

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 2274**

In the Matter of

PORTLAND GENERAL ELECTRIC,

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

OREGON SOLAR + STORAGE INDUSTRIES
ASSOCIATION COMMENTS ON STAFF'S
REPORT

The Oregon Solar + Storage Industries Association (“OSSIA”) timely submits these comments on the Oregon Public Utility Commission (“PUC or Commission”) Staff Report in Docket No. UM 2274, Portland General Electric’s (“PGE”) 2023 Draft Final All-Source Request for Proposals (“RFP”). These comments will follow the recommendations laid out by staff for ease of comparison. For the reasons laid out below, OSSIA supports many of the recommendations Staff puts forward in the Staff Report and OSSIA recommends some additional modifications to the Draft RFP.

I. Comments

A. Scoring and Modelling Methodology

At the outset, OSSIA would like to thank Staff for the well thought out staff report. OSSIA supports the conditions staff recommended placing on the scoring and modelling methodology (“SMM”) as they help to alleviate some concerns with the RFP. However, OSSIA recommends a modification to Condition 11 to ensure the RFP is fair and enables the independent evaluator to see all the resource options available.

OSSIA is supportive of Staff's recommendation to add SMM Condition 1 directing PGE to remove footnote 4 from the Minimum Bidder Requirements ("MBR") in Appendix N. While footnote 4 and 5 are nearly identical, footnote 5 provides a better explanation of how the narratives on permitting will be evaluated.

OSSIA is supportive of Staff's recommendation to add SMM Condition 2 directing PGE to remove the requirement for a Project Labor Agreement ("PLA") from the MBRs in Appendix N. OSSIA previously argued that a PLA goes beyond what is required to comply with ORS 757.306 and is instead one of the mechanisms for compliance. This change reflects current law in Oregon and allows for other means to demonstrate compliance with labor requirements.

OSSIA is not opposed to Staff's recommendation to add SMM Condition 3. While the requirement to provide a redline of the contract with a bid is not customary, it may provide some insight into the nuances of each bid and other elements of each bid's price. The value of this requirement is subject to some subjective assessment by the Independent Evaluator ("IE"), and the insight the redline provides is still subject to change substantially during commercial negotiation.

The interconnection and transmission aspects of the MBRs have improved since the initial draft, and OSSIA is supportive of the conditions staff recommends. However, there are some changes that are necessary to ensure bids have a viable pathway to interconnection and transmission. We support PGE's inclusion of the IE recommendation to ease the requirements for submission of a completed facilities study. We would emphasize Staff's comment that the interconnection process is a potential bottleneck due to long queues and delays in Bonneville Power Administration cluster studies.

OSSIA is supportive of SMM Condition 4 that requires PGE to consider projects using Conditional Firm, System Conditions (“CF-SC”) transmission products as conforming. BPA is no longer offering Conditional Firm, Number of Hours (“CF-NH”) transmission products, it would be unduly burdensome if BPA’s other offerings were not considered conforming. OSSIA is also supportive of SMM Condition 5, to reduce the transmission requirement for the renewable resources included in Appendix N of the RFP from 80 percent of the resource’s interconnection limit to 70 percent. PGE’s Integrated Resource Plan identified a substantial capacity and energy need in the planning window; it is appropriate to lower the threshold at the initial bid stage to see the wide range of projects being developed that may meet PGE’s system needs. We also appreciate PGE confirming that it would provide a cure period for bidders which can be used to address deficiencies in alternative transmission paths.

OSSIA is supportive of SMM Condition 10, which allows bidders using CF-SC transmission rights to propose their own curtailment parameters, subject to commercial negotiation with PGE and review by the IE. However, OSSIA is opposed to SMM Condition 11, which directs PGE to model the capacity of resources with CF-NH transmission products such that 50 percent of curtailable hours would occur within PGE’s peak hours of need. While PGE’s proposed curtailment during 100 percent of all of PGE’s is extremely conservative, the PUC decision in the 2021 RFP was still fairly conservative. It is unreasonable to assume that level of curtailment on a yearly basis, the PUC’s decision to choose 50 percent is more representative of a 1 in 20 years severity on their presumed curtailment. While we appreciate staff reducing the assumed level of curtailment, it may be appropriate to reduce that figure even further.

OSSIA is supportive of SMM Condition 7 directing PGE to not add or apply any cost of imputed debt to the price scores of any bids. Renewable Northwest and the Northwest

Independent Power Producers Council made a compelling case for the proper exclusion on imputed debt in this RFP. It is unlikely a single PPA would lead to imputed debt and the Commission has set a clear precedent that it is better to address in general rate cases.

B. Draft RFP Review Comments

OSSIA is supportive of PGE's decision to adjust its approach to Commercial Operation Dates ("COD") in this RFP by accepting CODs through December 31, 2027, for resources seeking to meet its energy needs. Additionally, OSSIA is supportive of Staff's RFP Condition 2 that directs PGE to develop a set of guidelines to describe how it will prioritize its selection of projects if there are insufficient resources available to meet its capacity need by the December 31, 2025, COD. Absent some guidance on this prioritization, it would be extremely difficult if not impossible to determine how or why one bid was selected over another if there are insufficient capacity resources by the December 31, 2025, COD. OSSIA further recommends that PGE provide schedule relief for projects that a viable path to COD but encounter interconnection or supply chain delays that are out their control. PPA terms should ensure there is some relief to projects to account for delays out of their hands.

