

ORDER NO. 22-243

ENTERED Jul 06 2022

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2202

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY and QTS INVESTMENT
PROPERTIES HILLSBORO, LLC,

Request for Waiver of the Competitive
Bidding Requirements for Green Tariff
Customer Supply Option.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on June 28, 2022, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



A handwritten signature in blue ink, appearing to read "Nolan Moser".

Nolan Moser
Chief Administrative Law Judge

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June, 28, 2022**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____ **N/A**

DATE: June 21, 2022

TO: Public Utility Commission

FROM: Madison Bolton

THROUGH: Bryan Conway, Caroline Moore, and Scott Gibbens **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket No. UM 2202)
PGE and QTS request for Waiver of the Competitive Bidding
Requirements for Green Tariff Customer Supply Option.

STAFF RECOMMENDATION:

The Commission should waive the competitive bidding rules (CBRs) set forth in Oregon Administrative Rules (OAR) 860-089-0020 through OAR 860-089-0500 for Portland General Electric's (PGE or Company) procurement through a Power Purchase Agreement (PPA) of renewable resources for QTS Investment Properties Hillsboro, LLC (QTS).

DISCUSSION:

Issue

Whether the Public Utility Commission of Oregon (OPUC or Commission) should find that there is good cause to waive the CBRs to allow the Company to procure renewable resources in the Customer Supply Option (CSO) for QTS.

Applicable Law

Per OAR 860-089-0100(1)(a), the Commission's CBRs generally apply when an electric utility seeks to acquire a resource or contract that is more than an aggregate of 80 megawatts and five years in duration. The CBRs require the utility to issue a

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Request for Proposals (RFP)¹ and to engage the services of an independent evaluator to oversee the RFP.²

There are four exceptions where the otherwise applicable CBR requirements do not apply: 1) there is an emergency, 2) there is a time-limited opportunity to acquire a resource of unique value to the electric company's customers, 3) an alternative acquisition method was proposed in the integrated resource plan (IRP) and acknowledged by the Commission, and 4) the utility is seeking to exclusively acquire transmission assets or rights.³

Upon request or its own motion, the Commission may waive any of the Division 089 rules for good cause shown. A request for waiver must be made in writing to the Commission prior to or concurrent with the initiation of resource acquisition.⁴

Analysis

Background

On September 17, 2021, PGE and QTS jointly filed to approve additional renewable energy capacity in the CSO portion of PGE's GEAR program.⁵ QTS maintained that it would identify the resource, not PGE, and subsequently filed a letter stating that PGE ownership would not be considered for the renewable energy resource.⁶ The Commission approved the petition, authorizing an additional 250 megawatts (MW) of capacity.⁷ Order No.21-468 also stated that the additional renewable energy resources would require a waiver of the Division 89 CBRs for good cause shown, due to the capacity being larger than 80 MW.

On April 12, 2022, PGE submitted a request to waive the CBRs in OAR 860-089-0020. The waiver request states that good cause is shown for multiple reasons:⁸

- a) PGE's approved Green Energy Affinity Rider (GEAR) program protects non-participants from cost shifting.

¹ OAR 860-089-0250.

² OAR 860-089-0200(1).

³ OAR 860-089-0100(3).

⁴ OAR 860-089-0010(2).

⁵ The initial petition filed under docket no. UM 1953 was eventually withdrawn and refiled under UM 2202. PGE's GEAR program is offered under Schedule 55 and consists of the CSO and the PGE Supply Option (PSO), the main difference being that the CSO allows certain qualifying customers to bring their own renewable energy resource to the GEAR program, as opposed to PGE finding the resource as is the case with the PSO.

⁶ UM 2202, 12-6-2021 Staff Report at 4-5.

⁷ UM 2202, Order No. 21-468.

⁸ UM 2202, Request of PGE for Waiver of Resource Procurement Requirements in OAR Chapter 860, Division 089, at 3-6.

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- b) QTS will identify the resource and execute most of the contracting.
- c) PGE is not being considered as a potential owner of the CSO resource.

