

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OREGON**

In the Matter of:)	
)	
PORTLAND GENERAL ELECTRIC)	
COMPANY,)	Docket No. LC 33
)	
<u>2006 Integrated Resource Plan.</u>)	

**COMMENTS OF
NORTHWEST INDEPENDENT POWER PRODUCERS COALITION**

Pursuant to the Administrative Law Judge’s May 11, 2006, Memorandum, Northwest Independent Power Producers Coalition (“NIPPC”) submits the following comments regarding the Application of Portland General Electric Company (“PGE”) for Waiver of OAR 860-038-0080(1)(b) as it would apply to PGE’s acquisition of the Biglow Wind Project. PGE asks the Commission to waive its rule requiring inclusion of generation in rates at market rather than cost so that it may complete development of and own the Biglow Wind Project. In summary, NIPPC recommends that the Commission deny without prejudice PGE’s Application at this time, and instead direct PGE to refresh its Biglow Wind Project information through a new bid. PGE should be permitted to resubmit its Application at a later time when new information about that project and competing projects and costs are available.

I. Waiver May Not Benefit Customers

The Commission may waive the requirements of its Division 38 rules when “good cause is shown.” OAR 860-038-0001(4). The term “good cause” in the waiver rule is not defined. PGE appears to reason that “good cause” means that customers are

benefited from lower costs by reason of waiver of the rule. PGE states that the first phase of the Biglow Wind Project scored sufficiently high that, as a cost based resource, it competed favorably with other, traditional resource alternatives. Application, p. 2. PGE's Application further states that waiver of the OAR 860-038-0080(1)(b) (the "Market Rule") benefits PGE's customers because failure to waive the Market Price Rule will prevent PGE from including new generating resources "such as the Biglow Wind Project" in rate base at cost. *Id.*

An assumption implicit in PGE's argument here is the idea that putting Biglow, or any other project, in rates at market would necessarily result in higher rates to consumers than would putting the wind resource in rates at cost. NIPPC disputes that utility-owned, cost-based resources are necessarily "lowest cost" resources to consumers over the long term. Utility projects can cost customers more over the life of the facility because unanticipated cost increases are recovered in rates by the utility's customers, whereas shareholders of non-utility project sponsors absorb cost increase themselves.

As well, in the case of wind power, PGE may not be able to construct and operate a wind power project at costs that can be achieved by experienced wind power developers. PGE is not an experienced wind power developer. The wind generation development market, however, is robust and competitive. Independent wind power developers, such as PPM Energy, Renewable Energy Systems, FPL Energy, Invenergy and Horizon Wind, among others, have exceptional experience in developing wind projects – including projects within the Northwest. These developers are able to buy wind turbines, the most expensive components of wind generation development, in bulk and at a cost reduction when compared to what a one-time wind developer could achieve.

Independent wind power developers also have long-standing relationships with construction companies specializing in building wind power plants. In other words, specialized wind power developers can tap into economies of scale that will undoubtedly elude PGE. Finally, while the Biglow Wind Project may have arisen out of a Request for Proposals (“RFP”), the time that has passed since PGE’s last RFP has likely rendered *any* bid stale. Nearly all the variables affecting price have changed. Rising cement and steel prices have increased the construction costs of all green field generation projects while the cost of wind turbines has skyrocketed.

PGE itself recognizes that Biglow may not end up as the utility’s most cost effective resource. In related docket UP 234 (Application Regarding Sale of Property pursuant to O.R.S. 757.480 (“UP 234 Application”)), PGE correctly notes that the Biglow Wind Project should be subjected to periodic analysis regarding its cost when compared to alternatives. See, UP 234 Application, pp. 3, 13. PGE has therefore structured its purchase agreement with Orion such that Orion may re-purchase its Biglow developmental rights if PGE declines to develop any phase of the project due to the availability of lower cost alternatives. *Id.* The fact that PGE recognizes that there may be lower cost alternatives to Biglow strongly suggests that the Commission does not have sufficient information to waive the Market Rule now.

Under all the circumstances just described, it is not possible to conclude that putting the Biglow Wind Project in rates at cost, as opposed to market or at a competitively bid price, will advantage PGE’s customers. PGE has not demonstrated that this cost-based resource will not be an undue burden on its customers when compared to

competitive alternatives. PGE has not shown that “good cause” exists to support waiver of the Commission’s Market Rule at this time.

II. PGE Should Offer Up its Biglow Wind Project for a Refreshed Bid

PGE could demonstrate that its development and ownership of the Biglow Wind Project site is in customers’ interests by completing a new bidding process, which would refresh PGE’s information regarding Biglow and other potential competitive projects, including other competing wind projects. NIPPC understands that timing is important to PGE, and suggests a compact bidding cycle that would elicit specific responses from experienced power developers. A renewed bidding process will assure that the ratepayers are receiving the best value from Biglow or another project, and this information would be available to the Commission before it must act on the utility’s waiver request, if any.

III. PGE’s Request Would Benefit From Guidance in Related Pending Dockets.

The Commission’s Division 38 rules have been under consideration in Docket No. UM 1066 for some time but were delayed pending the outcome of related dockets, Docket Nos. UM 1182 and 1056. Order No. 05-133 (March 17, 2005), Slip Opinion, at p.3. Once completed, these three dockets will provide utilities and independent power producers, including renewable power developers, with more guidance about the Commission’s expectations regarding competitive procurement and rate treatment of new generation. While NIPPC does not suggest that PGE should be required to wait with a renewed waiver request until the three dockets are resolved (PGE should be permitted to resubmit this Application following the results of a new bid process, as described in section II above), NIPPC does expect that once Orders are available in the three dockets, PGE’s resource decisions will be guided by the Commission’s directions in the dockets.

IV. Conclusion

PGE's Application is not sufficiently supported with evidence that good cause exists to waive the Commission's Market Rule at this time. NIPPC recommends that the Commission deny PGE's application, without prejudice to a future request if needed following a renewed competitive bidding process described in section II, above. If the bidding process demonstrates that PGE's development of the Biglow Wind Project is most cost effective of PGE's resource choices, then the Commission may act on PGE's waiver request with better information than is available now.

DATED this 22nd day of May 2006.

Respectfully submitted,

NIPPC

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VIA Electronic Mail & U.S. Mail

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Re: LC 33; NIPPC Comments

Enclosed for filing is an original of NIPPC's Comments regarding PGE's Application for Waiver of the Market Rule. A hard copy of will follow in the U.S. Mail.

Please call me if you have any questions.

Very truly yours,

/s/ Susan K. Ackerman

Susan K. Ackerman
Attorney for NIPPC

Enclosures

Certificate of Service

I certify that I have this day served the foregoing document upon all parties of record in LC 33 by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to all parties or attorneys of parties, attached below.

Dated this 22nd day of May, 2006.

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