OSSIA is supportive of RFP Condition 3 directing PGE to provide specific details for each benchmark bid and if they will be transferred to the Affiliate Interest. Access to this type of information is important for transparency which is integral to the competitive process.

C. Affiliate Interest Participation

On the whole, OSSIA does not feel that Portland Renewable Resource Company ("PRR") should be participating in the 2023 RFP even as a mechanism to realize ITC benefits. While Staff's conditions work to alleviate some of the overarching concerns there are existing negative impacts on competition and fairness in the competitive bidding process that are not

resolved. OSSIA remains concerned about PGE's ability to contract with itself in a fair manner. While IE oversight is useful, it does not prevent PGE from later amending the contract with PRR to give the project a reprieve that a third-party developer would be unlikely to receive. These inherent risks may not be apparent until a subsequent rate case, but in the meantime, they will continue to pose risks to the competitive procurement process. The Commission should not allow the affiliate to participate or bid into this RFP. OSSIA supports the arguments that NIPPC makes in opposition to the affiliate's participation.

If the Commission does decide to allow PRR to participate, OSSIA requests some modifications to some conditions and additional scrutiny on the affiliate's activities in this RFP and should be subject to reassessment before it participates in any future RFP. OSSIA is supportive of PRR Participation Condition 1, which directs PGE to provide the IE a list of all employees working as part of the RFP team, the Benchmark team, and any employees performing duties on behalf of PRR. For transparency, OSSIA requests that this list of employees be available to all bidders after PGE files its Final Shortlist and again after it has completed negotiations for all PRR bids.

OSSIA supports Staff's recommendations on PPA conversion methodologies that encourage transparency into the process. PRR Condition 3 requires PGE to publicize its formula for forecasting PPA prices as part of the RFP evaluation for Initial Short List ("ISL") and Final Short List ("FSL") selection. This reduces the black box and provides insight to all bidders and is better for the competitive procurement process. Similarly, PRR Participation Condition 4, allows ITC-e bidders to include a forecasted PPA price in their bid that the IE can compare with the forecasted price by the RFP team and the final executed PPA price. This will enable the IE to have insight into how prices have changed throughout the negotiation process and avoids some

concerns that prices will be increased following the FSL selection. While bid prices may change during contract negotiations, they should not increase drastically after bids were eliminated prior to the selection of the FSL. Lastly, OSSIA appreciates PRR Participation Condition 5, which states the RFP Evaluation team is responsible for converting BTA/APA prices to PPA prices. This ensures that the Benchmark team does not have an unfair advantage over other third-party bidders.

On the form PRR PPA, OSSIA is supportive of the changes staff recommends changing in the PRR PPA. Specifically, OSSIA appreciates Staff's recommendation that any damages resulting from a PRR project would be paid by PGE shareholders, not ratepayers, and that this provision should be clearly articulated in the form PRR PPA.

D. Form Contract Provisions

OSSIA is supportive of the contractual provision changes laid out in NIPPC's comments. While Staff argues that the form contract being subject to commercial negotiation and no longer subject to non-price scoring elements alleviates some concerns on specific provisions, OSSIA argues there is need for some provisions to be altered prior to commercial negotiation to ensure competition and fairness in the RFP.

OSSIA argues that changes are necessary to the form PPA for third party bidders. Specifically, Section 2.5 of the form PPA, the right of first offer for project purchase is especially problematic for third party developers because it makes projects essentially non-financeable. The provisions of this Right of First Offer provision are especially onerous as it allows a 180-day period to negotiate definitive agreements as well as additional regulatory approval time thereafter. Additionally, if during the ROFO process a bidder rejects a firm offer from PGE, for two years the project cannot sell for a lower price without first offering it to PGE

under this provision. OSSIA believes this provision should be removed from the form PPA and that if it cannot be removed, then there should be a carve-out that it does not apply to financing transactions and only applies for one year. Additionally, Section 3.1.19 ROFO Following Termination, requires that if PGE terminates the Agreement due to Seller Event of Default, PGE has two years of ROFO before the seller can sell output to a third party. The damages provisions in the event of default are sufficient to prevent Seller defaults. OSSIA recommends that this provision should only extend for one year and that it should not apply after the COD.

OSSIA is supportive of RFP Condition 8, that the Form Contracts must clarify that a project can comply with state and federal labor requirements in the various applicable ways under those laws. This change is in line with the change to the SMM change on PLAs.

E. Miscellaneous Considerations

OSSIA supports Staff's commitment to suggest changes to the RFP Final Short List subject to changes in LC 80 and the Commission's decision in UM 2273. Additionally, OSSIA supports Staff's comments that the schedule may need to be adjusted. OSSIA also requests that Staff potentially adjust the RFP schedule to reflect implications of BPA's TSEP and TC-25 process. Both of those processes have profound implications on project viability and projects abilities to interconnect that could materially affect bids leading up to selection of the FSL.

Conclusion

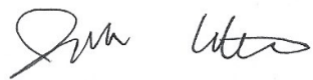
OSSIA appreciates the effort that Staff and PGE have put into their review and revisions of the draft RFP and urges the Commission to recommend the changes included in these comments. OSSIA is supportive of many of Staff's recommendations and believes that with some additional modifications the RFP will be in a better position to procure meaningful

additions to the grid and begin moving the needle towards compliance with HB 2021's annual goals.

Dated this 21st day of December 2023.

Respectfully Submitted,

Oregon Solar + Storage Industries Association

A handwritten signature in black ink, appearing to read "Jack Watson".

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