QTS plans to identify two resources to meet the 250 MW of capacity. The first resource, a solar facility in Oregon, has been identified and will constitute about half of the total capacity addition.⁹ The second resource has not been identified, but QTS is utilizing bilateral negotiations¹⁰ to procure a third-party developed and owned solar, wind, or hybrid resource with a 2024-2025 commercial operation date.¹¹

In their waiver request, PGE presented a general timeline for each resource that QTS identifies. First, QTS will identify the resource and invite PGE into the negotiations. Second, PGE and the developer finalize the negotiations for the PPA, which will not become effective until a GEAR compliance filing is reviewed and approved by the Commission containing the customer agreement between PGE and QTS, the credit calculation, the administrative fee that will be charged, and the details of the PPA.¹²

Staff Analysis

Under OAR Chapter 860, Division 089, the CBRs are in place to minimize long-term risks, complement the IRP process, and ensure a transparent process that does not restrict electric utilities from acquiring new resources. Staff reviewed PGE's waiver request to determine whether the goals of the CBRs are still achieved if a waiver is granted.

The CBRs require an independent evaluator for utilities' request for proposals (RFP) to maintain a competitive and transparent resource procurement process. However, since QTS is identifying and contracting the resource on its own, this requirement is not necessary. PGE cannot conduct an RFP in this circumstance, and QTS is leveraging their expertise in energy procurement and bilateral contract negotiation to secure competitively priced projects.¹³

Additionally, Staff maintains that the GEAR program design has been vetted and approved by the Commission to inherently protect against long-term risks to non-subscribing customers. QTS is required to pay all its existing cost of service (COS) rates and the additional GEAR rider. QTS is responsible for the costs and risks of the

⁹ UM 2202, Request of PGE for Waiver of Resource Procurement Requirements in OAR Chapter 860, Division 089, at 5.

¹⁰ PGE Response to OPUC Information Request 007.

¹¹ PGE Response to OPUC Information Request 008.

¹² UM 2202, Request of PGE for Waiver of Resource Procurement Requirements in OAR Chapter 860, Division 089, at 6.

¹³ PGE Response to OPUC Information Request 009.

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PPA, the administration fee, and certain risk adjustments for generation variance, minimizing the risk of cost shifting to COS customers.

While non-participants pay a credit to QTS for the value of the incremental energy and capacity brought on to the system, the Commission-approved IRP valuation methodology protects against long-term risk for COS customers as well. The GEAR design limits the credit to only the value that non-participants receive, and if the overall program cost is less than the credit value, the credit is reduced. By utilizing current IRP methodology approved by the Commission, the GEAR design meets the intention of the CBRs and mitigates the risk that this procurement will not be in line with least cost, least risk planning.

Staff asked whether the federal investigation into global solar panel trade suppliers had delayed QTS's procurement or impacted the competitiveness of resources. In PGE and QTS's response to Staff Information Request 006, QTS explains that President Biden's June 6 proclamation discussed a two-year protection on tariffs for imported solar panel components. PGE and QTS are unsure if impact or delays will be completely mitigated because of the proclamation. However, QTS' desired 2024-2025 Commercial Operation Date (COD) is likely beyond the timeframe for additional delays from the investigation. It appears that the outlook for a competitive project's COD in 2024-2025 is still feasible currently. Additionally, if the President's direction on solar tariffs significantly impacts prices during QTS' procurement timeline, the GEAR design ensures that QTS absorbs those cost increases and not COS ratepayers. Staff notes that PGE can lessen the risks associated with procurement delays by immediately alerting the Commission when delays are anticipated. Staff suggests that updating the Company's Integrated Resource Plan when delays are first identified could prevent an unexpected capacity shortfall.

No additional stakeholder comments, objections, or feedback was submitted regarding PGE and QTS's application for waiver of the CBRs.

Finally, Staff notes that continued transparency in the resource selection process is encouraged to ensure that the procurement process enables appropriate cost recovery on Oregon rate payers.

Based on the GEAR program's design to avoid long-term risks for non-participants and QTS' independent identification of a resource, Staff concludes that the goals of the CBRs are present in PGE and QTS's justification, and there is good cause for a waiver of the CBRs.

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Conclusion

Staff recommends that the Commission find that there is good cause for a waiver of the CBRs for PGE and QTS's renewable resource procurement.

