

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2274

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY

2023 All-Source Request for Proposals,
Request for Partial Waiver of Competitive
Bidding Rules

NORTHWEST &
INTERMOUNTAIN POWER
PRODUCERS COALITION’S
COMMENTS ON PGE
SUPPLEMENTAL FILINGS

I. INTRODUCTION

The Northwest & Intermountain Power Producers Coalition (“NIPPC”)¹ respectfully submits to the Oregon Public Utility Commission (the “OPUC” or “Commission”) these comments in response to Portland General Electric Company’s (“PGE”) October 30, 2023 Affiliate Services Overview Memo and November 3, 2023 Supplemental Filing and the November 2, 2023 Administrative Law Judge (“ALJ”) ruling setting forth the new procedural schedule for PGE’s 2023 All-Source Request for Proposals (“2023 RFP”). NIPPC supports PGE moving forward with its RFP and proposes improvements to increase the number and quality of bids, and to ensure greater transparency and fairness. However, given PGE’s decision to not seek approval of the

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

affiliate application earlier, the lack of transparency and minimal to no meaningful changes to the RFP to account for the unique affiliate related risks, it is likely not possible for PGE's affiliate, Portland Renewable Resource Company, LLC ("PRR"), to bid into this RFP in a fair manner, and NIPPC strongly recommends that PRR not be permitted to submit any bids in this RFP. NIPPC is open to discussing changes to PGE's next RFP that could allow PRR to bid into that RFP.

If the affiliate will be allowed to participate in this RFP, then several changes are needed to reduce the unique risks of the affiliate. First, the affiliate should not have access to PGE-owned assets if third-party developers and non-utility owned bids will not have the same access. PGE should make these assets available to all bidders to use as they deem appropriate to ensure that ratepayer funded assets are not used by PGE to acquire a more risky and higher cost utility-owned resource.

Second, the affiliate form power purchase agreement ("PPA") cannot have any blanks because PGE has agreed the affiliate will not negotiate any provisions of the contract and there are several changes needed to the affiliate form PPA to address the unique risks associated with the affiliate. Third, regarding price conversion, the build-transfer agreement ("BTA") and asset purchase agreement ("APA") bid prices should be converted to PPA prices before selection on the final shortlist, PGE should provide a more detailed explanation on how the prices will be converted, and only the PGE RFP team should convert the bid prices. Finally, a price update should not be allowed after final shortlist acknowledgment.

II. COMMENTS

A. Legal Standard for Affiliate Structure

The Commission approved PGE's affiliate with conditions in Docket No. UI 489.² When the Commission approved PGE's use of PRR, the Commission stated "[g]iven the potential for PRR projects to have risks associated with performance, default, and other factors that are not the same as those implicated in traditional PPAs, the RFP process must review and consider these unique risks and ensure that they are addressed."³ The Commission noted there are unique risks associated with PGE contracting with PRR, such as performance and default, that are not the same as those in traditional PPAs.

PGE's proposed structure and use of PRR do not adequately address these unique risks. The only way to fairly have the affiliate participate in the RFP is to have PGE make a proposal early in the process. NIPPC has been trying to understand how the affiliate would participate in the RFP and has proposed recommendations to address the unique risks of the affiliate.

However, PGE has refused to make any meaningful changes to address the affiliate's unique risks.⁴ Instead, PGE has taken the position that

The clarifications made throughout the affiliate process, including as part of the company's application for reconsideration, have been intended to reduce areas of risk

² See *In re PGE Application for Affiliated Transaction with PRR*, Docket No. UI 489, Order No. 23-294 (Aug. 10, 2023).

³ Docket No. UI 489, Order No. 23-294 at 2.

⁴ See *generally* PGE's Supplemental Filing (Nov. 3, 2023).

that have been identified by the Commission and stakeholders.

...

The terms and conditions of the PRR-PGE PPA are standard commercial terms that PGE will enforce in the same manner as any other PPA. The Commission and stakeholders have ample experience reviewing the prudence of a utility's administration of PPA terms and conditions and will be able to follow those same practices in reviewing PGE's actions under the PRR-PGE PPA. It is also noteworthy that there will be additional opportunities to address concerns in other future proceedings. PGE will be required to submit the PRR-PGE PPA in a future affiliate interest filing. Moreover, any prudence issues with PGE's contract administration can be reviewed in the rate proceeding in which the cost associated with the PRR-PGE PPA will be included in customer rates.⁵

Thus, the Commission should not allow the affiliate to participate in this RFP, but if the Commission does allow the affiliate to participate in this RFP, then the Commission should adopt NIPPC's recommendations below to attempt to address the unique risks.

