

(RFP) and engage the services of an independent evaluator to oversee the RFP process.^{1,2}

Upon request or its own motion, the Commission may waive any of the Division 089 rules for good cause shown.³ If a request for waiver is made, it must be made in writing to the Commission prior to or concurrent with the initiation of a resource acquisition.^{4,5}

In addition, when a resource or contract is of sufficient duration and size to be subject to the rules, there are also four specific competitive bidding rule exceptions.⁶ They are:

- 1) Emergency.
- 2) Time-limited opportunity to acquire a resource of unique value to the electric company's customers.
- 3) Explicit acknowledgement by the Commission of an alternative acquisition method proposed in the IRP.
- 4) Exclusively acquiring transmission assets or rights.

Within 30 days of seeking to acquire a resource under one of the exceptions, the electric company must file a report with the Commission explaining the relevant circumstances.⁷

Analysis

Summary of Docket

On December 9, 2021, Idaho Power filed an application for a waiver from all of Oregon's Competitive Bidding Rules. The application notes three overarching reasons for the waiver request:

1. Idaho Power asserts that it is in an urgent situation with regards to its near-term capacity needs and the length of the Oregon's CBR process would cause a delay, which would put its system reliability at risk.
2. The OPUC can achieve levels of RFP oversight and transparency, equivalent to those designed into Oregon's CBR, by allowing Idaho Power to utilize an

¹ OAR 860-089-0250.

² Under OAR 860-089-0200(1).

³ OAR 860-089-0010(2).

⁴ OAR 860-089-0010(2)(a).

⁵ "Resource acquisition" is defined in OAR 860-089-0020(9) to refer "to a process for the purpose of acquiring energy, capacity, or storage resources that starts with... [c]ommunication of a final offer or receipt of a final offer in a two-party negotiation."

⁶ OAR 860-089-0100(3).

⁷ OAR 860-089-0100(4).

alternative procurement process they developed based on Idaho's CPCN process.

3. Operating the 2022 AS RFP under one regulatory process is superior to operating under two different processes and the Company prefers the use of their proposed process, which is based on the Idaho Public Utilities Commission's (IPUC) process for acquiring resources under Idaho's Certificate of Public Convenience and Necessity (CPCN).

To this end, Idaho Power also requested that the IPUC approve the Company's proposed alternative procurement process.⁸ As part of this request, Idaho Power also sought relief from a previous IPUC decision directing the Company to use Oregon's CBRs when applicable.⁹ On February 4, 2022, in Order No. 35314, the Idaho Public Utilities Commission denied all stakeholder requests to dismiss the Company's application and allowed Idaho Power's application using an alternative procurement process to proceed. The IPUC has not issued a final decision.

With regards to the process in Oregon, by early January 2022 Staff had issued 39 information requests. On January 10, 2022, Staff met with the Idaho PUC staff to discuss Oregon's CBRs. Staff postponed presenting its recommendations to the Commission at the February 8, 2022 Public Meeting, after speaking with stakeholders. Staff instead hosted a workshop on February 7, 2022, outlining Staff's position. Approximately 10 people attended and no comments on Staff's position were submitted to the docket afterwards. Attendees included representatives from Idaho Power, Stop B2H, NIPPC, and RNW.

Background to Company's Capacity Position

In May 2021, Idaho Power announced that the Company's near-term capacity position had suddenly worsened. Improved modeling using revised assumptions pointed to Idaho Power facing a capacity shortfall of an additional 101 MW in 2023, which would worsen until the Boardman-to-Hemmingway transmission came on-line in 2026.¹⁰ This new capacity shortfall would occur despite the 2021 AS RFP, which was issued on June 30, 2021 and sought to acquire 78 MW of new resources by 2025.

The Company's May announcement of a sudden capacity shortfall came almost immediately following the Oregon Commission's acknowledgement of their 2019 IRP in

⁸ See IPUC Docket E-21-41.

