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February 22, 2012

Via Electronic and US Mail

Public Utility Commission
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem OR 97308-2148

Re: In the Matter of PORTLAND GENERAL ELECTRIC Application to
Open Docket for Request for Proposals for Capacity Resources
Docket No. UM 1535

Dear Filing Center:

Enclosed please find the original and five (5) copies of the Comments on PGE's Draft RFP on behalf of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Thank you for your assistance.

Sincerely,

/s/ Sarah A. Kohler
Sarah A. Kohler

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Comments on behalf of the Industrial Customers of Northwest Utilities upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, and via electronic mail.

Dated at Portland, Oregon, this 22nd day of February, 2012.

Sincerely,

/s/ Sarah A. Kohler
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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1535

In the Matter of)
)
PORTLAND GENERAL ELECTRIC) COMMENTS OF THE INDUSTRIAL
) CUSTOMERS OF NORTHWEST
) UTILITIES
Request for Proposals for Capacity and)
Baseload Energy Resources.)

I. INTRODUCTION

The Industrial Customers of Northwest Utilities (“ICNU”) submits these comments regarding Portland General Electric Company’s (“PGE” or the “Company”) draft request for proposal (“RFP”) for capacity and energy resources. PGE has filed a combined energy and capacity RFP seeking 200 megawatts (“MW”) of year-round peaking capacity and 300 to 500 MWs of baseload energy resources. PGE revised its RFP in response to the Oregon Public Utility Commission’s (“OPUC” or the “Commission”) order requiring or recommending that PGE make a number of alterations requested by ICNU, the Northwest and Intermountain Power Producers Coalition (“NIPPC”), and the Citizens’ Utility Board (“CUB”). Re PGE, Docket No. UM 1535, Order No. 11-371 (Sept. 27, 2011). ICNU recognizes that PGE’s new RFP has been significantly improved, and ICNU applauds PGE for revising the RFP and attempting to provide an option for third parties to construct a resource on PGE’s Port Westward site. Despite these changes, ICNU believes that major flaws remain that could limit participation by third-party bidders and prevent PGE from acquiring the lowest cost, lowest risk resource. ICNU recommends that the Commission reject PGE’s proposed RFP or condition any approval

upon PGE making additional changes that will increase the likelihood of independent third parties submitting reasonable bids in a fair competitive bidding process.

II. COMMENTS

1. PGE's Restrictions on the Use of Its Port Westward Site Are Unduly Restrictive

In the first phase of this proceeding, ICNU, NIPPC, and CUB all argued that PGE should open up its Port Westward site up to third-party bidders. The Commission declined to rule on whether it could or should require PGE to make its site available to bidders. UM 1535, Order No. 11-371 at 6. The Commission, however, stated that the question of whether PGE should open its site is a management decision that will be subject to a prudency review. Id. The Commission also informed PGE that the fact that other utility RFPs have allowed third parties to bid on the utility's site would be relevant in any future prudency review. Id. The Commission's order was a warning to PGE that a reasonable and prudent utility truly seeking the lowest cost and least risk resource for ratepayers should open up its site to third-party bidders.

PGE has revised its RFP to allow third parties to submit engineering, procurement, and construction ("EPC") bids for projects on PGE sites. While PGE has not yet provided the parties or the Independent Evaluator with the owner's costs necessary to review how an EPC bid will occur, ICNU appreciates that PGE has elected to open up its site to an EPC bid, and recognizes that PGE's revised approach has required a significant amount of revisions on PGE's part.

ICNU believes additional changes, however, are warranted to ensure that PGE acquires the best resource for ratepayers. First, ICNU is concerned that PGE is requiring EPC

companies to choose between either working with PGE on its benchmark bid or working with an independent third party on its bid. ICNU understands that there are only a limited number of EPC companies that would participate in any bid and that PGE's restriction may result in these companies being forced to choose between working with PGE or an independent bidder. PGE's approach appears to be unnecessary because other utilities have not imposed such restrictions on EPC companies. PGE's restrictions also will likely have a dampening effect on the quality and number of third parties that can submit bids on PGE's site.

