Purchase Agreement (PPA) transactions and providing a space in the Engineering Procurement & Construction (EPC)/Asset Purchase Agreement (APA) sheets for the bidder to explain what specific warranties and long-term service agreement (LTSA) provisions they are offering.[76]

NIPPC identified a number of provisions that it considers unreasonable in the Final Draft RFP terms sheets and form contracts for PPA and SCA bids as compared to utility-owned bids. These include:

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[69] Two type of PPAs were included - one for renewable resources and one for renewables and storage. See Appendix A and Appendix C, respectively, of PGE's Final Draft RFP.
[70] Order No. 21-320. Page 1.
[71] IE Report. Page 8.
[72] IE Report on the Final Draft RFP. Pages 8-9.
[73] IE Report on the Final Draft RFP. Pages 8-9.
[74] IE Report on the Final Draft RFP. Pages 8-9.
[75] IE Report on the Final Draft RFP. Pages 8-9.
[76] IE Report on the Final Draft RFP. Page 9.

- An availability guarantee which requires 97 percent mechanical availability for the facility.[77] NIPPC notes that mechanical availability is usually measured on a turbine-by-turbine basis instead and PGE has been directed to use that metric in a previous docket.[78] In addition, NIPPC noted that PacifiCorp has used a 93 percent requirement in a previous RFP.[79]

- A "very high" delay liquidated damages penalty imposed for PPAs and SCAs.[80] (The IE also noted this higher penalty as discussed above).

- No damages cap for PPA and SCA bids comparable to that provided for EPC/APA bids.[81] NIPPC agreed with the IE that the damages cap is likely something bidders offering a PPA would also be interested in and is usually part of the transaction.[82]

- A prescription against pseudo ties and an apparent bar on any intrahour scheduling in the contract form potentially significantly increased costs for the PPA bids.[83]

- An "onerous" output guarantee of 90 percent of its Annual Expected Output (defined as a generation profile associated with 50 percent probability exceedance) that could trigger liquidated damages or termination.[84] In addition, it includes a penalty of reduced payments for exceeding the forecast.[85]

- A negative pricing provision that says PGE will not pay the pre-established contract price bid into the RFP whenever the market prices happen to be negative and instead sets the price at 107 percent of the Market Index Price.[86]

- An "unreasonably high" Round Trip Efficiency requirement in the storage term sheets and contract forms.[87] The requirement is 90 percent in the first contract year, which NIPPC presumes will escalate after the first contract year.[88]

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[77] NIPPC Comments on the Final Draft RFP. Pages 15-16.
[78] NIPPC Comments on the Final Draft RFP. Page 15.
[79] NIPPC Comments on the Final Draft RFP. Page 16.
[80] PGE's Reply Comments on the Final Draft RFP. Page 16.
[81] NIPPC's Comments on the Final Draft RFP. Page 17.
[82] NIPPC's Comments on the Final Draft RFP. Page 17.
[83] NIPPC's Comments on the Final Draft RFP. Page 17.
[84] NIPPC's Comments on the Final Draft RFP. Page 18.
[85] NIPPC's Comments on the Final Draft RFP. Page 18.
[86] NIPPC's Comments on the Final Draft RFP. Page 19.
[87] NIPPC's Comments on the Final Draft RFP. Page 19.
[88] NIPPC's Comments on the Final Draft RFP. Page 19.

However, NIPPC cites the industry norm as only 85 percent, and recommends the baseline expectation be lowered to that.[89]

- A requirement for PPAs that the bidder agree to 400 hours (or 4.5 percent) of the hours per year of uncompensated curtailment by PGE.[90]

- The PPA term sheet requires OPUC approval as a condition precedent to the PPA's effectiveness.[91]

- Multiple issues with the credit requirements. First, there are "very high" performance assurance amounts ($200/kW-pre COD and $100/kW thereafter for PPAs) which NIPPC recommends reducing by at least half.[92] (The IE also noted this issue as discussed above). Second, the performance assurance levels are not comparably applied across resource types and NIPPC recommends that the security levels should be revised to be reasonably comparable for the pre-operational period.[93] Finally, the contract forms and Appendix K appear to require the seller to post the liquid performance assurance even if the seller meets the PGE's credit worthiness criteria or provides a parental guarantee.[94] (The IE noted this last item as well and it is discussed in the minimum bid requirements section of this memo).

- The contract forms contain jury trial waivers that bidders should be allowed to strike without penalty.[95]

PGE argued that NIPPC's suggested form agreement changes would be inconsistent with market practice and would shift the risk away from independent power producers and onto PGE and its customers.[96] PGE also noted that the bidding companies are capable of negotiating the terms with PGE.[97] Regarding the higher liquidated damages penalties for storage resources raised by both NIPPC and the IE, PGE explained that the difference is reflective of the increased costs of procuring dispatchable capacity.[98] PGE agreed with the IE's recommendation that making space in the term sheets for bidders to explain specific warranties and long-term service agreements would be an

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[89] NIPPC's Comments on the Final Draft RFP. Page 19.
[90] NIPPC's Comments on the Final Draft RFP. Page 20.
[91] NIPPC's Comments on the Final Draft RFP. Pages 20-21.
[92] NIPPC's Comments on the Final Draft RFP. Page 21.
[93] NIPPC's Comments on the Final Draft RFP. Pages 21-22.
[94] NIPPC's Comments on the Final Draft RFP. Page 22.
[95] NIPPC's Comments on the Final Draft RFP. Page 22.
[96] PGE's Reply Comments on the Final Draft RFP. Pages 14-15.
[97] PGE's Reply Comments on the Final Draft RFP. Page 14.
[98] PGE's Reply Comments on the Final Draft RFP. Pages 16-17.

improvement and would be included in the Final RFP.[99] PGE did not directly respond to the IE's recommendation regarding adding limits on liability for PPAs.

Staff Analysis and Recommendation
Staff agrees with the IE that the term sheets and form contracts generally reflect reasonable terms and conditions. Staff does however recommend the Commission require PGE to change the liquidated damages discrepancy that the IE noted as "out of line" as well as a few more changes discussed below.

Regarding the liquidated damages discrepancy between the storage contracts and other contracts, Staff does not find PGE's explanation for the discrepancy satisfactory. While Staff can understand PGE's expressed interest in higher liquidated damages for storage contracts given the increased costs of replacing dispatchable capacity, Staff does not understand why this increase would only be for storage contracts. EPC/APA contracts could also contain storage resources and yet the liquidated damages in those contracts are not similarly adjusted for storage resources. In addition, Staff is not clear of the exact magnitude of higher liquidated damages needed to address PGE's concern, and whether an additional $50 per MW is the right number.

With PGE's explanation in hand, Staff consulted with the IE further on this given that it was the one item the IE flagged as "out of line." The IE is more concerned with the fact that the liquidated damages would not be applied consistently across the contracts as opposed to the proposed magnitude of the difference. As a result, Staff recommends PGE either adjust the storage contract liquidated damages to match the liquidated damages across the other contracts as originally proposed by the IE, or include the higher liquidated damages in both the storage contract as well as storage resources in the EPC/APA contracts.

Further, Staff continues to support the IE's other recommendation that PGE did not address. That is to add limits on liability for the PPA. While limits on liability could be negotiated in the bidding process, given the alignment between the IE and NIPPC on this recommendation, Staff recommends it be included from the start.

In addition, Staff recommends one additional change for consistency with Commission procedures. As NIPPC pointed out, the Commission does not approve PPAs entered into after an RFP as a result of the RFP. The Commission does however acknowledge the final shortlist and there is a presumption that contracts will be entered into after acknowledgment. As a result, Staff recommends that PGE remove the specific provision referencing Commission approval from the Buyer Conditions Precedent term, or clarify that it is referencing final short list acknowledgment by the Commission.

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[99] PGE's Reply Comments on the Final Draft RFP. Page 14.

Regarding the other items NIPPC raised, Staff notes that those are all negotiable terms. While negotiating these terms may result in scoring changes, Staff finds it reasonable for these terms to be part of the give and take in a competitive bidding process. This is also consistent with the IE's assessment. Staff would also note that the IE will continually be evaluating fairness as it relates to the scoring of these terms, and others, as the process proceeds.

