



Portland General Electric Company
Legal Department
121 SW Salmon Street • 1WTC1301 • Portland, Oregon 97204
portlandgeneral.com

Erin Apperson
Assistant General Counsel III
erin.apperson@pgn.com

November 3, 2023

Via Electronic Filing

Public Utility Commission of Oregon
Attention: Filing Center
P.O. Box 1088
Salem, OR 97308-1088

Re: UM 2274 – In the Matter of Portland General Electric Company, 2023 All-Source Request for Proposals

This filing is submitted in accordance with the procedural schedule in UM 2274 and with the Public Utility Commission of Oregon’s (OPUC or Commission) direction in Order No. 23-294 that as part of affiliate approval “the RFP process must review and consider these unique risks and ensure that they are addressed.” Portland General Electric Company (PGE or company) appreciates the comments submitted and the Commission direction in Docket UI 489 – reviewing the potential use of an affiliate structure – and PGE has clarified the planned use of the affiliate in response. 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 that have been identified by the Commission and stakeholders. The structure and planned use of the affiliate is summarized in PGE’s Affiliate Services Overview Memo, filed October 30, 2023, in this proceeding.

As noted in PGE’s application for reconsideration of Order No. 23-294, the company intends to use Portland Renewable Resources (PRR or Affiliate) “as a vehicle to realize tax benefits for either a benchmark-sponsored resource or a traditional third-party developed resource if selected on the final shortlist and ultimately acquired through a build and transfer agreement.”¹ PGE further committed at the October 17 public meeting and in the company’s October 30, 2023 filing in Docket UM 2274 that “PRR will not submit a bid into the 2023 RFP. Rather, PGE’s RFP team will evaluate all investment tax credit eligible solar ownership bids...assuming that the investment tax credit can be immediately recognized (not normalized).”² The diagram included on page 5 of the affiliate services overview outlines the point at which the affiliate would become involved in any resource procurement effort and further confirms that all staffing principles will be in full effect: no members of PGE’s benchmark team will see third-party bids at any point, regardless of PRR’s potential use.

¹ PGE Application for Reconsideration or Motion for Clarification at 5.

² PGE Affiliate Services Overview Memo at 2.

Further, in Order No. 23-294, the Commission has instructed PGE to use the form agreement ultimately approved within UM 2274. PGE has issued draft form PPA agreements that would govern the terms between PGE and PRR (and avoid any need for a negotiation to take place), and PGE confirms that the company will use these form agreements as they are approved by the Commission.

As PGE has, in response to stakeholder feedback, committed that PRR will not be a bidding entity in the RFP, confirmed that the company will maintain staffing principles in accordance with the competitive bidding rules throughout the process, and will use the form PPA to be approved in UM 2274 to govern all terms and conditions between PGE and the affiliate, we are not proposing any additional changes as part of the RFP process at this time. Our understanding is that these clarifications/confirmations have materially changed the potential risk profile of using the affiliate and have served to address questions around incremental fairness that have arisen.³

NIPPC has suggested that issues in the contract administration of the PRR-PGE PPA may create additional risk. We have heard no reasonable basis for this position. 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.

PGE looks forward to feedback from stakeholders on the question of what additional unique risks may exist and why any such risks are not adequately and more appropriately addressed in other Commission proceedings such as the PGE-PRR PPA affiliate filing or in any cost recovery proceeding associated with including the cost of the PGE-PRR PPA in customer rates. We will then respond when we have future opportunities to comment.

Sincerely,



Erin Apperson
Assistant General Counsel III

³ For clarity, we use the phrase "incremental fairness" because that term was used at the public meeting. We understand that term to focus the test on whether the use of PRR causes any unfairness to bidders to distinguish arguments against the use of PRR that are more properly directed at aspects of the current RFP process under the existing CBRs. By using the term "incremental unfairness" we do not believe that the Commission's comments or these PGE comments should be interpreted as acknowledging that the current RFP process under existing Commission rules is unfair to bidders. While PGE believes that aspects of the CBRs should be changed (for example, the CBR's prohibition of the use of shared subject matter experts), PGE maintains that the existing rules adopted by the Commission "establish a fair, objective, and transparent competitive bidding process" that are intended to "provide an opportunity to minimize long-term energy costs and risks." OAR 860-089-0010(1).