B. Affiliate Must Not Be Allowed to Bid Into the 2023 RFP

The Commission should reject PGE's proposed affiliate structure for participating in the 2023 RFP and not allow the affiliate to participate in this upcoming RFP. When PGE first sought PRR approval, Staff recommended approval only if its conditions were adopted and one condition stated "PRR's sole and exclusive purpose shall be *limited to*

⁵ PGE's Supplemental Filing at 1-2.

*bidding into PGE’s RFPs[.]”*⁶ When PGE refiled its application in Docket No. UI 489, PGE changed this condition to “[t]he sole and exclusive purpose of PRR is *to submit bids or to be used as a vehicle for evaluating utility ownership bids* submitted into PGE’s Request for Proposals (RFP) processes[.]”⁷ NIPPC is unsure why PGE added this language, but it does not conform with Staff’s original recommendation or the competitive bidding rules.

According to the competitive bidding rules, an electric company “may submit or allow its affiliate to submit bids” into the RFP.⁸ If they submit their bids, then “affiliate bids must be treated in the same manner as other bids.”⁹ Here PGE proposes a wide variety of special and more favorable treatment for its affiliate, which materially biases the RFP in PRR’s favor. In fact, unless the PRR resource is wildly excessive in costs or risk, it is difficult to see how PRR will not win this RFP.

Additionally, the Commission’s previous competitive bidding guidelines before the rules were adopted stated “A utility may allow its *affiliates to submit RFP bids*. If affiliates are allowed to bid, the utility must blind all RFP bids and treat affiliate bids the same as all other bids.”¹⁰ The guideline adopted by the Commission was similar to

⁶ *In re PGE Application for Approval of an Affiliated Interest Transaction with PRR*, Docket No. UI 461, Staff Report for the December 14, 2021 Public Meeting, Attachment 1 at 1 (Dec. 4, 2021) (emphasis added).

⁷ Docket No. UI 489, Application for Affiliated Interest Transaction with PRR, Attachment 2 at Condition 1 (May 22, 2023) (emphasis added).

⁸ OAR 860-089-0300(1).

⁹ OAR 860-089-0300(1)(a).

¹⁰ *In re Investigation Regarding Competitive Bidding*, Docket No. 1182, Order No. 06-446 at 5 (Aug. 10, 2006) (emphasis added).

Staff’s straw proposal to allow affiliates to bid into RFPs when Staff expressed concern with affiliates bidding into the RFP and stated “Staff continues to be concerned about the perceived credibility and fairness of the competitive bidding process. Staff continues to believe that there are sufficient independent sellers of most energy services to successfully complete an RFP without affiliate participation.”¹¹

PGE plans for PRR to be used only after a BTA or APA bid is selected on the final shortlist and PGE would enter into a PPA with PRR to purchase the energy from the project.¹² This is not PRR bidding into the RFP like the rules require.¹³ Thus, the Commission should reject PGE’s proposed structure for the affiliate to participate in the 2023 RFP and not allow PRR to participate in this RFP.

C. The Affiliate Should Not Have Access to PGE-Owned Resources that Third-Party Bidders Do Not

Another unique risk associated with the affiliate is related to the affiliate having unfair access to utility-owned resources while other bidders do not. PGE has stated it intends to use land in Northeast Oregon and generation capacity on a generation-lead line (from Grasslands substation to BPA’s Slatt substation) for this property, Biglow Canyon Wind Farm’s Large-Generator Interconnection Agreement (“LGIA”) and transmission rights with Point of Receipt (“POR”) at BIGLOW and Point of Delivery (“POD”) at

¹¹ Docket No. 1182, Staff Opening Comments at 3-4 and Straw Proposal at 1 (Sept. 30, 2005).

¹² PGE’s RFP Affiliate Services Overview Memo at 3-4 (Oct. 30, 2023).

¹³ In theory, PGE could seek to waive this rule if it shows good cause. OAR 860-089-0010(2). However, PGE has not sought a waiver nor identified any good cause to depart from the rule.