In summary, **Staff recommends the Commission require PGE to:**

5) **Either adjust the storage contract liquidated damages to match the liquidated damages across the other contracts as originally proposed by the IE, or include the higher liquidated damages in the storage contract as well as for storage resources in the EPC/APA contracts.**

6) **Add limits on liability for the PPA per the IE's recommendation.**

7) **Remove the specific provision referencing Commission approval from the Buyer Conditions Precedent term or clarify that it is referencing final short list acknowledgment by the Commission.**

Scoring of Commercial Performance Risk

The IE reviewed the contract-related scoring and made a number of observations and recommendations.[100] The IE noted that the non-price score is primarily based on adherence to standard form contracts which is allowed under the competitive bidding rules.[101] The IE also noted that PGE provided some additional detail for bidders to self-score their proposal in the Final Draft RFP.[102] The IE recommended that PGE emphasize the importance of completing the form contracts since there is a considerable reduction in non-price score for not completing form contracts.[103] The IE also recommended one narrow scoring change. The IE recommended PGE adjust the non-price scoring for EPC/ACA bids from three subcategories to two subcategories. Specifically recommending PGE re-allocate the points for "Forecasting and Scheduling" to the "Credit and Security" and "Utility Owned Asset Output Guarantee" categories since EPC/APA bids really have no terms regarding forecasting or scheduling.[104]

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[100] IE Report on the Final Draft RFP. Page 14.
[101] IE Report on the Final Draft RFP. Page 14.
[102] IE Report on the Final Draft RFP. Page 14.
[103] IE Report on the Final Draft RFP. Page 14.
[104] IE Report on the Final Draft RFP. Page 14.

NIPPC generally found the scoring to be “strongly biased” against third-party bidders offering PPA or SCA bids as compared to utility-owned bids.[105] NIPPC argued that most of the non-price elements for adherence to PGE’s commercial terms would only penalize PPA and SCA bids.[106] NIPPC also continued to argue, as it did during the scoring and modeling methodology discussion, that the non-price scores are subjective and not subject to self-scoring.[107] NIPPC specifically pointed to the scoring of the term sheets provided in the Final Draft RFP as inherently subjective.[108] NIPPC recommended that the Commission reduce the non-pricing element related to the adherence to the contract forms and term sheets to ten percent (from 21.2 percent).[109] NIPPC also recommended that the term sheet scoring be rejected or the RFP should make clear that the utility-owned bids will also be scored appropriately.[110]

PGE argued that changes to the commercial performance risk scoring were not necessary. PGE explained that it provided a non-price scoring framework that fairly distinguishes between commercial structures and allows for comparative scoring that fairly recognizes the benefits and limitations of third-party owned and utility-owned structures.[111] Regarding the IE’s recommendations to re-distribute the points for the EPC/ACA bids, PGE explained that there is forecasting and scheduling that is done in utility-owned bids and it’s reasonable to recognize those in a non-price scoring framework.[112] PGE did however agree with the other IE recommendation that it would be helpful to add emphasis in the Final RFP reiterating the importance of completing the form contracts as part of the bid and would include it in the Final Draft RFP.[113]

Staff Analysis and Recommendation
Staff continues to find the commercial performance risk scoring meets the requirements of the competitive bidding rules, as does the IE. The scoring is objective and reasonably subject to self-scoring analysis by bidders. In addition, as discussed in the prior section, the overall terms of the contracts are reasonable (with the few recommended modifications outlined).

Staff would also note that the Commission, based on significant prior discussion on the scoring and modeling methodology, recommended adjustments to the overall scoring and specific commercial performance risk scoring, which PGE incorporated in the Final

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[105] NIPPC’s Comments on the Final Draft RFP. Pages 1-2.
[106] NIPPC’s Comments on the Final Draft RFP. Pages 6-14.
[107] NIPPC’s Comments on the Final Draft RFP. Pages 6-14.
[108] NIPPC’s Comments on the Final Draft RFP. Pages 6-14
[109] NIPPC’s Comments on the Final Draft RFP. Page 14.
[110] NIPPC’s Comments on the Final Draft RFP. Page 14.
[111] PGE’s Reply Comments on the Final Draft RFP. Page 12.
[112] PGE’s Reply Comments on the Final Draft RFP. Pages 13-14.
[113] PGE’s Reply Comments on the Final Draft RFP. Page 15.

Draft RFP. Staff does not see a need to further adjust the overall scoring as NIPPC recommended.

With that said, Staff recommends PGE make the narrow adjustment in the non-price scoring for EPC/APA bids to two subcategories instead of three. There are other ways to address forecasting and scheduling concerns, such as through terms in a PPA.

Staff is confident that the IE will consider and evaluate fairness as it relates to the scoring, as the process proceeds.

In summary**, Staff recommends the Commission require PGE to:**

8) **Make the narrow adjustment in the non-price scoring for EPC/APA bids to two subcategories instead of three as recommended by the IE.**

Newly-argued issues
Stakeholders and the IE raised a number of new issues, and new angles on issues, that were not discussed during the scoring and modeling methodology conversation. These include issues around final short list selection, best and final offer (price refresh), minimum bid requirements, labor requirements, long-lead-time resources, and the affiliate bid. Each of these is taken in turn below. Staff recommends specific Commission action on only the first item, but Staff provides the below discussion for the Commission's information and consideration.

- *Final short list selection*

While the IE noted that the methodology was largely approved already as a result of the Order, the IE thought additional clarity on the conversion of traditional portfolio cost and risk metrics into a price score would be helpful.[114] The IE requested that PGE cite its IRP, explain what the traditional scoring metrics are, and provide an example of how it plans to convert these metrics into a price score.[115] The IE explained that this should help bidders better understand how PGE intends to make the final portfolio selection.

In addition, the IE suggested for informational purposes, examining portfolios via some of the non-traditional metrics from the 2019 IRP.[116] The IE explained that one of those metrics in particularwould help address an itemfrom the 2019 IRP Order.[117]

[114] IE Report on the Final Draft RFP. Page 5.
[115] IE Report on the Final Draft RFP. Page 5.
[116] IE Report on the Final Draft RFP. Page 5.
[117] IE Report on the Final Draft RFP. Page 5.

PGE, in its Reply Comments, provided the requested explanation of the planned conversion of traditional portfolio cost and risk metrics into a price score.[118] PGE also agreed to include some of the non-traditional scoring metrics in its analysis.[119]

Staff Analysis and Recommendation
Staff appreciates the IE's attention to these issues. In subsequent discussions between Staff and the IE on the subject, the IE requested that the explanation PGE provided regarding the traditional scoring metrics be included in the Final RFP.

*As result, **Staff recommends the Commission require PGE to:***

9) **In the Final RFP, include the additional detail regarding selection of the final shortlist using traditional metrics that PGE included in its Reply Comments.**

- *Best and final offer (price refresh)*

Stakeholders raised concerns about the timing and process for the best and final offer step in the bid evaluation process. This step is where initial short list candidates will be contacted by PGE and requested to provide their best and final offer including technical specification redlines and updates to any associated studies. That information will then be used to ensure the bid meets the eligibility requirements for the final short list and all relevant updates will be incorporated into the portfolio analysis.[120] Two new details in PGE's Final Draft RFP filing prompted the stakeholder concerns, namely – the addition of a one week turnaround time for bidders to respond; and acceptance of updates only if the offer's total price is a reduction relative to the initial offer.[121]

Both RNW and NIPPC were concerned that one week was too short of a time period and requested bidders have longer to respond. RNW suggested perhaps two weeks while NIPPC requested closer to a month or five weeks.[122,123] RNW also requested that bid updates not be restricted to only those that reduce their price because that limitation could skew PGE's analysis of competing bids (e.g. overpriced bids that later reduce their prices) or result in the withdrawal of projects that could in fact be least-cost and least-risk.[124]

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[118] PGE's Reply Comments on the Final Draft RFP. Pages 18-19.
[119] PGE's Reply Comments on the Final Draft RFP. Pages 18-19.
[120] PGE's Proposed Scoring and Modeling Methodology. Page 26.
[121] PGE's Final Draft RFP. Page 9.
[122] RNW's Final Draft RFP Comments. Page 4.
[123] NIPPC's Final Draft RFP Comments. Page 38.
[124] RNW Final Draft RFP Comments. Pages 3-4.