⁹ *Ibid.*

¹⁰ See UM 2210, Idaho Power's Initial Application for Waiver, December 9, 2021, page 6. While this new deficit was officially confirmed in May 2021 as part of the completed Valmy Unit 2 reliability and economic impact analysis, per Information Request #7 Idaho Power had known of this deficit since early 2021. In February and April 2021 Idaho Power had shared this information with its IRP Advisory Council.

April 2021 and the Idaho Commission’s acknowledgement in March of 2021.¹¹ In both IRPs, Idaho Power stated that it had no future capacity deficit until 2028. Idaho Power failed to update its PURPA Avoided Cost values with the numbers from their acknowledged IRPs – with a capacity sufficiency period until 2028 – and then shortly after later announced their capacity shortfall moved up five years to 2023 and added over 101 MW of new need.¹²

Table 1 from UM 2210 Filing

Table 1: Peak-Hour Load and Resource Balance	2023	2024	2025
	23-Jul	24-Jul	25-Jul
Surplus / Deficit (MW)	-101	-186	-311

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This marked deterioration of Idaho’s summer capacity position in 2023 through 2025 is due largely to three overarching factors. First, the market availability of transmission from the south of their territory dropped after the 2020 heat waves, limiting the Company’s ability to import power during the summer peak. Second, Idaho Power, in preparation for the next Idaho Power IRP (LC 78), made changes to how their IRP model (Aurora) approached forecasting peak (net vs. maximum demand) and for planning reserve margins. Third, the Company continues to experience very high load growth. Other factors, such as Demand Response timing availability and the postponement of the Jackpot solar project, also played a role.¹⁴

Company’s RFP Proposal

Idaho Power is seeking a complete waiver of Oregon’s CBRs so as to secure storage and generation resources to meet the identified deficits in 2023 through 2025 using an all-source RFP. The documentation and process for the 2022 AS RFP is largely based on the immediately preceding 2021 RFP. Bids for resources in the 2022 AS RFP must be capable of commercial operation by June 1, 2024. The 2022 AS RFP is using Black

¹¹ The 2019 IRP was not acknowledged until April 2021 due to two pauses in the IRP process for Idaho Power to ensure modeling was done accurately. New, amended updates to the 2019 IRP were issued in June 1, 2021 and October 10, 2021.

¹² See UM 2210, Initial Filing, Dec. 9, 2021, page 6.

¹³ *Ibid.*

¹⁴ Idaho Power received a waiver to the competitive bidding rules to execute the Jackpot Solar PPA on April 4, 2019 because the Company represented it as a time limited opportunity of unique value. See LC 68, Notice of Exception (860.089-0100) <https://edocs.puc.state.or.us/efdocs/HNA/lc68hna163119.pdf>. This 120 MW project is now delayed and will not meet its December 2022 on line date, over 3 years after receiving the exception.

& Veatch to assist with RFP development, guidance on the RFP process, but Black & Veatch will not participate in bid evaluations. Evaluation of bids will be completed by the Company. Bids are due by March 10, 2022, at which point the bid evaluation will begin.

To provide an opportunity for oversight of the 2022 AS RFP, the Company proposes to file a report at the conclusion of the RFP for Oregon Commission acknowledgement. This report will allow the Commission to review the results of the RFP. The report is comparable to the Idaho Commission's process for filing an application of Certificate of Public Convenience and Necessity (CPCN) for a resource. The Company asserts that their alternative procurement process is generally consistent with the goals of Oregon's CBRs.¹⁵

Staff's Assessment of Company's Good Cause for Waiver of All Rules

Oregon's CBRs can be waived, in part or in whole, based on a finding of good cause.¹⁶ Idaho Power's good cause arguments to waive all of Oregon's CBRs for their 2022 AS RFP can be distilled down into three assertions:

1. Due to various and previously unforeseen reasons, the Company has an urgent need for new resources, which cannot be acquired in a timely enough fashion using Oregon's CBRs
2. Idaho Power's proposed alternative process achieves the broad goals of CBR.
3. There is value to the Company if a single regulatory process for this resource procurement and given Idaho Power's unique, split territory – with only 5 percent of its load in Oregon – the Company prefers the use an alternative process based on the Idaho Commission's CPCN process.

