

ORDER NO. 26-082

ENTERED Mar 17 2026

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2423

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Application for Waiver of the Competitive  
Bidding Rules.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on March 17, 2026, 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:



**Alison Lackey**

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.



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Proposals (RFP) and engage the services of an independent evaluator to oversee the RFP process.<sup>1,2</sup>

When a resource or contract is of sufficient duration and size to be subject to the CBRs, there are four specific CBR exceptions, or instances under OAR 860-089-0100(3), in which the competitive bidding rules do not apply: 1) emergency, 2) time-limited opportunity to acquire a resource of unique value to the electric company's customers, 3) explicit acknowledgement by the Commission of an alternative acquisition method proposed in the IRP, and 4) exclusively acquiring transmission assets or rights. Within 30 days of seeking to acquire a resource under one of the exceptions, the electric company must file a report with the Commission explaining the relevant circumstances.<sup>3</sup>

Upon request or its own motion, the Commission may waive any of the Division 089 rules for good cause shown.<sup>4</sup> If a request for waiver is made, it must be made in writing to the Commission prior to or concurrent with the initiation of a resource acquisition.<sup>5,6</sup> If an electric company files a request for waiver after it acquires a resource, granting any part of the waiver request "does not result in or equate to the Commission's acknowledgment of the resource acquisition."<sup>7</sup>

House Bill 2021, codified at ORS 469A.410, requires retail electricity providers to incrementally reduce greenhouse gas emissions associated with electricity sold to Oregon consumers to 80 percent below baseline by 2030, 90 percent below baseline by 2035, and 100 percent below baseline by 2040.

Under Executive Order 25-25: Accelerating Wind and Solar Energy Development in Advance of Elimination of Federal Clean Energy Tax Credits, the OPUC is directed, to the extent practicable, to accelerate RFP timelines and support expedited public utility procurement of clean energy resources.<sup>8</sup>

## Analysis

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<sup>1</sup> OAR 860-089-0250.

<sup>2</sup> Under OAR 860-089-0200(1).

<sup>3</sup> OAR 860-089-0100(4).

<sup>4</sup> OAR 860-089-0010(2).

<sup>5</sup> OAR 860-089-0010(2)(a).

<sup>6</sup> "Resource acquisition" is defined in OAR 860-089-0020(9) to refer "to a process for the purpose of acquiring energy, capacity, or storage resources that starts with... [c]ommunication of a final offer or receipt of a final offer in a two-party negotiation."

<sup>7</sup> OAR 860-089-0010(2)(b).

<sup>8</sup> See also Executive Order 25-29, "Reducing Greenhouse Gas Emissions and Advancing Oregon's Clean Energy Future".

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### *Background*

On December 30, 2025, PGE filed an application (Application) requesting that the Commission waive the CBRs contained within OAR 860-089-0200 through 0500 associated with a long-term storage capacity agreement (SCA) for the Meadowlark project with the Copenhagen Infrastructure Partners (CIP or the Developer).<sup>9</sup> At the time of the Application, PGE was engaged in negotiations to purchase 200 MW<sub>AC</sub>/800 MWh of capacity associated with the Meadowlark four-hour BESS project (the Project) from the Developer with the SCA spanning a **[BEGIN HIGHLY CONFIDENTIAL]** **[END HIGHLY CONFIDENTIAL]** term beginning on December 31, 2027.<sup>10</sup> Between the date of the Application and the date of this Staff Report, the above-referenced proposed SCA was executed by PGE and the Developer on **[BEGIN HIGHLY CONFIDENTIAL]** **[END HIGHLY CONFIDENTIAL]**.<sup>11</sup> Under its terms, the agreement between PGE and the Developer will be effective once, among other conditions, PGE obtains a waiver from the Commission of competitive bidding rules.<sup>12</sup>

The Company states that a waiver is appropriate because 1) the project addresses Company system reliability and decarbonization objectives, at a time when the it is operating in a materially constrained procurement environment and; 2) the Project in question was ultimately deemed ineligible in the 2023 RFP Price Refresh process, but competed well and the Company was encouraged by both the Independent Evaluator (IE) and Staff to explore alternative procurement pathways regarding this specific project.