PGE argued that the timeline was necessary to keep on schedule for the procurement process and that bidders should be contemplating best and final offers throughout the process so that they are ready to go when the time comes.[125] Regarding not allowing best and final pricing increases, PGE explains that allowing them could also result in a skewing of bids (e.g. underpriced bids that later increase their prices), and therefore plans to retain the limitation as an acceptable way to balance the risk.[126]

Staff Analysis and Recommendation
Staff notes that while it is the case that Staff and stakeholders developed and agreed to the docket schedule as PGE noted, the date for the best and final price offer was not part of the discussions nor noted in that schedule.[127] With that said, Staff still sees the benefit of trying to meet that schedule given the current tax credit availability and role that this RFP will play in moving towards HB 2021 compliance. Also, given the fact that there would only be about a month between the initial bid due date and the bid update, it is unlikely that large changes to bids will be needed to accommodate any changed market conditions. In addition, bidders are now on notice about the timing for the best and final price offer and will hopefully be able to plan accordingly as PGE has suggested. Further, PGE has noted that the dates related to the best and final price offer are subject to change depending on the quantity and complexity of bids received and should circumstances require.[128]

As a result, Staff does not recommend a specific change in the dates at this time, but asks PGE to consider the feedback and provide for a longer time period if circumstances allow as the docket proceeds (see related Commission recommendation in the docket schedule section later in the memo).

In addition, Staff asks that in the future, PGE provide an estimation of the timing for identification of the initial shortlist as well as the best and final price update when the docket schedule is being developed and discussed. This will allow for planning an overall schedule that considers the timing for the best and final price update.

Regarding whether to also allow best and final offer updates for bids that would increase their pricing, Staff understands RNW's point. However, Staff ultimately agrees with PGE about which approach is in the best interest of ratepayers: initial bids should not be allowed to be revised upwards in this RFP. As a result, Staff does not recommend PGE change their approach to the limitation.

[125] PGE Final Draft RFP Reply Comments. Page 23.
[126] PGE's Final Draft RFP Reply Comments. Page 23.
[127] See DOJ Scheduling Memo dated August 3, 2021.
[128] PGE's Final Draft RFP. Page 8.

- *Labor requirements*

PGE also included labor requirements in the minimum bid requirements.[129] Staff discusses these separately from the miscellaneous minimum bid requirements later in this section given the extent of the analysis that is required on this particular topic.

PGE's Final Draft RFP labor requirements provide that:

- Union labor must be utilized for major construction activities related to the resource and must include a Project Labor Agreement (PLA) requirement in any related executed Engineering, Procurement, and Construction Agreements.

- The labor group has policies in place that are designed to limit or prevent workplace harassment and discrimination. PGE will be asking that the labor group has policies in place that are designed to promote workplace diversity, equity and inclusion of communities who have been traditionally underrepresented in the renewable energy sector including, but not limited to, women, veterans and Black, Indigenous and People of Color, with an aspirational goal of having at least 15 percent of the total work hours performed by individuals from those communities.

- Bidders recognize this requirement upon bidding and affirm their commitment to meet the requirement. However, PGE does not expect a bidder to have secured a PLA prior to contract execution with PGE as it is customary to negotiate such labor agreements closer to construction activities.

Those requirements have not changed since the scoring and modeling methodology was approved, but NIPPC and RNW both requested changes to those requirements in their comments on the Final Draft RFP. RNW requested PGE adjust the requirements to conform to or directly reference the statewide "Responsible Contractor Labor Standards" established by HB 2021 (or any successor standards) and alleges this will avoid confusion.[130] RNW also noted that it is working with stakeholders to explore legislation in 2022 to improve the HB 2021 labor standards.[131] NIPPC asked that the Commission require PGE to remove the requirement that bidders must include a PLA requirement in anyEPC Agreements given that there are adequate protections in HB

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[129] PGE's Final Draft RFP, Appendix N – Scoring and Modeling Methodology. Page 7-8.
[130] RNW Comments. Page 6.
[131] RNW Comments. Page 6.

2021.[132] Both stakeholders also cited the challenges in the labor market to justify their recommendations.[133,134]

PGE did not agree that changes were needed and specifically noted that the requirements would afford compliance with HB 2021 standards, with the PLA requirement building upon those standards.[135]

Staff Analysis and Recommendation
Staff agrees with PGE that such labor requirements may provide certainty as to labor and supply and thereby possibly mitigate risk to customers.

Section 26 of HB 2021 establishes certain labor standards for a person who constructs or repowers a large-scale project (defined as renewable energy generation, sequestration or storage facility with a capacity rating of 10 megawatts or greater) sited in Oregon. These standards apply only to large-scale project contracts finalized or executed on or after the effective date of HB 2021.

Certain resources procured under this RFP may be subject to these standards. The standards in HB 2021 appear to only apply to projects sited in Oregon.[136] PGE may procure resources sited in Oregon, but it also may end up procuring resources sited outside of Oregon through this RFP. In addition, the HB 2021 labor requirements appear to only apply to projects with a capacity rating of 10 MW or greater.[137] PGE's RFP allows for solar projects that are larger than 3 MW.[138] Thus, HB 2021 requirements likely will not apply to these smaller projects.

Staff presumes that to keep the RFP process fair, all potential projects should be held to the same labor standards. As noted above, establishing labor standards may provide certainty and reduce the likelihood of labor or supply shortages and thus reduce risks to ratepayers. Staff has reviewed the terms proposed by PGE and none appear to conflict with HB 2021's terms and will not therefore disadvantage projects sited in Oregon. To apply the labor requirements of HB 2021 to all projects creates uncertainty as to how those requirements would be applied to projects that are not subject to its provisions. And, to simply allow the labor requirements of HB 2021 to take effect will result in an RFP that does not set a baseline for expectations in this regard, potentially reducing the value of such provision as a risk mitigation measure.

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[132] NIPPC's Comments on the Final Draft RFP. Page 30
[133] RNW's Comments on the Final Draft RFP. Page 6.
[134] NIPPC's Comments on the Final Draft RFP. Page 30.
[135] PGE's Reply Comments. Page 24-25.
[136] HB 2021, Section 26(2).
[137] HB 2021, Section 26(1)(d) -
[138] PGE's Final Draft RFP. Page 14.

PGE's PLA requirement plays a particularly important role. Until the Oregon Department of Energy (ODOE) develops a process for attestations under HB 2021, PGE's proposed PLA is a reasonable "stopgap" as it does not contradict HB 2021. In addition, the PLA requirement would apply to out-of-state projects holding all projects under the RFP to the same standards. Finally, as PGE noted in its Reply Comments, there are multiple benefits to PLA's, not the least of which is much closer coordination between all the parties involved in construction of a resource.

- *Affiliate Bid*

PGE introduced in its Final Draft RFP that there would be four benchmark bids as well as an affiliate bid.[139] PGE is currently applying to create an affiliate in a separate docket, with the idea that the affiliate can bid into this RFP.[140] This development has raised stakeholder questions and concerns.

NIPPC raised concerns that the affiliate PGE is seeking approval for is not sufficiently independent.[141] As a result, NIPPC requested that the Commission require PGE to treat its affiliate bid as a benchmark bid making it subject to the same rules and requirements as a benchmark bid.[142] In addition, NIPPC asked the Commission to require PGE to confirm that personnel who worked on the IRP were separate from those working on the affiliate bid and those working on the affiliate bid and affiliate bid team has not had (and will not have) access to data or resources that non-affiliate bidders do not.[143] Finally, NIPPC requested the Commission require PGE clarify the bidding structure for the affiliate bid and ensure the scoring of its bids are reasonable and fair to other bidders.[144]

PGE declined to adopt NIPPC's recommendations noting that the request regarding work on the IRP is outside the scope of the rules and discussions in the affiliate docket are still ongoing.[145]

Staff Analysis and Recommendation
Conversations regarding establishment of the PGE affiliate are occurring in Docket No. UI 461. Staff has encouraged stakeholders to participate in those discussions and does not make any statement about the merits of affiliate application here.