BPAT.PGE under the condition it cannot be redirected away, and Wheatridge Wind Farm's LGIA and transmission rights with POR at UMATILLA and POD at BPAT.PGE. PGE has noted its affiliate may take advantage of PGE-owned assets that will only be made available to utility-owned bids and not all bidders.¹⁴ If these PGE-owned assets have been funded by ratepayers, then that provides an unfair advantage to utility-owned bids and affiliate bids that is not provided to third party bidders.

If PGE is going to share PGE-owned assets with the affiliate, then the Commission should require PGE to share those same assets with third-party bidders. It would violate Oregon's competitive bidding rules for PGE to treat the affiliate bids in a more favorable same manner than other bids.¹⁵

Third-party bidders should also be able to use those assets as they see fit. Currently, PGE is only allowing bidders to use the assets if the resource will be utility-owned at a specific location. These assets should be available to any bidder regardless of ownership of the resource. Also, PGE has stated these resources cannot be redirected or must have specific PORs and POD. To the extent possible, a bidder should be allowed to redirect these assets. This will ensure customers are getting the least cost, least risk resource. In the alternative, if the Commission is unwilling to require PGE to share its assets with all bidders and allow bidders to use the assets as they want, then the Commission should prohibit the affiliate from using PGE-owned assets.

¹⁴ PGE's Reply Comments at 24-25 (June 28, 2023).

¹⁵ OAR 860-089-0300(1)(a).

D. Affiliate PPA

PGE plans to use a Commission-approved PPA form for the agreement between PGE and PRR, only updating the form PPA and exhibits for “project specific information.”¹⁶ Essentially, PGE is stating the form PPA will just be countersigned and there will be no negotiations that take place. With how the form PPA is currently drafted, this is not feasible, and the Commission should make several changes to an affiliate form PPA. NIPPC emphasizes that it has limited time to review the form PPA based on the recently approved affiliate structure, that these changes are not likely to be able to address all the unique risks associated with the form PPA, and, if additional time permitted, then more robust protections could be incorporated.

The recommended changes are intended to address the unique risks such as performance and default related to PGE contracting with itself. For example, will PGE strictly enforce any default or delay caused by PRR that it would if the PPA were a third party. PGE has more incentive to be lenient with PRR compared to a third-party developer. Also, what assurances does the Commission have that the affiliate PPA will be strictly or reasonably enforced like a third-party PPA, and what ability does the Commission have in the affiliate form PPA to review PGE’s actions and any lax enforcement? Thus, changes must be made to the affiliate form PPA to account for these unique risks. NIPPC emphasizes that these proposed changes are meant to address the

¹⁶ PGE’s RFP Affiliate Services Overview Memo at 3.

unique risks of PGE contracting with itself. These proposed changes would be inappropriate to use in a PPA with an independent power producer.

First, PGE claims it will just use the form PPA for the contract between PGE and PRR without substantive changes. However, there are several provisions in the form PPA that were left blank for negotiations or drafted in a vague way that needs clarification before a contract is executed. For example, in the draft form PPA, PGE appears to require a monthly performance guarantee, but the percentage for the performance guarantee is not clearly stated.¹⁷ PGE could drive a hard bargain with a third-party developer and require a monthly performance guarantee or a high yearly performance guarantee (like 90 percent), but require a lesser yearly performance guarantee (like 85 percent) for the PPA with PRR. Any affiliate form PPA should not leave blank these types of provisions that would provide an unfair negotiation advantage to PGE and PRR. The performance assurance for the affiliate form PPA should be the highest number from bidders in the last RFP¹⁸ or 90 percent annual output guarantee.

Second, for performance assurance requirements in the affiliate form PPA, the affiliate should be required to meet the security requirements with cash instead of a letter of credit from a Qualified Institution. Currently, PGE's form renewable PPA requires

¹⁷ See Final Draft RFP, Appendix E at § 6.1 (May 19, 2023) (discussing Seller's failure to delivery energy and refers to damages on a monthly basis); *see also* Draft RFP, Appendix E at "Specified Amounts" definition ("the amount of Facility Output generated by the Facility that Seller is expected to deliver to PGE at the Delivery Point for each monthly period during the Delivery Period.").