In addition to citing the Commission's authority to waive any of the rules, the Application presents arguments justifying the procurement of the project outside of an RFP based on the exemptions from the CBRs. Specifically, the Application describes acquiring this project as a time-limited opportunity of unique value, which is one of the exceptions to the application of the CBRs under OAR 860-089-0100(3).<sup>13</sup>

### *System Need*

PGE's 2023 IRP Update (after removing the 2023 RFP Proxy resources and updating load forecasts) identified 2028 capacity needs of 631 MW.<sup>14</sup> Through planned and in-process procurements from the 2023 RFP Update final shortlist (FSL), PGE has made progress toward this capacity need with 438 MW of capacity contribution, resulting in a

<sup>9</sup> *In the Matter of Portland General Electric Company Application for Waiver*, Docket No. UM 2423, Application (December 30, 2025).

<sup>10</sup> UM 2423, Application, p. 1.

<sup>11</sup> Email correspondence between Staff and PGE on January 14, 2026.

<sup>12</sup> Email correspondence between Staff and PGE on January 23, 2026.

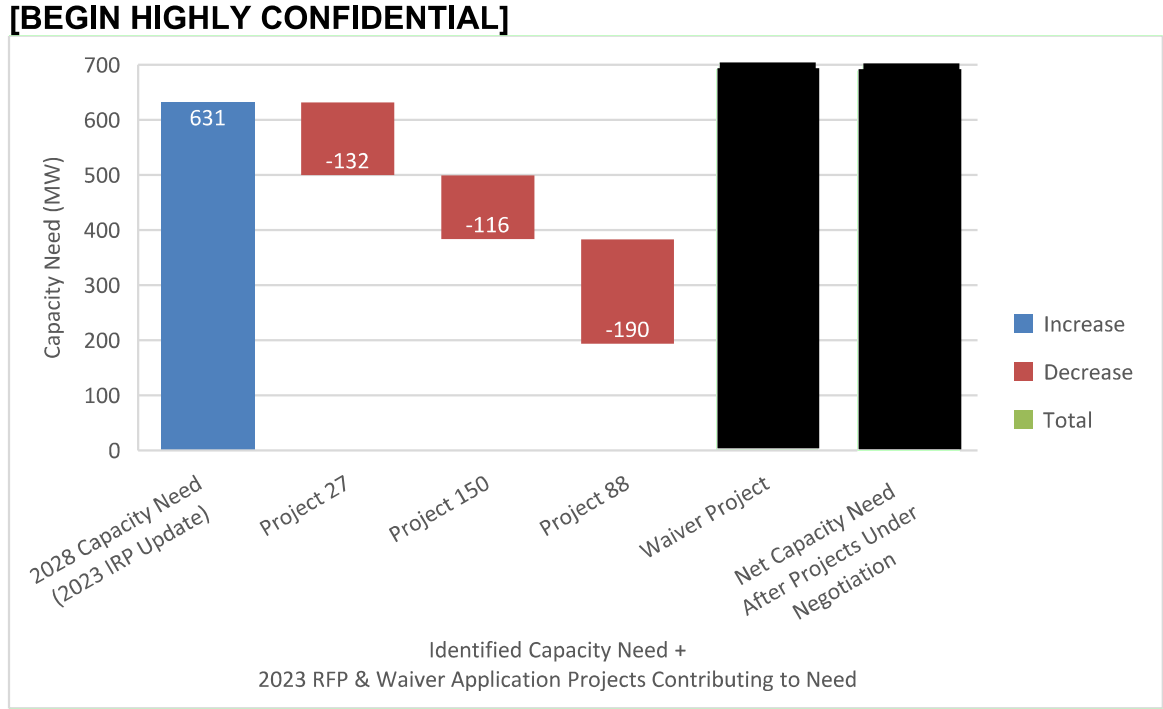
<sup>13</sup> OAR 860-089-0100(3)(b).