[139] PGE's Final Draft RFP, Appendix P – Benchmark Submission. Page 2.
[140] See Docket No. UI 461.
[141] NIPPC's Final Draft RFP Comments. Pages 32-37.
[142] NIPPC's Final Draft RFP Comments. Pages 32-37.
[143] NIPPC's Final Draft RFP Comments. Page 36.
[144] NIPPC's Final Draft RFP Comments. Page 36.
[145] PGE's Final Draft RFP Comments. Page 36.

A decision in the affiliate docket is not required until January 2022. PGE plans to issue its RFP on December 6, 2021. As a result, PGE will likely have issued its RFP prior to the decision on the affiliate. Given that, Staff requests that PGE note the tentative nature of the affiliate bid in the RFP and that it is conditioned on the approval of the affiliate in Docket No. UI 461.

Regarding NIPPC's requests, Staff notes that the competitive bidding rules contemplate and plan for affiliate bids.[146] Affiliate bids must be treated in the same manner as other bids.[147] Individuals who participate in the development of the RFP or the evaluation or scoring of bids on behalf of the company are barred from participating in the preparation of an electric company or affiliate bid and must be screened from the process.[148] Furthermore, the IE has specific duties related to affiliate bids. The IE is required to independently score the affiliate bids to determine if the electric company's selections for the initial and final shortlists are reasonable.[149] In addition, the IE must evaluate the unique risks and advantages associated with any company-owned resources, including but not limited to the electric company's benchmark.[150] Finally, the IE is generally charged with overseeing the competitive bidding process to ensure that it is conducted fairly, transparently, and properly.[151]

The IE in this RFP is already engaging with regard to affiliate bids. In the Benchmark Requirements discussion of its Report, the IE discusses some of the requirements around affiliate bids and how PGE is currently complying with the requirements.[152] In addition, the IE identifies additional information needed for the IE to oversee the requirements, including a list of names of who is being screened in the company as a result of the affiliate bid.[153] The Company has agreed to provide that list.[154]

Staff is confident that an affiliate bid will be scored fairly. Furthermore, NIPPC's requests that the Commission require the affiliate bid to be treated as a benchmark bid and to also require further scrutiny of personnel beyond the RFP and access to data are not supported by the competitive bidding rules.

Regarding the former request, the Commission specifically made a distinction between benchmark and affiliate bids in the rules to allow for them to be treated differently.

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[146] OAR 860-089-0300(1).
[147] OAR 860-089-0300(1)(a).
[148] OAR 860-089-0300(1)(b).
[149] OAR 860-089-0450(5).
[150] OAR 860-089-0450(6).
[151] OAR 860-089-0450(1).
[152] See IE Report. Pages 15-17.
[153] See IE Report. Pages 15-17.
[154] See PGE's Final Draft RFP Reply Comments. Page

Further, Staff does not read the text of the adopted rules to mean that there is a difference between an affiliate and a separate affiliate as NIPPC suggests. The reference to separate affiliate bids distinguishes those bids from a benchmark. In addition, the details of the affiliate are still being discussed in Docket No. UI 461 and due diligence will be done to determine whether it meets the rules and requirements surrounding affiliates.

Regarding the latter request, OAR 860-089-0300(1)(b) only requires that individuals who participate in the development of the RFP or the evaluation or scoring of bids on behalf of the company are barred from participating in the preparation of an electric company or affiliate bid and must be screened from the process. Given that the RFP scoring and modeling methodology was addressed in the IE selection docket as opposed to the IRP, there is even less of a concern that employees who participated in the IRP process would need to be screened here.

- *Long-lead-time resources*

Swan Lake and Goldendale raised concerns that despite the changes the Commission directed during approval of the scoring and modeling methodology, long-lead-time resources may not be able to bid or fairly compete in this RFP.[155] Swan Lake and Goldendale pointed to two main issues – the Commercial Operation Date (COD) non-price scoring and the transmission requirements.

Swan Lake and Goldendale explained that while there are 88 points available under the Commercial Operation Date scoring, long-lead-time resources would receive zero points under the scoring as they would come online after December 31, 2024.[156] As a result, long-lead-time resources would lose out on 88 of the possible 300 non-price points, or about 30 percent of the overall non-price score.[157]

Regarding PGE's transmission requirements, Swan Lake and Goldendale argued that the transmission requirements for dispatchable resources may serve as a barrier to bidding for resources that are distantly-located from PGE's system.[158] Swan Lake and Goldendale explained that long-lead-time resources which have many years of development ahead, should not be required to have 100 percent long-term firm transmission at the start. In addition, Swan Lake and Goldendale argued that the requirement to have entered into BPA's Transmission Service Request (TSR) Study and Expansion Process (TSEP) study if relying on BPA transmission service is

[155] Swan Lake and Goldendale Comments on the Final Draft RFP. Page 10.
[156] Swan Lake and Goldendale Comments on the Final Draft RFP. Pages 2-3.
[157] Swan Lake and Goldendale Comments on the Final Draft RFP. Pages 2-3.
[158] Swan Lake and Goldendale Comments on the Final Draft RFP. Pages 3-6.

unnecessarily narrow as there may be other factors and possibilities for delivering output.[159]

Swan Lake and Goldendale recommended instead that "a sound and reasonable transmission plan" should be sufficient as a minimum requirement. And, at the very least, projects that have an active Transmission Service Request (TSR) with the expectation of participating in a future TSEP such that they can reasonably meet their expected online date, should be considered, even if they are not in the current TSEP. Swan Lake and Goldendale also noted that the window for joining the TSEP process this year preceded the issuance of the Final Draft RFP.[160]

Swan Lake and Goldendale also raised the point that PGE may be facing a higher capacity need in the 2025-2027 timeframe than the current needs assessment provided factors in, making long-lead-time resources more attractive.[161] This would be due to HB 2021 requirements as well as the likely retirement of Colstrip Units 3 and 4.[162] Along these lines, RNW also noted in its comments that additional detail on PGE's 2027 capacity need could be helpful.[163] Specifically, RNW recommended PGE provide high, reference, and low-need cases and a table showing sensitivities like it did for the 2025 capacity need.[164] Similarly, AWEC also recommended additional analysis on what capacity need long-lead-time resources would be filling.[165]

Finally, NIPPC recommended that PGE include objective criteria to assess whether other long-lead-time resources beyond pumped storage would be allowed.[166]

In response to Swan Lake and Goldendale's scoring concerns, PGE explained the benefits of projects coming online earlier than 2027 given significantly reduced risk as it relates to PGE's approaching capacity and expected resource adequacy needs.[167] As a result, PGE did not offer a change in the Commercial Operation Date non-price scoring.