¹⁸ NIPPC does not know what these numbers are as it is Highly Confidential Information.

performance assurance of cash or a letter of credit as pre-commercial operation date (“COD”) security and delivery period security.¹⁹ A letter of credit or parental guarantee should not be allowed for PRR because the parent, PGE, would unfairly use its ratepayer-backed credit while third-party developers are not given that same opportunity. Using PGE’s credit will also put PGE credit at risk of downgrade if the affiliate fails (PGE’s shareholders would be harmed), which would be exacerbated by owing damages to PGE, which would further harm customers. Thus, the Commission should require the affiliate form PPA to require PRR to post cash performance assurance pre-COD security and delivery period security. The pre-COD security for the affiliate form PPA should be at least \$200/kW and the delivery period security for the affiliate form PPA should be \$100/kW, and \$25/kW higher than the security proposed by any PPA bidder in the last RFP due to the greater risk of harm to ratepayers than a traditional independent power producer PPA.

Third, the affiliate form PPA should delete the force majeure provision in Article 4 and delete references throughout the PPA to force majeure.²⁰ PGE is unlikely to hold PRR to the same force majeure standards as a third-party developer. PGE could be more lenient to PRR, which would be unfair and harm ratepayers. Thus, the Commission should remove the force majeure provision and any references to force majeure in the

¹⁹ See Final Draft RFP, Appendix E at Definition of “Performance Assurance” and §§ 9.1, 9.2.

²⁰ Final Draft RFP, Appendix E at Article 4.

affiliate form PPA. Instead, PRR should simply owe PGE contract damages for any traditional force majeure events.

Fourth, the affiliate form PPA should include a provision that allows regular (e.g., quarterly) audits by Commission Staff to ensure compliance with the affiliate PPA terms. This could provide at least a modicum of Commission oversight to oversee enforcement of any affiliate PPA.

Fifth, a provision should be added to the affiliate form PPA that when any default occurs, or the Commission initiates it in its oversight of the affiliate PPA, a Special Master should be appointed to the Commission to represent PGE customers.²¹ The Special Master would be independent of PGE and PRR and be in charge of determining how to enforce any defaults or disputes. The Commission would need to approve the Special Master and PGE's shareholders would pay for the Special Master. A process with a Special Master would reduce the self-dealing PGE could provide to PRR. It would also help in any reasonable enforcement of the affiliate PPA. Thus, the Commission should add a provision and process for a Special Master to be appointed when there is default in the affiliate form PPA, or the Commission determines a Special Master is needed based on its auditing power of the affiliate PPA.

Sixth, protections should be added to the affiliate form PPA to ensure the affiliate costs are not paid by PGE or PGE's customers. A provision should be added to the

²¹ A Special Master would have the same general duties as a trustee of a trust to manage the trust in a reasonable manner and avoid self-dealing (e.g., care, loyalty, and good faith).

affiliate form PPA for accounting protection to ensure the affiliate's expenditures and any potential damages owed to PGE under the PPA are accurately tracked and paid by PRR.

The affiliate form PPA also needs to clearly state that PRR cannot rely directly or indirectly on PGE to pay any damages owed under the PPA to PGE or to any third parties related to the proposed facility. These types of provisions could help protect PGE's customers.

Finally, the following changes should be made to the affiliate form PPA:

- Any sale of the project under Section 2.4 would first require Commission approval.
- The option to purchase or extend the term from Section 2.5 should not be allowed in the affiliate form PPA because either option should require PRR to bid the project into another RFP.
- In Section 3.8.1 and 3.8.2 for Transmission and Scheduling of Energy, the Transmission Upgrade Cost Cap is blank.²² This should not be left blank and should be the highest amount of any bid from PGE's 2021 RFP.
- In Section 3.8.2 for Transmission and Scheduling of Energy, the number of days after the Effective Date that the Seller must deliver to PGE copies of the transmission service agreements is blank.²³ This should not be left blank and should be the shortest time period of any bid from PGE's 2021 RFP.
- Any assignment under Section 15 should not occur without Commission approval.
- The affiliate form PPA needs more specificity in regard to dispute resolution in Article 18. For example, who are the senior managers that matters would be referred to in Section 18.1? Who would file legal action and participate in mediation in Sections 18.2 and 18.3? There needs to be more explanation on how the dispute resolution would work if there were a disagreement between PGE and PRR. The Special Master should be appointed in these situations.

