



Oregon Public Utility Commission  
201 High Street SE, Suite 100  
Salem, OR 97301-3398

April 26, 2024

Dear Staff and Stakeholders,

Oregon Solar + Storage Industries Association (“OSSIA”) respectfully submits these comments regarding concerns related to Portland General Electric’s (“PGE”) 2021 Request for Proposals (“2021 RFP”), various issues with the oversight process in this 2023 Request for Proposals (“2023 RFP”), and RFPs in the future. Specifically, OSSIA requests (1) a workshop or public meeting in which the Oregon Public Utility Commission (“Commission”) explains its thinking around how the Commission and staff will ensure the Independent Evaluator (“IE”) protects against potential bias in RFPs; (2) a review of the competitive bidding rules to ensure the process is protected from potential abuse in future RFP processes.

### **Background**

The errata Staff issued in UM 2166 on February 5, 2024, gives rise to OSSIA’s concerns. Prior to issuing that errata, the UM 2166 docket contained a statement from the IE in the record noting that PGE’s benchmark project, the Clearwater Wind Project, had not exactly met the “letter of the law” with respect to the requirement that it have 80% transmission or a viable transmission plan that would get it to 80%. It appeared that the IE’s statement meant that while the project did not have 80%, it at least could achieve 80% within its transmission plan. The February 5th revision reveals that PGE’s benchmark project did not meet the 80% even in its transmission plan, and further reveals that similarly situated projects were only given the options to downsize or withdraw.

This new information illustrates exactly why truly independent oversight is so important and why transparency into the bid scoring is also important when PGE is the adjudicator of whether it’s preferred projects or its competitor will win an RFP. OSSIA appreciates Staff’s efforts to disclose this important and relevant information in its memo.

OSSIA is concerned that if the Commission does not do enough to ensure fair and transparent competitive solicitations, it will undermine the Oregon solar and storage market, reduce the competitiveness of solicitations, and potentially result in higher costs. While the Commission adopted several recommendations from stakeholders in the 2023 RFP, attempts by the incumbent utilities to gain ownership and control over assets are ever evolving and require an active and agile Commission to prevent bias. OSSIA requests that the Commission take a hard look at the current competitive procurement rules with an eye towards ensuring fairness and a strong independent evaluator to handle subjective issues in scoring.

## **The Independent Evaluator**

Here, the Commission saw areas in the 2023 RFP that might or could be subject to abuse potential or bias by PGE but point to the IE as the solution. While the newly unredacted portions in the February 5, 2024, errata filing make these issues clear to the public, the Commission had full access to that information when it made its decision in this docket and issued the order in this docket. As such, OSSIA would support a workshop discussion to provide greater clarity on the guidance from the Commission about how the conditions put in place for this RFP will prevent similar potential abuses of the RFP process in the current. and future RFPs.

Within the current RFP there are several instances where the Commission pointed to the IE as an adjudicator of subjective criteria including narratives on permitting and transmission, curtailment assumptions, contract negotiations, and much more. The Commission delegated a lot of oversight to the IE in the current RFP, including ensuring realistic assumptions on curtailment of CF-SC to meet PGE's reliability needs, reporting on impacts of affiliate bids, scoring straw project bids, and recommending changes to PPA provisions. The IE will also oversee contract negotiations by evaluating the role of performance guarantees in those negotiations and evaluate appropriateness of a cost adder on benchmark bids. The IE also has oversight of Given the concerns noted over the IE oversight in the 2021 RFP, OSSIA seeks greater clarity and guidance from the Commission about how the Commission expects the IE to resolve the issues of bias and protect the fairness and competitiveness of the process going forward.

Beyond oversight of the IE as it is contemplated in the current and past RFPs, one area that should be considered for a potential change is the hiring and control of the IE. If the IE were working at the behest of the Commission instead of occasionally reporting to the Commission, it could help to alleviate concerns about the IE being biased towards PGE and its bids. OSSIA understands the difficulty of keeping flexibility within a competitive procurement with subjectivity occurring in the review of bids, so a truly independent evaluator that answers directly to the Commission and staff would give bidders more confidence that the scoring process is fair. IE control and selection will continue to be a major focus for OSSIA moving forward and OSSIA would like to see a selection process occur for the IE in the next RFP (especially given that was waived in the current RFP).

## **Competitive Bidding Rules Review**

While we recognize that the 2023 RFP is already underway and we don't seek to upset that process beyond ensuring appropriate review by the IE and staff, there could be changes to the competitive bidding rules that would improve the process and prevent bias in future processes. A major improvement would be providing additional transparency into price scores in all future RFPs to protect those competitive processes from potential abuse.

While the price score should be an objective basis for bid scoring, the current modifications to that score lead to a lack of transparency in how the final scores are decided. This is so because the price

score is only transparent to parties with access to PGE’s models, Excel spreadsheets, and assumptions—which is restricted to PGE, the IE, and Staff. While PGE is able to tailor its bids, or those it favors, to its own evaluation process, bidders are left in the dark as to the value adjustments applied to their bidder-provided information after submission. This places them at a competitive disadvantage in any ongoing proceeding in addition to unfairly limiting the bidders’ abilities to draw lessons from previous bidding processes. Further, bidders are not provided full insight into PGE’s methodology for determinations of energy or capacity value, and PGE is not required to accept all bidder-provided information or provide transparency into how the information used is modeled.

A bid price submitted by the bidders is the objective input into the solicitation, but then it is transformed and adjusted for cost based on a revenue requirement excel model, adjusted for energy value based on PGE resource production forecasts, adjusted for “flexibility value”, and adjusted for capacity value based on PGE’s models and PGE’s acceptance of certain transmission curtailment assumptions. At the end we are left with a price score, but little clarity from the outside as to what the models and transformations made to that initial input bid price. The RFP design process should include more discussion of the models used in transforming the bid price and the assumptions used within those models (i.e. capacity values and curtailment assumptions).

In the future, to the extent practicable, additional materials in the form of spreadsheets or online tools that would enable bidders to input bid specific information enabling bidders a reasonable opportunity to self-score their price score and understand how their Bid Prices were adjusted would help increase the fairness and competition of the process.

Additionally, while the Commission has already weighed in on some issues relating to who has access highly protected information, there are additional discussions that need to be had regarding benchmark teams’ access to this information. There also needs to be further discussions about the affiliate team’s ability to access highly protected information in future processes, while the Commission has already determined the affiliate team’s ability to be involved in this process there are remaining conversations about their access to this information in future processes.

### **Conclusion**

In conclusion, OSSIA respectfully requests (1) clarity around how the Commission expects the IE to protect against potential bias in RFPs through a subsequent workshop; and (2) a review of the competitive bidding rules to ensure the process is protected from potential abuse in future RFP processes.

Dated this 26th day of April 2024.

Respectfully Submitted,

Oregon Solar + Storage Industries Association



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