PGE did however agree to consider alternative transmission plans, provided bidders provide a clear and executable path to procuring transmission service.[168] PGE explained that the plans would necessarily need to include study process milestones

[159] Swan Lake and Goldendale Comments on the Final Draft RFP. Page 4.
[160] Swan Lake and Goldendale Comments on the Final Draft RFP. Pages 4-5.
[161] Swan Lake and Goldendale Comments on the Final Draft RFP. Pages 6-8.
[162] Swan Lake and Goldendale Comments on the Final Draft RFP. Pages 6-8.
[163] RNW's Comments on the Final Draft RFP. Page 7.
[164] RNW's Comments on the Final Draft RFP. Page 7.
[165] AWEC's Comments on the Final Draft RFP. Pages 2-3.
[166] NIPPC's Comments on the Final Draft RFP. Page 31.
[167] PGE's Reply Comments on the Final Draft RFP. Page 22.
[168] PGE's Reply Comments on the Final Draft RFP. Page 7.

and reference to public study results for similar projects.[169] The plans would also need to meet the transmission product and quantity requirements of the RFP.[170] PGE explained that its review of the plan's viability will focus on the assurance that required transmission service would be awarded in time to support project Commercial Operation Date and any effective date of signed definitive agreements.[171] PGE also noted that any transmission plan that does not meet the RFP requirements will be reviewed by PGE and the IE to assess its viability prior to any disqualification decision.[172] Finally, PGE noted that, should Congressional action extend the availability of federal tax credits, PGE will work with the IE to consider how additional time made available for tax credit qualification could allow for broader bidder satisfaction of PGE's transmission requirements.[173]

Regarding stakeholder requests for additional capacity need information for post-2025, PGE noted that it will address capacity needs following 2025 as part of the 2023 IRP.[174] However, PGE did generally agree that capacity need will likely persist after the 2025 timeframe and that additional procurements may continue to be needed.[175]

Staff Analysis and Recommendation
As Swan Lake and Goldendale noted, PGE has already made changes to the Commercial Operation Date non-price scoring based on the Commission's prior Order. Staff and the Commission unfortunately did not have the benefit of Swan Lake and Goldendale's comments when recommending these previous scoring changes. However, the adjustments to the scoring for Commercial Operation Date were intended to allow for long-lead-time resources to better compete in the RFP.[176] Not only was the specific scoring for the Commercial Operation Date reduced from what was proposed, the weight of the overall non-price scoring was reduced from 40 percent of the total scoring to 30 percent of the total scoring.

Staff understands Swan Lake and Goldendale's comments to suggest that there should not be any reduced scoring based on Commercial Operation Date. Staff disagrees. Staff can understand the benefit to PGE of having resources in place prior to 2025 and even earlier for planning purposes and to avoid potential delays. At the same time, Staff also recognizes the importance of long-lead-time resources and tried to strike a balance with

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[169] PGE's Reply Comments on the Final Draft RFP. Page 7.
[170] PGE's Reply Comments on the Final Draft RFP. Page 7.
[171] PGE's Reply Comments on the Final Draft RFP. Page 8.
[172] PGE's Reply Comments on the Final Draft RFP. Page 8.
[173] PGE's Reply Comments on the Final Draft RFP. Page 7.
[174] PGE's Reply Comments on the Final Draft RFP. Page 27.
[175] PGE's Reply Comments on the Final Draft RFP. Page 27.
[176] See Order No. 21-320, Appendix A – Staff's Memo. Pages 19-21.

the previous scoring changes. Staff therefore does not recommend additional changes at this point.

Staff would note that the IE included a recommendation that could potentially get long-lead-time resources another look if they do not rise to the top in the scoring in this RFP. The IE proposed, and PGE agreed, to add language to ensure that it can make selections to the initial shortlist in order to provide diversity with respect to items such as fuel type, transaction type, technology, and location.[177] As a result, PGE will have more flexibility to consider the benefits of portfolio diversity and risk protection – and long-lead-time resources could be part of that consideration.

In addition, PGE's agreement to consider alternative transmission plans from bidders may also help long-lead-time resources participate in the RFP as Swan Lake and Goldendale had advocated. Finally, Staff appreciates that PGE included the possibility that long-lead-time resources other than pumped-hydro could be considered in the RFP and feels that PGE has provided enough information to allow for assessment of those.

Regarding the interest in additional information on PGE's needs assessment post-2025, Staff appreciates the points stakeholders raised. The Commission asked PGE to provide an annual forecast of capacity need, which PGE provided.[178] The information provides some insight into the questions stakeholders raised. The Commission also requested updates regarding ongoing resource adequacy conversations as well as any additional analysis to address questions around maximizing the RFP for HB 2021 compliance.[179] As a result, Staff anticipates that there will be continued conversation around PGE's capacity needs as it relates to this RFP and will work with PGE to identify what additional analysis is possible.

- *Miscellaneous minimum bid requirements*

Stakeholders and the IE raised some new issues regarding the minimum bid requirements. These include issues on the interconnection requirement, credit requirements, Commercial Operation Date, and the non-disclosure agreement.

- Interconnection requirement: NIPPC requested the Commission require PGE to update its Final Draft RFP to only require that bids supply a System Impact Study

[177] See PGE's Reply Comments on the Final Draft RFP. Pages 32-33. See also the IE Report on the Final Draft RFP. Page 6.
[178] See PGE's Final Draft RFP, Appendix Q – Resource Needs. Pages 3-4. See also Order 21-320, Appendix A – Staff's Memo. Pages 13-15.
[179] Order No. 21-320, Appendix A – Staff's Memo. Recommendations 2 and 5.

(SIS) to qualify for the final short list.[180] Bidders are currently to provide an SIS to qualify for the initial short list and a completed Interconnection Facilities Study (FAS) to qualify for the final short list).[181] PGE noted that the requirements are properly staged to allow adequate time for the complete facilities study prior to the final shortlist. And, given the importance of the FAS to inform planning and costs, PGE would not adopt the suggestion. Staff agrees with PGE that keeping the requirements the way they are for now is important.

However, PGE noted that if Congressional action extends the availability of federal tax credits within the timeline of the solicitation, PGE will consult with the IE to evaluate the impacts of allowing for additional time for bidders to complete the SIS and FAS studies.[182] (Staff included a Commission recommendation related to Congressional action in the docket schedule section later in this memo).

- Credit requirements: The IE pointed out that the credit requirements in the Final Draft RFP were unclear. The IE presumed that the intent of the requirements was that (a) any non-investment grade bidder must provide support from a qualified institution no matter their transaction structure and (b) that the support may be either a letter of credit or guarantee.[183] NIPPC supported the IE's interest in clarifying this particular item and advocated for the latter requirement to be as the IE presumed.[184] PGE clarified in its Reply Comments that both a letter of credit and parent guarantee for non-investment grade bidders are required.[185] Staff understands PGE's interest in requiring both and the IE does not object.

  The IE also noted that it was unclear what happened if a bidder is rated by only one or two rating agencies listed, and/or the bidder has differing ratings.[186] The IE recommend that when a bidder is rated by only two agencies, the bidder be assigned the lower of the two ratings, or in the case of multiple ratings, be assigned the majority opinion. PGE agreed to include that language in the Final RFP.

- Commercial Operation Date extension to 2025: RNW asked that PGE also allow renewables bids with 2025 Commercial Operation Dates to help address the

[180] NIPPC's Reply Comments on the Final Draft RFP. Pages 37-38.
[181] PGE's Final Draft RFP. Page 16.
[182] PGE's Reply Comments on the Final Draft RFP. Pages 8-9.
[183] IE Report on the Final Draft RFP. Page 7.
[184] NIPPC's Comments on the Final Draft RFP. Page 22.
[185] PGE's Reply Comments on the Final Draft RFP. Page 30.
[186] IE Report on the Final Draft RFP. Page 7.

need for additional resources to meet HB 2021.[187] While PGE did not specifically respond to this request in its Reply Comments, PGE has declined to make a change to that date in the past. Staff is comfortable with PGE not extending the date, especially given the efforts already being made in this RFP to better understand PGE's HB 2021 compliance needs and plan (see HB 2021 section below).

- Commercial Operation Date extension for transmission delays: The IE suggested that PGE consider allowing bids that are otherwise qualified but are delayed beyond 2024 solely due to a transmission provider's actions.[188] NIPPC offered support for the IE's suggestion.[189] PGE responded that bidders have had ample time since the acknowledgement of the 2019 IRP to make progress towards meeting transmission and interconnection milestones in the RFP.[190] Further, PGE noted that it would be difficult for PGE to determine the cause of the delay or verify that it was due to the transmission provider.[191] Staff discussed PGE's response with the IE and the IE agreed with PGE that it would be difficult to implement the suggestion. PGE has also, subsequent to the IE's suggestion, agreed to provide more flexibility around transmission plans as discussed in the long-lead-time resources section below.