<sup>14</sup> *In the Matter of Portland General Electric Company 2023 Clean Energy Plan and Integrated Resource Plan*, Docket No. LC 80, Update to CEP and IRP (March 31, 2025).

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remaining 2028 capacity need of 193 MW. The Project contributes [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] MW of capacity (or [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] percent of the total 2023 IRP identified 2028 capacity need). Assuming the projects on the 2023 RFP Price Refresh FSL come under contract, entering into the proposed SCA would reduce PGE’s remaining forecasted need from [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] MW to [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] MW.

Figure 1. 2028 Capacity Need Identified in the 2023 IRP Update and Capacity Contribution of Projects Under Negotiation



[END HIGHLY CONFIDENTIAL]

*Project Details*

The Project was included in the final shortlist (FSL) in PGE’s 2023 All-Source Request for Proposals (RFP). See Docket No. UM 2274.<sup>15</sup> PGE received acknowledgement of its 2023 final shortlist on November 25, 2024, and began engaging in contract negotiations with the selected FSL bidders. During the negotiation period after 2023 RFP FSL acknowledgement, PGE engaged in a price refresh analysis of all conforming bids from the 2023 RFP initial short list, allowing projects to update prices but otherwise preserve all other bid attributes.

<sup>15</sup> Application, p. 1.

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While the Project was eligible for the price refresh analysis, the Company explains that it was left off the updated FSL due to a change in bid attributes that violated the price refresh rules. In the 2023 RFP price refresh exercise, PGE perceived the Project as having execution risk. While the initial ownership structure of the 2023 RFP initial FSL version of the project was **[BEGIN HIGHLY CONFIDENTIAL]** [REDACTED] **[END HIGHLY CONFIDENTIAL]**, the Developer offered to update the ownership structure to 100 percent SCA, or a “full toll”, agreement to mitigate the impacts of the perceived execution risk. However, changes in project attributes, including in ownership structure, were not permitted as part of the 2023 RFP price refresh, so PGE determined that this change to the Project disqualified it for the 2023 RFP Updated FSL.<sup>16</sup> Subsequently, PGE opted to pursue bilateral negotiations with the Developer and file this Application for waiver of the CBRs.

#### *Staff Evaluation of Good Cause*

Staff finds that PGE’s waiver request is supported by good cause, with an abundance of evidence supporting the Project’s competitiveness, its relatively lower risk to customers, and that the project is a time-limited opportunity bringing unique value.

#### *Minimizing Long-Term Cost and Risk*

Staff believes it is reasonable to consider the purpose of the CBRs when evaluating a waiver request under this Division. As stated in OAR 860-089-0010(1), the purpose of the CBRs is, in part, to minimize long-term costs and risks through fair and competitive procurement processes like RFPs. In determination of good cause for granting a waiver, Staff, in this case, had substantial information to assess minimization of risk of harm to customers and to identify any deviation from those processes.<sup>17</sup> When adequate information is available, Staff can evaluate risk of harm through a lens similar to RFPs of whether a project was procured fairly and demonstrates competitiveness. Staff’s analysis of good cause for a waiver is presented below.

Staff finds that the Waiver Project demonstrates competitiveness with other projects and with different versions of the same project in recent RFPs based on key performance metrics including cost and risk metrics. Because this resource was considered in the 2023 RFP and PGE is conducting other procurements concurrently, Staff, and the Company, are able to consider the Project’s costs and benefits relative to a suite of other bid data. The 2023 RFP Price Refresh version of the project scored competitively with other projects on the Initial Short List (Table 1), **[BEGIN HIGHLY CONFIDENTIAL]**

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<sup>16</sup> Application, p. 2.

<sup>17</sup> *In the Matter of Portland General Electric Company 2023 All-Source RFP*, Docket No. UM 2274 Staff Opening Comments, p. 7 (October 29, 2025).

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[REDACTED] [END HIGHLY CONFIDENTIAL].