²² See Draft RFP, Appendix E at § 3.8.1.

²³ See Draft RFP, Appendix E at § 3.8.2.

- Article 20 discussed confidentiality. This whole article should be deleted for an affiliate form PPA as everything should be public and be able to be reviewed.
- To achieve Commercial Operation there are several events that must occur as listed under the definition of Commercial Operation in the form PPA. There needs to be clarity under the affiliate form PPA on who is going to complete these events and who is going to review to determine if the project can become commercially operational. Either the Commission or a Special Master should be the entity that determines if they are met.
- Section 8.4 on no consequential damages should be removed. If ratepayers are harmed, then they should be fully compensated for that harm. NIPPC is not arguing for a prudence disallowance, but there should not be a provision in the affiliate form PPA that prevents the recovery all damages to ratepayers.
- Sections 11.1.1 and 11.1.2 on the *Mobile Sierra* standard of review and the waiver of Federal Energy Regulatory Rights should be deleted.
- In Section 18.5, PGE should not have to owe attorneys' and legal fees to PRR.
- Any notices sent to PGE or PRR under Section 21.1 should also be sent to the Commission.

E. Converting the BTA or APA Price to a PPA Price

PGE explains that it plans to have the PGE benchmark team convert any PGE-sponsored BTA or APA bid price into a PPA price, and the PGE RFP team convert any third-party BTA or APA bid price into a PPA price using “standard economic practices.”²⁴ The price conversion would also take place after a bid is selected on the final shortlisted and the BTA or APA contract is executed.²⁵ PGE has not provided a

²⁴ PGE’s RFP Affiliate Services Overview Memo at 3.

²⁵ PGE’s RFP Affiliate Services Overview Memo at 3.

formula or example calculation for this price conversion.²⁶ Further, PGE has not shared the price conversion methodology with the IE for the IE's review.²⁷

1. PGE's Explanation on Price Conversion Is Too Vague

PGE states it will "use standard financial formulas to ensure that PRR's ownership costs, whether through an APA or BTA, are recovered through PPA contract prices."²⁸ PGE explains that "financial formulas would be applied so that the present value revenue requirement of all future forecasted PPA payments is less than or equal to the present value of the future forecasted revenue requirement of the APA or BTA as evaluated in the RFP." PGE did not provide any formulas for these conversions or an example calculation.²⁹

NIPPC asked PGE to explain in detail how the prices would be converted, but PGE's responses are very high level and vague. PGE's conversion would be a black box that bidders and stakeholders would not be able to review. Currently, there is no transparency into how PGE will convert the prices. For example, the PPA price could be substantially affected by the discount rate used to come up the present value requirement or affected on whether the PPA price is levelized (i.e., front loaded in the early years of the PPA) or escalates to a higher price in later years.

PGE's explanation on how it will convert the prices is so vague that the Commission should not allow the affiliate to participate in this RFP. There is simply too

²⁶ See PGE Response to NIPPC Data Request 82 (Attachment A).

²⁷ See PGE Response to NIPPC Data Request 82 (Attachment A).

²⁸ See PGE Response to NIPPC Data Request 82 (Attachment A).

²⁹ See PGE Response to NIPPC Data Request 82 (Attachment A).

much discretion for PGE to ensure that PRR wins the RFP based on this factor alone. If the affiliate will be allowed to participate in this RFP, then the Commission should require PGE to provide more explanation and details on how the prices will be converted from a BTA or APA price to a PPA price, and to review its reasonableness now. The Commission noted the unique risks of an affiliate PPA and there is no way to address and understand those risks unless PGE clearly explains in detail how the prices will be converted. Thus, if the Commission will allow the affiliate to participate in this RFP, the Commission should require PGE to provide a more detailed explanation on how the prices will be converted.

2. PGE’s RFP Team Should Convert All BTA or APA Bid Prices to PPA Prices or Third-Party Bidders Should Be Allowed to Convert Third-Party BTA or APA Bid Prices to PPA Prices Similar to How PGE Proposes to Have the PGE Benchmark Team Convert PGE-Sponsored BTA or APA Bid Prices to PPA Prices

Currently, PGE plans to have the PGE benchmark team convert any PGE-sponsored BTA or APA bid price into a PPA price, and the PGE RFP team will convert any third-party BTA or APA bid price into a PPA price.³⁰ PGE explains the “PGE benchmark team is best positioned to convert executed PGE-sponsored benchmark BTA or APA bids to a PPA price due to their familiarity of those bids.”³¹ The PGE benchmark team is supposed to submit bids while the PGE RFP team is supposed to design the RFP and score and evaluate bids.