In UM 2176, Staff identified three criteria it would use when evaluating claims of good cause to waive any or all of the Oregon CBR.¹⁷ Those three criteria are:

- Minimization of Long-Term Costs & Risks.
- Complements the Integrated Resource Plan (IRP) process.
- The alternative is transparent, understandable, and fair given the circumstances.

Staff reviewed the filings by Idaho Power in Oregon and Idaho, the subsequent information request responses by the Company, and stakeholder comments in the Idaho proceeding. Based on this research, Staff does not find that the preponderance of

¹⁵ The Company cites the language in OAR 860-089-0010(1) in this regard.

¹⁶ See OAR 860-089-0100(3) and (4).

¹⁷ See UM 2176, Order No. 21-328, October 6, 2021 page 1. The Commission adopted Staff's recommendation to grant PGE a waiver to the CBR, which was based on the logic that PGE's good cause reasoning met the evaluation criteria established by Staff.

the Company's arguments meet the Staff threshold for establishing good cause to recommend waiving the CBRs and for the Commission to utilize instead Idaho Power's proposed alternative procurement process. The CBR exception process may prove more appropriate for resource acquisition for the following reasons.

While Staff believes that the transmission market drastically changed for Idaho Power in 2020, at this point Staff cannot definitively state that the changes in modeling methodology are accurate enough to justify waiving the rules. Modeling mistakes happen, as we learned twice in the last IRP. To this end, discrepancies in stated capacity need are already appearing. Per the December 9, 2021, UM 2210 initial filing, Idaho Power's capacity need was 101 MW in 2023 and 311 MW in 2024. Less than two months later, in the revised January 29, 2022, RFP, the Company's capacity need was reduced to 85 MW in 2023 and 125 MW in 2025; a 15 percent and 60 percent reduction in capacity need respectively.

While this change may be due to the completion of the 2021 AS RFP, this was neither articulated to Staff nor did the RFP include a caveat that the need may shift due to the completion of the previous RFP. Staff cannot at this point assume 100 percent modeling accuracy *a priori* to an IRP review or that all of the information being used to make this recommendation is fully up-to-date. Again, the near-term capacity need is the leading justification for both the need for the 2022 AS RFP and for waiving all of the CBRs. In this sense it is indeterminate how the alternative proposed RFP process actually minimizes costs and risks or complements the IRP process relative to the CBRs.

The second reason involves the timing of the urgent situation. Idaho Power asserts that the Oregon CBR process is lengthy, from approximately one year to twenty months.¹⁸ PGE's current RFP will be completed in approximately 12 months and it is true that PAC's RFP can take more than 18 months due to the size and complexity of their multi-state system (e.g., waiting for cluster studies to complete). Regardless, Staff believes Idaho Power could have started the Oregon CBR process earlier, given the benefits of enhanced transparency and fairness. The Company filed the RFP waiver nearly a month prior to filing the IRP, with its detailed supporting analysis, and it knew of the additional capacity deficit as early as February 2021. Staff asked the Company why it did not include the additional capacity deficits as part of the 2021 AS RFP. The Company explained that in May 2021 it was in the early stages of its IRP process with evolving planning assumptions, and that the 2022 AS RFP would be "best solicited after the 2021 [IRP] was completed and resource needs were certain."¹⁹ However, Staff cannot confirm whether that 'certainty' was actually achieved.

¹⁸ See UM 2176, Idaho Power's Application for Waiver, December 9, 2021, pages 15 and 16

¹⁹ Idaho Power response to OPUC Staff DR 36

Beyond modeling and timing concerns, from a rate payer perspective, Staff is not sure the proposed alternative procurement process will result in minimized long-term costs and risk or a transparent, understandable, and fair process. Many of the key elements to rate payer protection, vis-à-vis a competitive process with clear and transparent scoring are lacking in Idaho Power's alternative procurement proposal. Most notably, the RFP will not use an Independent Evaluator, seek commission approval of the RFP and scoring methodology, score benchmark bids prior to other bids, or grant full access to the models and sensitivity analysis by Staff.