Table 1. 2023 RFP Refresh and Waiver Project Competitiveness<sup>18</sup>

Project	Technology	Structure	Nameplate Capacity (MW)	COD	Cost / Benefit Ratio	Rank
27	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
150	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
88	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Waiver Project <sup>a</sup>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [END HIGHLY CONFIDENTIAL]

Note: Lower Cost/Benefit Ratios reflect a better cost benefit ratio and better scoring. Data source: December 8, 2025 All source RFP scoring update Combined Results.

<sup>a</sup>[REDACTED] [END HIGHLY CONFIDENTIAL].

The waiver Project also compares well with the 2023 and 2025 RFP versions of the Project [REDACTED].

[REDACTED] [END HIGHLY CONFIDENTIAL].

Changes to the Project’s ownership structure between the 2023 RFP Price Refresh and the waiver filing lead to an improvement in the risk profile of the Project. [REDACTED]

[REDACTED] [END HIGHLY CONFIDENTIAL] to a full toll SCA ownership structure potentially shifts risk away from customers to the developer. In addition, a comparison between the 2023 RFP SCA Form Term Sheet and the Project’s waiver filing term sheet revealed only minor changes in risk-related contract components that reflected similar risk profile through the change in ownership structure.

Overall, the Project maintains competitiveness with other projects in recent RFPs, its cost/benefit ratio improved as compared to other versions of the Project, and it provides

<sup>18</sup> UM 2274, 2023 RFP Refresh 11/25/2025 Scoring Refresh.

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relatively lowered risk to customer costs due to the shift in ownership structure. Additionally, the 2023 RFP Price Refresh independent evaluator recommended that PGE pursue the Project through processes outside of the RFP due to its competitive pricing and scores.<sup>19</sup> In light of the Company's near-term need and regulatory obligations, there appears to be good cause to support a waiver request.

*Time-Limited Opportunity*

Staff finds support for the Project providing a time-limited opportunity based on its ability to minimize cost and risk from tariff fluctuations and take advantage of tax credits and to meet a 2027 COD that would support 2028 capacity needs identified in the 2023 IRP Update.

PGE proposed that the Project is a time-limited opportunity due to its 2027 COD and the time-limited [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]. Staff found support for PGE's claim that the offer of [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]. This includes protection against the risk of losing tax credits from the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL].<sup>20</sup>

Evaluation of the time-limited nature of a resource acquisition opportunity has previously focused on factors such as tax credit availability or the time-limited availability of a resource.<sup>21</sup> Staff finds it reasonable to also consider the impact of an earlier COD on an electric company's ability to meet capacity needs as a time-limited opportunity. The waiver filing Project has a 2027 COD which allows it to contribute to PGE's 2028 capacity need [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] as described in the "System Need" section above.

<sup>19</sup> Docket No. UM 2274, The Independent Evaluator's Analysis of Portland General Electric's 2023 RFP Post-Shortlist Price Refresh, September 25, 2025, p. 11.

<sup>20</sup> UM 2423, Company Confidential Response to IR 5, Appendix A, pp. 3-4.

<sup>21</sup> *In the Matter of Portland General Electric Company*, Application for Waiver, Docket No. UM 2176, Staff Initial Comments.

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*Resource of Unique Value*

Staff finds support for PGE's claim that the Project provides unique value to the customers due to its ability to provide congestion and price relief to a key part of the system.

In its 2023 IRP, PGE identified a need for battery storage at the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] as a way to relieve congestion at both the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] and [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL].<sup>22</sup> The Company claims the Project would provide some relief to this congestion as it is located near the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]. PGE claims this congestion relief may help curtail increased costs to customers associated with transmission congestion.

The alignment of PGE's claim of congestion relief in the waiver with its stated need for BESS-based congestion relief in its 2023 IRP, lead Staff to concur that this project is an opportunity of unique value due to its location near the [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]. Staff also finds PGE's additional claims of unique value due to it supporting the system need (described above) to be reasonable.

*Timing of the Waiver Filing and the Initiation of Contract Negotiations*

PGE initiated negotiations with the Developer at least as early as [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL], or more than [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] before filing the Application. PGE filed this waiver Application on December 30, 2025, and executed the contract on [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]. It appears that PGE filed its request for a waiver after initiating resource acquisition, and Staff questions whether a waiver under these circumstances should signal "acknowledgement" under the CBRs.