- Non-disclosure agreements: NIPPC raised concerns regarding the non-disclosure agreement that bidders must sign to participate in the RFP.[192] NIPPC specifically requested that PGE remove the $500,000 cap on the amount of liability damages because it is not sufficient to cover all potential damages, and remove the two-year limitation on the protections of the NDA, as it should be effective indefinitely.[193] PGE characterized NIPPC's requests as "out of market and not reasonable."[194] Staff does not believe changes are warranted here.

Looking Ahead

Assuming the Final Draft RFP is approved, there is a lot more work ahead in the docket. In addition, the Commission has continued to have interest in the experience in this docket helping to inform the operation of the competitive bidding rules. This section discusses some of the key issues and work ahead including: HB 2021, sensitivities, the

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[187] RNW's Reply Comments the Final Draft RFP. Page 4.
[188] IE Report on the Final Draft RFP. Page 17.
[189] NIPPC's Reply Comments on the Final Draft RFP. Pages 31-32.
[190] PGE's Reply Comments on the Final Draft RFP. Pages 9-10.
[191] PGE's Reply Comments on the Final Draft RFP. Pages 9-10.
[192] NIPPC's Reply Comments on the Final Draft RFP. Pages 27-29.
[193] NIPPC's Reply Comments on the Final Draft RFP. Pages 27-29.
[194] PGE's Reply Comments on the Final Draft RFP. Page 31.

overall docket schedule, and the possibility of future clarification of the competitive bidding rules. The docket schedule discussion is the only item with specific recommendations for Commission consideration.

- *HB 2021 Analysis*

Staff, the IE, and stakeholders have continued to raise questions and ideas about how to best maximize this RFP towards HB 2021 compliance.

In Order No. 21-320 approving the RFP's scoring and modeling methodology, the Commission directed PGE to do two things to help further this inquiry. First, as part of its analysis of the RFP bids, PGE was directed to run an analysis of an alternative procurement scenario for this RFP that would have PGE procure one-third of the estimated renewables need to meet the 2030 HB 2021 target.[195] Second, PGE was asked to work with Staff to determine what additional analysis may be available or could be provided over the course of the existing RFP timeline to further inform understanding of PGE's plan for HB 2021 compliance and how the current RFP might be leveraged to that end.[196] Staff anticipated this subject would be an ongoing conversation throughout the docket.

Staff, in its Comments on the Final Draft RFP, continued to note the expectation for, and importance of additional analysis. Staff raised the idea of a portfolio sensitivity analysis that explored the GHG risk of selected projects potentially serving as a useful proxy for assessing the impact of the RFP on HB 2021 compliance.[197,198]

In addition, Staff agreed with multiple recommendations from the IE regarding HB 2021 and the RFP. The IE noted that as part of HB 2021 implementation, utilities will submit clean energy plans and have community benefits and impact advisory groups that will consider items such as energy burden; contracting with businesses owned by women, veterans, or Black, Indigenous, or People of Color; environmental justice; customer experience; and other items. Given this, the IE suggested it might be useful for PGE to collect material related to these issues from bidders to see how various portfolios might affect these items.[199] Per this recommendation, Staff asked PGE to consider and

[195] See Order No. 21-320, Appendix A – Staff Memo. Recommendation 1.
[196] See Order No. 21-320, Appendix A – Staff Memo. Recommendation 2.
[197] Staff's Comments on the Final Draft RFP. Page 11.
[198] Staff also raised this idea in PacifiCorp's current RFP docket. See UM 2193, October 21, 2021 Public Meeting Memo, Regular Agenda Item No. 2, page 8: "Report PVRR resulting from adding a social cost of carbon at a 2.5 percent discount rate applied to emissions from PAC system with and without the ISL resources."
[199] Staff's Comments on the Final Draft RFP. Page 11. See also IE Report on the Final Draft RFP. Pages 14-15.

suggest what data it could collect from bidders to help inform PGE HB 2021 implementation efforts. In addition, Staff expressed support for the IE's suggestion that in addition to the alternative procurement scenario the Commission directed PGE to consider, the IE may also suggest more sensitivities at different levels of procurement.[200]

RNW asked that the one-third alternative procurement scenario not act as a ceiling for the RFP.[201] RNW notes that there may be competitive bids and additional analysis that could justify additional procurement.[202] It also noted that it looks forward to engaging with any work between Staff and PGE to determine what additional analysis may help further inform PGE's plan for HB 2021 compliance and how the current RFP might be leveraged to that end.[203]

AWEC raised concerns about the level of analysis provided by PGE to-date regarding the alternative procurement scenario.[204] AWEC argued that PGE did not provide a basis for choosing one-third as opposed to any other amount and provided no explanation of what factors will lead it to procure or decline to procure the additional resources.[205] AWEC also pointed out that the additional procurement appears to be limited to just renewables as opposed to any non-emitting resource that would be equally compliant with HB 2021.[206] Given the lack of supporting analysis, AWEC recommended that the Commission should not take an affirmative position on the RFP.[207]

PGE explained that it anticipates producing analysis in support of any additional procurement as part of the RFP timeline.[208] PGE re-affirmed its commitment to work with Staff as outlined in Order No. 21-320 to determine what additional analysis could be provided.[209] PGE also explained that it would work to clearly articulate what would constitute favorable procurement conditions under HB 2021, and that should favorable procurement conditions arise, PGE expects to substantiate that evidence in its final short-list acknowledgement filing.[210] PGE noted that it does not consider the one-third alternative procurement scenario as a cap.[211] PGE did not address Staff's specific

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[200] Staff's Comments on the Final Draft RFP. Pages 10-11. See also IE Report on the Final Draft RFP. Page 11.
[201] RNW's Comments on the Final Draft RFP. Page 2.
[202] RNW's Comments on the Final Draft RFP. Page 2.
[203] RNW's Comments on the Final Draft RFP. Page 2.
[204] See AWEC's Comments on the Final Draft RFP. Pages 1-2.
[205] AWEC's Comments on the Final Draft RFP. Pages 1.
[206] AWEC's Comments on the Final Draft RFP. Pages 1-2.
[207] AWEC's Comments on the Final Draft RFP. Pages 3-4.
[208] PGE's Comments on the Final Draft RFP. Pages 27-28.
[209] PGE's Comments on the Final Draft RFP. Page 28.
[210] PGE's Comments on the Final Draft RFP. Page 28.
[211] PGE's Comments on the Final Draft RFP. Page 28.

interest in a GHG risk sensitivity nor did it address Staff's inquiry regarding what data PGE could collect from bidders to help inform PGE HB 2021 implementation efforts.

Staff Analysis and Recommendation
Staff continues to recommend consideration of how to maximize this RFP for HB 2021 compliance. Staff disagrees with AWEC that PGE has not provided any data to support consideration of an alternative procurement scenario in this RFP. Staff asked a variety of questions during the scoring and modeling methodology discussion to elicit insight into PGE's HB 2021 compliance needs and plan.[212] PGE responded with a preliminary analysis that included an estimate of the resources needed to meet the 2030 compliance target.[213] Staff based the one-third alternative procurement scenario on this analysis.[214]

With that said, Staff agrees that additional analysis is needed to support actual pursuit of the alternative procurement scenario (or a different alternative procurement scenario). Staff noted that running the alternative procurement scenario would itself provide data to support discussion of whether PGE should procure more in the current RFP.[215] Further, as noted above, the IE agrees that this specific scenario, and additional alternative procurement sensitivities can be informative. In addition, as noted above, the Commission directed Staff and PGE to work together to identify any additional analysis that could be informative to the issue.

Towards that end, Staff has offered some additional analysis and ideas including a GHG risk sensitivity. In its Reply Comments, PGE noted discussion with Staff of other sensitivities including a tax credit extension, low market price, and no market price sales.[216] While the ones PGE cited may help make the case, Staff does not view these sensitivities as exclusively tied to HB 2021 analysis as Staff had been pursuing these since the IRP and prior to passage of HB 2021. Staff also notes that PGE has made some changes to how it plans to deploy ROSE-E to hopefully help provide additional information regarding the RFP and HB 2021 compliance (see discussion of ROSE-E changes towards the beginning of the memo).