³⁰ PGE’s RFP Affiliate Services Overview Memo at 3.

³¹ See PGE Response to NIPPC Data Request 81 (Attachment A).

If PGE insists on having the PGE benchmark team convert any PGE-sponsored BTA or APA bid prices to PPA prices, then the third-party developers should also be able to convert their BTA or APA bid prices to PPA prices instead of the RFP team. Third-party developers would also be most familiar with those bids. However, NIPPC recommends the Commission require the PGE RFP team to convert all BTA or APA bid prices to PPA prices for uniformity and fairness. Otherwise, it would provide PGE an unfair advantage for PGE's benchmark team to convert its BTA or APA-sponsored bid prices to PPA prices while the PGE RFP team converts third-party BTA or APA bids. The PGE benchmark team would have an incentive to convert the price in an advantageous way while the RFP team would not have that same incentive for third-party BTA or APA bids.

3. The BTA and APA Bid Prices Should Be Converted to PPA Prices Before Selection on the Final Shortlist

Currently, PGE plans to convert BTA and APA bid prices to PPA prices after a bid is selected on the final shortlist and the BTA or APA contracts has been executed.³² PGE states it will score the BTA or APA bids “based on the submitted BTA or APA price, with tax credit assumptions around normalization.”³³ Thus, a bid that was scored and evaluated based on a BTA or APA price would be converted to a PPA bid and price after selection on the final shortlist.

³² PGE's RFP Affiliate Services Overview Memo at 3.

³³ See PGE Response to NIPPC Data Request 84 (Attachment A).

These BTA and APA bids should be scored, evaluated, and selected to the final shortlist based on the PPA price not a BTA or APA price. If PGE will score and evaluate the bid based on the submitted BTA or APA price, then there is no reason the PGE RFP team could not convert the prices to PPA prices first before bids are scored and evaluated for consideration on the final shortlist. The competitive bidding rules require benchmark bids and affiliate bids to be treated in the same manner as other bids.³⁴ If other bids will be scored and evaluated for consideration on the final shortlist by their final bid price/structure, then BTA and APA bids should be scored and evaluated with the converted PPA price before selection on the final shortlist. Thus, the Commission should direct PGE's RFP team to convert all BTA and APA bid prices to PPA prices *before* being scored and evaluated for the initial or final shortlist.

F. Do Not Allow a Price Update After Final Shortlist Acknowledgment

In PGE's 2021 RFP, PGE provided bidders with an opportunity to update their prices due to "disruptive and persisting macroeconomic factors (i.e., supply chain challenges, inflationary environment) and the passage of the Inflation Reduction Act of 2022."³⁵ We recommend the Commission not allow a price update for PRR until after final shortlist acknowledgment due to concerns related to access to highly confidential bidder information. Members of the affiliate team have had previous access to highly confidential bidder information, such as pricing from PGE's last RFP, and that

³⁴ OAR 860-089-0300(1)(a).

³⁵ *In re PGE 2021 All-Source Request for Proposals*, Docket No. UM 2166, PGE's Independent Evaluator Analysis of All Source Price Update Informational Filing at 1 (Sept. 30, 2022).

information should not be allowed to be used to update a bid price that the affiliate will be involved with. Thus, the Commission should direct PGE that bidders will not be allowed to update prices after shortlist acknowledgment.

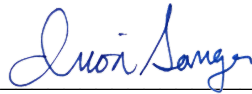
III. CONCLUSION

NIPPC appreciates the effort that PGE has put into the preparation of its RFP and urges the Commission to direct PGE to make all changes and clarifications identified in these comments.

Dated this 17th day of November 2023.