ICNU also recommends that PGE allow third parties to submit bids that are not just an EPC build-own-transfer. ICNU understands that PGE is reluctant or unwilling to allow a third party to own and operate a resource on PGE's site. PGE has not clearly articulated why such restrictions benefit ratepayers or otherwise support acquisition of the best resource. ICNU urges PGE to reconsider its approach and for the Commission to send PGE a strong message that it will closely and carefully review any decision by PGE not to allow lower cost, third-party bidders to use PGE's site.

2. It is Unclear Whether PGE Is Properly Allocating Transmission Costs to its Benchmark Resource

In earlier comments, ICNU, NIPPC, and CUB each raised the issue of how PGE should allocate the cost of PGE's transmission lines that would be used by the benchmark resource. The Commission concluded that the "RFP should provide for a level playing field" and directed PGE to provide the parties with its proposed transmission cost allocation in this phase of the proceeding. Docket No. UM 1535, Order No. 11-371 at 6. PGE has not yet

provided the parties with information on self-build transmission costs, and it appears that this information may be provided with PGE's self-build technical specifications on April 27, 2012.

ICNU may provide comments on this issue later, but wishes to note that this is a critical issue, and ICNU looks forward to PGE fully accounting for all the transmission costs for each of the two self-build resources. Specifically, for the Port Westward benchmark, ICNU expects that PGE will include the appropriate amount of costs of its Trojan to South of Allston line, and for the Carty benchmark, ICNU expects that PGE will include the appropriate amount of costs for the Cascade Crossing. If PGE does not plan to include these transmission costs in the benchmark resource costs, then PGE should promptly provide both the parties and the Commission with a full explanation of the alternative transmission resources and the costs that will be used by the benchmark resources. PGE should not simply exclude these costs without a full and comprehensive explanation.

3. PGE Should Consider a Tolling Agreement with Third-Party Bidders

ICNU, NIPPC, and CUB all raised concerns regarding gas storage and tolling agreements earlier in this proceeding. The Commission did not revise PGE's draft RFP, and agreed with PGE that bidders must demonstrate a plan to acquire gas storage to be eligible to participate in the RFP. Order No. 11-371 at 4. ICNU has reviewed the draft Phase 2 comments of NIPPC on PGE's restrictions on bidders who seek to provide a traditional tolling agreement. ICNU intends to review Staff and PGE's responses, but it appears to ICNU that NIPPC has made a prima facie case that PGE's restrictions will unreasonably limit the ability of third parties to bid into PGE's RFP. PGE appears to be taking what it believes to be the minimum required steps

regarding potential tolling agreements but not looking for the best way to acquire or purchase the lowest cost resource for ratepayers. PGE should make every reasonable effort to work with third-party bidders to ensure that ratepayers are served with the lowest cost resources possible.

4. Other Concerns

ICNU is aware that NIPPC intends to raise additional concerns regarding the transmission scoring criteria, the ability of a broader range of technologies to bid into the RFP, the credit criteria for PGE's benchmark and independent power bids, and the ability for stakeholders to comment on any PGE filing regarding imputed debt. ICNU generally supports adequate information and full transparency in the scoring criteria, and the inclusion of all reasonable technology types. ICNU reserves the right to submit comments on these issues after reviewing Staff's, PGE's, and the Independent Evaluator's comments. In addition, the Commission has already addressed the debt imputation issue, and ICNU does not see the relevance of PGE filing any additional comments on this issue. ICNU agrees, however, with NIPPC that, if PGE submits comments on debt imputation, then stakeholders should be provided an opportunity to respond.

III. CONCLUSION

PGE's RFP should be designed to solicit a wide variety of bids that will result in PGE meeting ratepayers' future energy and capacity needs in the least cost and least risk manner. While PGE's revised RFP represents an improvement upon its original filing, the RFP still warrants additional changes to ensure that the competitive bidding process is not unfairly biased in favor of PGE's benchmark resources. ICNU recommends that the Commission condition any

final approval of this RFP upon removing unreasonable restrictions on bidding on PGE's site, properly allocating benchmark transmission costs, allowing reasonable tolling agreements, and all other reasonable changes designed to allow the lowest cost and least risky resources to have fair chances at becoming the winning bids.

DATED this 22nd day of February, 2012.

Respectfully submitted,

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