Staff expects that if and when the time comes for PGE to make a case for procurement based on an alternative procurement scenario, there will be robust discussion of the supporting data for doing so. As PGE has noted, PGE will need to make the case to the Commission prior to the final short list being acknowledged. Whether or not the

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[212] Staff's Comments on the Scoring and Modeling Methodology. Pages 4-6.
[213] PGE's Reply Comments on the Scoring and Modeling Methodology. Pages 2-6.
[214] Order No. 21-320, Appendix A – Staff's Memo. Page 12.
[215] Order No. 21-320, Appendix A – Staff's Memo. Pages 9-13.
[216] PGE's Reply Comments on the Final Draft RFP. Page 28.

Commission is willing to acknowledge a final short list that follows an alternative procurement scenario ultimately depends on the extent of the analysis that can be provided. To that point, Staff does not preclude the possibility that the analysis ultimately provided could justify going above and beyond the one-third alternative procurement scenario.

Further, Staff notes regarding AWEC's point about non-emitting resources, that it is also possible that PGE may want to pursue additional non-emitting resources to further compliance with HB 2021. In this case, it would be non-emitting dispatchable capacity as allowed by the RFP. Staff only discussed renewables in the alternative procurement scenario it recommended, as during the IRP process, there was a cap placed on the amount of renewables that could be procured through this RFP. Recognizing that, the alternative procurement scenario was intended to support inquiry into whether additional renewables should be considered in this RFP given the subsequent passage of HB 2021.

Staff understands from PGE's preliminary analysis that it also expects to need a significant amount of additional non-emitting dispatchable capacity to meet HB 2021 targets. Staff's understanding and expectation is that when PGE's modeling in ROSE-E identifies one-third of the resources needed to comply with HB 2021, it will include one third of both PGE's energy and capacity needs through 2030. Including one-third of PGE's capacity needs through 2030 should not require any modeling adjustment, since the amount of renewable capacity PGE is seeking in the RFP (372 MW) is already greater than one third of the Company's non-emitting capacity need through 2030 (one-third of 800 MW, or 267 MW.)[217] If the Company were to see a specific opportunity to procure additional non-emitting dispatchable capacity in furtherance of HB 2021 compliance in this RFP,such as a long-lead-time resource, PGE could attempt to make a case for it with additional analysis.

Staff appreciates PGE's continued commitment to discuss what additional analysis can be provided to inform maximizing the RFP for HB 2021 compliance. Staff plans to follow up with PGE to continue the conversation after the public meeting. Staff also plans to follow up with PGE on the IE's suggestion to see what data PGE could collect from bidders to further inform HB 2021 implementation efforts (e.g. data regarding contracting with businesses owned by women, veterans, or Black, Indigenous, or People of Color).

[217] PGE's Reply Comments on the Proposed Scoring and Modeling Methodology. September 13, 2021. Page 3,7.

- *Sensitivities*

PGE continues to note that it plans to conduct a low market price sensitivity as well as a PTC extension sensitivity to inform its portfolio analysis.[218] The general idea for these sensitivities was agreed to during the 2019 IRP process.[219]

Staff Analysis and Recommendation
Regarding the PTC extension sensitivity, Staff and PGE are currently considering a sensitivity that would assess a PTC extension at 60 percent of the full PTC through 2030. Staff recommends including an ITC extension in this scenario as well. Staff also recommends a sensitivity that adjusts the value of any tax credit to benchmark or BTA bids should PGE's filed affiliate transaction in Docket No. UI 461 not be approved.

For the low market price sensitivity, Staff and PGE have discussed using a low market price forecast that holds prices nearly constant in real dollars. This is consistent with recent forecasting by the Northwest Power and Conservation Council.[220]

Staff also recommended an additional sensitivity that uses a low market price forecast, holding prices nearly constant in real dollars, and also extends the PTC and ITC at current levels through 2030. This will serve as a bookend sensitivity and a test of the economics of the final shortlist under adverse circumstances. In PacifiCorp's RFP in Docket No. UM 2059, a sensitivity was run with no market sales allowed and a PTC/ITC extension through 2030. This would also be acceptable as a bookend scenario in PGE's RFP.

Staff would expect that PGE conduct and provide the results of these sensitivities no later than March 22, 2022, under the current schedule.

Staff continues to plan to work with PGE and stakeholders to identify additional sensitivities. For example, Staff in its Comments on the Final Draft RFP, floated the idea of a sensitivity around the possibility of up to 2.6 GW of off-shore wind (OSW) on the west coast by 2030, as well as a sensitivity modeling the effects of large, highly flexible loads that represent potential hydrogen electrolysis facilities. Considering the effects of OSW and hydrogen will help consider whether the final shortlist is reasonable if OSW and new, flexible hydrogen load are added to the system.

Each sensitivity should consist of two model runs: one model run to consider the PVRR effects of the sensitivity conditions on the final shortlist, and another model run to

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[218] Final Draft RFP, Appendix N – Scoring and Modeling Methodology. Page 17.
[219] Order No. 21-129, Appendix A – Staff Memo. Page 25.
[220] add 2021 plan ref

identify the set of RFP bids that would be selected if the sensitivity assumptions were expected to prevail.

Staff also notes that there are ongoing conversations at the federal level regarding the tax credits discussed above, so adjustments may need to be made to what is laid out above based on any changes made at the federal level. The IE also noted that after receiving the modeling results, the IE may also request additional sensitivities to help illuminate key risks and choices.[221] Staff similarly would reserve this right. In addition, stakeholders may have recommendations regarding additional sensitivities.

- *Docket schedule*

The formal docket schedule included a footnote that PGE expected to publish the RFP shortly after Commission approval of the RFP.[222] The schedule also did not provide specific dates associated with the solicitation of bids.[223] Finally, the schedule also noted that the dates for the shortlist acknowledgement may need an adjustment as the work proceeds.[224]

PGE provided a more detailed schedule in its Final Draft RFP for the RFP publication, solicitation of bids, and some of the other steps prior to filing the request for acknowledgement of the final shortlist.[225] That schedule slates PGE to publish the Final RFP on December 6, 2021, and to collect bids through January 17, 2021.[226] Dates subsequent to that are noted as subject to change depending on the quantity and complexity of bids received and should circumstances require.[227] Stakeholders offered commentsed on some of those dates, including the best and final price offer as discussed earlier in the memo.

In addition, PGE noted multiple times throughout its filing that should Congressional action extend the availability of federal tax credits within the timeline of the solicitation, PGE would consider how additional time made available for tax credit qualification may allow for flexibility to address some of the timing issues within the RFP. Specifically, PGE mentioned this regarding the requirements related to transmission and interconnection.[228,229]

[221] IE Report. Page 15.
[222] DOJ Scheduling Memo. August 3, 2021.
[223] DOJ Scheduling Memo. August 3, 2021.
[224] DOJ Scheduling Memo. August 3, 2021.
[225] PGE’s Final Draft RFP. Page 8.
[226] PGE’s Final Draft RFP. Page 8.
[227] PGE’s Final Draft RFP. Page 8.
[228] PGE’s Reply Comments on the Final Draft RFP. Pages 8-9.
[229] PGE’s Reply Comments on the Final Draft RFP. Page 7.

Staff Analysis and Recommendation
Staff notes that the dates PGE provided are consistent with the outline of the published docket schedule, but not inclusive of all the items in the published docket schedule post RFP-approval (e.g. the Commission workshops are not included for the final shortlist acknowledgement). Staff also continues to understand and note that the dates beyond PGE's bid deadline of January 17, 2022, are subject to change.

Staff is unclear when exactly PGE will know whether those dates can be met or need to be adjusted. Staff also notes the interest of some stakeholders to see more time for the best and final price offer. As a result, Staff wants to make sure that PGE is taking stakeholder feedback into consideration as the RFP progresses, and if circumstances allow, provide a longer time period for the best and final price offer or other items. Further, Staff wants to make sure that PGE discusses the potential for schedule changes as soon as possible with Staff.