The Commission contemplated circumstances in which it may still find good cause for a waiver of one or more CBRs after the initiation of a resource acquisition. OAR 860-089-0010(2)(b) provides the following caveat for this case: "If a request for waiver is filed by an electric company after it acquires a resource, granting, if any, of the waiver request does not result in or equate to the Commission's acknowledgement of the resource acquisition."<sup>23</sup>

<sup>22</sup> Docket No. LC 80. Staff Report and Second Staff Round Comments.

<sup>23</sup> OAR 860-089-0010(2)(b).

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The Company did not request this waiver in writing to the Commission prior to, or concurrent with, initiating resource acquisition with the Developer as described under OAR 860-089-0010(2), but the Company explains that contract execution is contingent upon receiving necessary waivers. Staff finds the timing of the Company's waiver filing challenging in the context of the rules but reiterates its finding of good cause for a waiver.

Staff encourages the Company to follow the requirements of OAR 869-089-0010(2) and seek a waiver prior to or concurrent with initiating any resource acquisition outside of the CBR processes.

*Appropriateness of a Waiver or an Exception from the CBRs*

While PGE's Application seeks a waiver of CBRs, Staff notes the Company could have argued that the project's procurement qualifies as an exception, rendering the CBRs inapplicable. Under OAR 860-089-0100(3)(b), an electric company is not required to comply with competitive bidding requirements when there is a time-limited opportunity to acquire a resource of unique value to customers. In those cases, no Commission action is required and the company must file a notice within 30 days. On the one hand, this would have allowed the Company to swiftly procure the resource and would have reduced if not eliminated upfront Commission efforts to consider a waiver. On the other hand, it provides less regulatory certainty to the Company and results in less Commission oversight intended to protect customers and mitigate utility-bias.

Staff understands that parties share the goal of moving faster on securing low-risk, cost-competitive resources that help the company meet both reliability needs and state policies. While Staff anticipates more discussion on this in both AR 669 and in the Commission's forthcoming executive order implementation plan(s), it sees this waiver as an opportunity to share considerations about the use of CBR waivers over the relative administrative simplicity of using the CBR exception process, when applicable.

At a minimum, Staff is keen to support streamlining where such efforts:

1. preserve customer benefits that come from competition,
2. circumvent risks of utility-bias and anti-competitive behavior, and
3. provide shared efficiencies across all parties.

Determining how best to achieve streamlining in a way that balances respective benefits of waivers and exceptions is very much a work in progress. That said, Staff offers that its comfort for expedited procurement increases when:

- Procurement is for a project with no utility-owned elements, reducing competitive issues;

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- Projects have demonstrated cost-competitiveness through an approved competitive bidding processes and can bring evidence that a resource presents minimal cost and risk to customers; and/or
- Waiver requests are made prior to the initiation of resource acquisition, allow Staff adequate time to evaluate good cause.

The Project presented in this waiver request includes such characteristics.

Staff encourages the company to consider the appropriateness of the exception route, especially when the request for waiver is not made prior to or concurrent with the initiation of a resource acquisition. Staff looks forward to continued discussions into procedural pathways that support nimble procurement approaches, improve predictability, and still allow for robust review in cost recovery.

#### Conclusion

Staff finds good cause for PGE's waiver request, supported by evidence of the Project's competitiveness and relatively lower customer risk. Staff also notes that, given EO 25-25's direction to accelerate procurement and the Company's view that the Project was a unique, time-limited opportunity, the Company could have instead used the CBR exception, which allows for a faster procurement process.

Staff recommends the Commission waive the competitive bidding rules for PGE's acquisition of the Meadowlark project, based on a finding of good cause.

The Company has reviewed facts and redactions in a draft of this memo and has no objection to how it presents content.

#### **PROPOSED COMMISSION MOTION:**

Approve PGE's request to waive the competitive bidding rules for the Meadowlark project based on good cause.

This concludes Staff's recommendation.