PROPOSED COMMISSION MOTION:

Waive the competitive bidding rules set forth in OAR Chapter 860, Division 089 for PGE's procurement through a PPA of renewable resources for QTS Investment Properties Hillsboro, LLC.

Portland General Electric UM 2202

CA9 – UM 2202
Attachment 1

June 15, 2022

To:
Madison Bolton
Public Utility Commission of Oregon

From:
Jason Salmi Klotz
Manager, Regulatory Policy and Strategy

Portland General Electric Company
UM 2202
PGE Response to OPUC Information

Request:

For the resources QTS is considering, including the solar resource already identified, please explain whether there are any anticipated delays in the project's timeline or commercial operation date due to the federal investigation into potential trade violations of foreign solar panel suppliers.

Response:

QTS does not have sufficient information to determine whether or not to anticipate any delays for the solar resource already identified, given the recent proclamation issued by President Biden on June 6, 2022, which provided a 24-month protection on new tariffs for solar component imports. This proclamation is likely to reduce the risk of any potential delays in timeline associated with the investigation; however, it is not currently clear if impacts or delays resulting from the announcement of the federal investigation will be fully mitigated by the proclamation. PGE, QTS, and the developer of the solar resource continue to advance contract negotiations to ensure a timely commercial operation date. QTS continues to consider resources with commercial operation dates in the 2024-2025 timeframe. This timeframe is likely to be beyond any additional delays associated with the investigation given the June 6, 2022 proclamation.

CA9 – UM 2202
Attachment 2

June 15, 2022

To:
Madison Bolton
Public Utility Commission of Oregon

From:
Jason Salmi Klotz
Manager, Regulatory Policy and Strategy

Portland General Electric Company
UM 2202
PGE Response to OPUC Information Request 007
Dated June 1, 2022

Request:

Please explain whether QTS is procuring the resource(s) through bilateral contract negotiation or through a current RFP.

Response:

Discussions are occurring bilaterally. QTS and its tenant have considerable experience in procuring renewable resources across the US, which has resulted in business relationships with numerous renewable development companies. QTS is leveraging those relationships to evaluate the availability of Pacific Northwest resources that meet the GEAR CSO PPA requirements set by PGE to determine the best suited resources for participation in the CSO. To-date, only one resource has been selected and bilateral contract negotiations are proceeding with PGE and the developer.

CA9 – UM 2202
Attachment 3

June 15, 2022

To:
Madison Bolton
Public Utility Commission of Oregon

From:
Jason Salmi Klotz
Manager, Regulatory Policy and Strategy

Portland General Electric Company
UM 2202
PGE Response to OPUC Information Request 008
Dated June 1, 2022

Request:

Please provide an update on what type of resource QTS is considering for the second resource.

Response:

QTS continues to consider third-party developed and owned solar, wind, and hybrid resources with a 2024-2025 commercial operation date for its second procurement.

CA9 – UM 2202
Attachment 4

June 15, 2022

To:
Madison Bolton
Public Utility Commission of Oregon

From:
Jason Salmi Klotz
Manager, Regulatory Policy and Strategy

Portland General Electric Company
UM 2202
PGE Response to OPUC Information Request 009

Request:

Please describe any safeguards, parent company guarantees, or other risk management strategies QTS will have in the event of abnormally high PPA prices.

Response:

Please see QTS's response to Data Request 7 above. QTS notes that "abnormally" could be interpreted in more than one way as used in this Data Request, and for the purpose of this response QTS interprets "abnormally high" to mean PPA prices that are above the expected range of pricing seen in the broader industry at a given point in time. QTS and its tenant's sustainability goals remain unchanged in their urgency and necessity, but both entities are active renewable energy market participants that are leveraging their commercial expertise to ensure competitively priced projects. The design of the GEAR program also mitigates price risks, in that QTS is solely responsible for all PPA costs and receives a fixed credit amount regardless of the cost of the PPA. Thus, the program design incentivizes QTS to avoid abnormally high PPA prices, and to ensure resources it selects are viable.

PGE will continue to use PGE's credit and/or collateral requirements in the PPA, which also serves to protect against developer/resource default and non-performance.