Respectfully submitted,

Sanger Law, PC



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Intermountain Power Producers Coalition

Attachment A

PGE Data Responses to NIPPC

November 9, 2023

To: Irion Sanger
Northwest and Intermountain Power Producers Coalition

From: Erin Apperson
Assistant General Counsel III

Portland General Electric Company
UM 2274
PGE Response to NIPPC Data Request 081
Dated November 1, 2023

Request:

In PGE's RFP Affiliate Services Overview Memo, PGE states "[u]pon execution of the PGE-sponsored benchmark BTA or APA between PRR and the third-party, PGE's benchmark team would then convert the BTA or APA price to a PPA price utilizing standard economic practices" (the left side column in the diagram on page 5) and "[u]pon execution of the BTA or APA between PRR and the third-party, PGE's RFP evaluation team would then convert the BTA or APA price to a PPA price utilizing standard economic practices" (the right side column in the diagram on page 5). Please explain why the PGE benchmark team and PGE RFP evaluation team are both converting the BTA or APA price to a PPA price. Why is one of the teams not converting all the BTA or APA prices to PPA prices?

Response:

The PGE benchmark team is best positioned to convert executed PGE-sponsored benchmark BTA or APA bids to a PPA price due to their familiarity of those bids. The RFP Staffing Principles would still be enforced during the process of converting BTA or APA bids to a PPA price, so the PGE benchmark team is precluded from working on converting any third-party developer BTA or APA bid to a PPA price.

November 9, 2023

To: Irion Sanger
Northwest and Intermountain Power Producers Coalition

From: Erin Apperson
Assistant General Counsel III

Portland General Electric Company
UM 2274
PGE Response to NIPPC Data Request 082
Dated November 1, 2023

Request:

PGE references “price utilizing standard economic practices” when a BTA or APA price will be converted to a PPA price.

- a. Please explain in detail how the price will be converted.
- b. Is there a set formula that converts the price or is it different for each bid.
- c. Please provide an example of the calculations for converting a BTA or APA price to a PPA price.
- d. Has the Independent Evaluator reviewed the methodology that will be used to calculate the prices? If so, please provide such review.

Response:

- a. PGE plans to use standard financial formulas to ensure that PRR’s ownership costs, whether through an APA or BTA, are recovered through PPA contract prices. The standard financial formulas would be applied so that the present value revenue requirement of all future forecasted PPA payments is less than or equal to the present value of the future forecasted revenue requirement of the APA or BTA as evaluated in the RFP. This standard financial formula would be applied to all bids, including both benchmark APA and BTA and third-party APA and BTA bids. The terms and conditions of the formula are set in advance via adherence to the Form PPA to be approved in UM 2274. PGE is incentivized to ensure that the PPA price is no greater than the BTA or APA bid price as evaluated in the RFP, because the PPA price would be reviewed for regulatory prudence in a subsequent ratemaking process. The IE review and report will serve as another checkpoint to ensure prudent decision-making.
- b. See response to subpart a.
- c. There is no existing calculation to share. PGE will follow the approach described in subpart (a) to convert the BTA or APA price to a PPA price. The price conversion will focus on the economic principle of keeping the present value revenue requirement of all future forecasted PPA payments to less than or equal to the present value of the future forecasted revenue requirement of the APA or BTA as evaluated in the RFP.

- d. The Independent Evaluator (IE) has not reviewed any methodology for converting a BTA/APA acquisition to a PPA structure. As with prior RFPs, PGE expects that the IE will maintain involvement throughout the process and will review the conversion as it occurs.

November 9, 2023

To: Irion Sanger
Northwest and Intermountain Power Producers Coalition

From: Erin Apperson
Assistant General Counsel III

Portland General Electric Company
UM 2274
PGE Response to NIPPC Data Request 084
Dated November 1, 2023

Request:

PGE states it will convert the BTA or APA price to a PPA price after the bid is selected on the final shortlist and the BTA or APA is executed between PRR and the third-party developer. Please explain why the BTA or APA price is not converted to a PPA price before the scoring and evaluation of bids.

Response:

The BTA or APA contract needs to be negotiated and executed before the initial BTA or APA price can be converted to a PPA price. PGE will score bids based on the submitted BTA or APA price, with tax credit assumptions around normalization. If top performing, PGE will identify the bid as part of the final shortlist request for acknowledgment and will begin commercial negotiations from the price submitted as BTA/APA. This process flow is intended to remove subjectivity of a BTA/APA to PPA conversion during the scoring process, and would look to request regulatory acknowledgment based on the price submitted by the bidder. PGE would then look to convert to a PPA price that does not exceed the BTA/APA price, taking into account the PPA form contract and the contractual BTA or APA risks, which will vary between different third parties.