And while the capacity need driving the 2022 AS RFP comes from the IRP, the RFP will not use the IRP model to assess RFP projects against scenarios and sensitivities. Below is list of the key CBR elements Staff believes are lacking in Idaho's proposed alternative procurement process that raise some questions about the transparency and fairness of the 2022 AS RFP process and how costs and risks will be minimized. The items listed below demonstrate that a competitive process is most likely in place.

Key CBR Elements Not Found in Idaho's Proposed Process
Use of an Independent Evaluator at several key junctures in process
Review of Benchmark bids prior to reviewing other bids
Public Input & Commission Approval of Scoring & Modeling Methodology
Public Input & Commission Approval of RFP
Bidder ability to conduct self-scoring analysis of non-price criteria
Use of IRP model to analyze and test RFP projects and portfolios against sensitivities
Request of benchmark bid elements made available to all bidders
Not forcing transfer of ownership (i.e., the 2022 AS RFP battery ownership provisions)
Full access by Commission & IE into all models and sensitivity analyses

Staff's Rationale for Recommending the Exception Process Instead

The CBR includes an exception process. Specifically, if a resource is of sufficient duration and size for the CBRs to be applicable, the rules detail four instances in which the Company is not required to comply.²⁰ They are:

- An emergency;

²⁰ See OAR 860-089-0100(3) for full language.

- A time-limited opportunity to acquire a resource of unique value to the electric company's customers;
- An explicit acknowledgement by the Commission of an alternative acquisition method proposed in the IRP;
- Exclusively acquiring transmission assets or rights.

Within 30 days of seeking to acquire a resource under an exception, the Company must file a report with the Commission explaining the circumstances of the exception. The prudence of the costs associated with the procurement can then be determined in the next rate case.²¹

Staff believes approaching the Commission with an exception request for a given resource need may be better than a waiver in this situation for several reasons. First, if Idaho's assertions around immediate need are acknowledged in its 2021 IRP the Company can make the case for either an emergency or time limited opportunity to the Commission in the future.

Next, as stated previously, Staff finds that most of Idaho Power's good cause reasons did not fully substantiate how costs and risks would be minimized, how the proposed RFP was a complement to the IRP process, and how it would result in an RFP process that is as transparent, understandable, and fair as a process conducted under the CBR.

Staff sees granting a full waiver in this docket based on the good cause reasons presented by Idaho Power as potentially problematic in reviewing future waivers. Staff feels the waiver request should align with the evaluation criteria applied to prior waiver requests. Continuing to apply the criteria will allow for an alternative process that is sufficiently robust without sidelining an IRP or Clean Energy Plan review.

Rather than creating an example of how the CBRs can be waived based on rapidly changing market conditions, Staff hopes to work through HB 2021 implementation process in UM 2225 to establish a different path. Staff's aspiration is to improve and better harness Oregon's planning and competitive resource acquisition processes so the state can not only reach HB 2021's GHG reduction targets but also achieve the Legislation's policy goals around resiliency opportunities and the offsetting of fossil fuels with community-based renewables in the most cost-effective manner possible.

Finally, Staff also finds that allowing Idaho Power to replace Oregon CBRs with an alternative process, which includes a proposal to file report for acknowledgement by the Commission, grants the imprimatur of a Commission-sanctioned competitive process while Staff believes the actual competitiveness may be in question.

²¹ See OAR 860-089-0100(4) for full language.

Conclusion

Staff finds that the good cause reasons put forth by Idaho Power to waive all of Oregon's CBRs do not meet Staff's threshold for recommendation. Instead, Idaho Power should consider whether Oregon's CBR exception process may apply for any resource acquisitions to meet the shortfall identified in the waiver request.

PROPOSED COMMISSION MOTION:

Find that there is not good cause to waive all of the competitive bidding rules in OAR Chapter 860, Division 89 for the 2022 AS RFP and deny Idaho Power Company's waiver request.