In addition, Staff notes PGE's statements about the potential for Congressional action to extend the tax credits possibly providing more flexibility for some of the RFP requirements. Relatedly, Staff is under the impression from developing the docket schedule with the ability to take advantage of the tax credits in mind, that Congressional action to extend the tax credit qualification, could also potentially result in a reconsideration of the schedule. As a result, Staff would want to make sure that if Congressional action to extend the tax credit qualification occurs, PGE notifies Staff shortly thereafter to discuss the implications for the schedule and the RFP requirements.

As a result, **Staff recommends the Commission require PGE to:**

10) **Consider any feedback on the schedule as the RFP progresses and provide for a longer time period if circumstances allow, particularly for the best and final price offer. In addition, notify Staff as soon as possible if PGE sees a need or opportunity to adjust the schedule.**

11) **Notify Staff as soon as possible should Congressional action to extend the tax credit qualification occur to discuss the implications for the schedule and the RFP requirements.**

- *Potential future clarification of the competitive bidding rules*

Staff would continue to note that the Commission, during the 2019 IRP process, expressed interest in clarifying how it interprets OAR 860-089-0250.[230] That rule sets

[230] Order No. 20-152. Page 27.

out the requirements for the design of the requests for proposals. The Commission specifically noted its intent to explain what information about scoring and associated modeling is required in an IRP to avoid the extra step of a workshop on scoring and methodology in the IE selection docket.[231]

Staff previously explained that given the time constraints in this docket, Staff has not been able to fully address this. Staff notes that the level of detail in the proposed scoring and modeling methodology and the comments and recommendations of Staff and stakeholders throughout the process should at least be instructive.

Staff has also been keeping track of specific items to further inform this effort as they have surfaced in the docket. For example, conversations around the scoring and modeling methodology have continued into this Final Draft RFP portion of the docket. Stakeholders who commented on the scoring and modeling methodology previously, also raised new issues on the approved scoring and modeling methodology in the Final Draft RFP conversation (e.g. NIPPC and RNW raising labor requirements). In addition, stakeholders who did not comment on the scoring and modeling methodology prior to Commission approval, commented on the scoring and modeling methodology in comments on the Final Draft RFP (e.g. Swan Lake and Goldendale comments). These developments underscore the interest in the scoring and modeling methodology and the need to clarify when and where it will be addressed.

Similarly, the role and timing of the IE weighing in on the scoring and modeling methodology is another important consideration that has become apparent in thinking about any clarification of the rule. The IE plays an important role in reviewing the scoring and modeling methodology. Yet, the IE is typically not involved in the IRP docket, and instead is involved in the IE Selection/RFP docket. In addition, the IE is required by the rules to submit a formal report on the scoring and modeling methodology at the Final Draft RFP stage, but not necessarily before then.[232] Staff in this docket had the IE informally weigh in on the scoring and modeling methodology with Staff prior to recommending the Commission approve the scoring and modeling methodology. But, following the requirements in the rules, the IE also raised some items regarding the scoring and modeling methodology in its report on the Final Draft RFP. The IE noted some of the ambiguity that surfaced from their perspective in this process.[233]

Given the scope of issues that have surfaced, Staff anticipates that addressing the Commission's interest here may benefit from a specific conversation outside of this

[231] Order No. 20-152. Page 27.
[232] See OAR 860-089-0450(3).
[233] See IE Report on the Final Draft RFP. Page 3.

docket. Other utilities who may not be following this docket also have a stake in any clarifications regarding the rule. Further, questions around the operation of the rule are coming up in other dockets. For instance, Staff is currently faced with the unique situation of PacifiCorp having submitted its scoring and modeling methodology for its 2022 All-Source RFP in both its IRP docket and its RFP docket.[234] These PacifiCorp dockets are moving concurrently, raising questions about in which, or both dockets the scoring and modeling methodology should be addressed and to what extent.[235]

Staff working between these dockets have been in close communication regarding the issues that have surfaced as well as how to best address them. Staff plans to propose a strategy for moving the conversation forward in the future.

Good cause for expedited review
PGE included a request for expedited review of the Final Draft RFP.[236] In support of its request, PGE noted the progress made to date in the docket including approval of the scoring and modeling methodology.

Staff Analysis and Recommendation
Staff finds that there is good cause for expedited review. As PGE noted, the scoring and modeling methodology, an important issue in the RFP, has been thoroughly discussed and approved.[237] In addition, Staff and stakeholders developed and supported a docket schedule that includes the expedited review.[238] The schedule runs through mid-June of next year and includes dates for a Commission decision on approval of the scoring and modeling methodology on October 5, 2021 (which occurred as scheduled), approval of the final draft RFP on December 2, 2021, and a tentative date of June 14, 2022, for acknowledgment of the final shortlist.

Conclusion

As discussed above, Staff did a substantial review of PGE's Final Draft RFP. The IE also thoroughly reviewed the Final Draft RFP, using the competitive bidding rules as a guide, and provided recommendations, many of which PGE agreed to include or are the subject of Staff's recommendations. Staff finds that the Final Draft RFP, with a few

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[234] See PacifiCorp's 2021 IRP (Docket No. LC 77) and PacifiCorp's 2022 All-Source RFP Docket (Docket No. UM 2193).
[235] See Staff's Memo dated October 11, 2021 in Docket No. UM 2193 (PacifiCorp's 2022 RFP). Pages 9-12.
[236] See Page 3 of the Final Draft RFP filing.
[237] See Order No. 21-320.
[238] DOJ Scheduling Memo. August 3, 2021. See also Order No. 21-235 directing Staff to engage stakeholders on the development of a schedule that includes an adequate opportunity for stakeholder review of the RFP design and scoring and modeling methodology.

modifications, meets the requirements set out in the competitive bidding rules as well as the Commission direction in Order No. 21-320. A summary of Staff's recommendations for Commission consideration is included below.

Summary of Staff recommendations for Commission consideration
Staff recommends the Commission require PGE to:

1) **Prior to publication of the Final RFP, compute and publish the ELCC for a solar plus 6-hour duration storage resource equal to 50 percent of the solar nameplate and include that in the ELCC calculator tool it provides with the Final RFP.**

2) **Provide an analysis comparing each bid's ELCC estimation using the calculator tool, as compared to the actual ELCC values PGE publishes for the bids with the initial short list.**

3) **Consider ways to allow bidders to most accurately calculate the ELCC for self-scoring bids in future RFP processes (assuming PGE continues to use the level capacity ratio non-price scoring element or another element that relies on the ELCC).**

4) **Inform the Commission as soon as possible if it decides to make Colstrip transmission rights available for a benchmark bid and provide an explanation of any conditions and limitations on the transmission rights; how those conditions and limitations would be applied similarly for the other bidders; as well as how and when PGE would inform other bidders of the transmission rights being made available.**

5) **Either adjust the storage contract liquidated damages to match the liquidated damages across the other contracts as originally proposed by the IE, or include the higher liquidated damages in the storage contract as well as for storage resources in the EPC/APA contracts.**

6) **Add limits on liability for the PPA per the IE's recommendation.**

7) **Remove the specific provision referencing Commission approval from the Buyer Conditions Precedent term or clarify that it is referencing final short list acknowledgment by the Commission.**

8) **Make the narrow adjustment in the non-price scoring for EPC/APA bids to two subcategories instead of three as recommended by the IE.**

9) **In the Final RFP, include the additional detail regarding selection of the final shortlist using traditional metrics that PGE included in its Reply Comments.**

10) **Consider any feedback on the schedule as the RFP progresses and provide for a longer time period if circumstances allow, particularly for the best and final price offer. In addition, notify Staff as soon as possible if PGE sees a need or opportunity to adjust the schedule.**

11) **Notify Staff as soon as possible should Congressional action to extend the tax credit qualification occur to discuss the implications for the schedule and the RFP requirements.**

PROPOSED COMMISSION MOTION:

Grant expedited review and Approve PGE's Final Draft RFP with the recommended modifications outlined in the Summary of Staff Recommendations.