

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1182 – PHASE II

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation Regarding Competitive
Bidding.

STAFF'S REPLY COMMENTS

In its Order No. 11-001, the Commission re-opened Docket UM 1182 to, in relevant part, explore methods to aid the “independent evaluator” (IE) in the evaluation of the risks and advantages of utility “benchmark” (Benchmark) resources. More specifically, the Commission invited parties’ comments on the analytic framework and methodologies that the IE should use under Guideline 10(d), set forth in Order No. 06-446, to evaluate and compare a utility’s ownership of a generating resource to a utility’s purchase of power from an “independent power producer” (IPP).¹

The Commission resolved four risk items (Cost Over-runs, Wind Capacity Factors, Heat Rate Degradation, and Counterparty Risk) in Order No. 13-204² and stated its belief that the risks and benefits associated with a comparative risk item should be evaluated based on the individual characteristics of each resource.³ The Commission ordered the parties to address the eight remaining risk factors through simultaneous opening and reply comments. On August 5, 2013, the Administrative Law Judge held a prehearing conference and issued a procedural schedule establishing opening comments on September 30, 2013, and reply comments on November 1, 2013.⁴

In this phase of the investigation, there are eight remaining comparative risk items:

- Changes in Forced Outage Rates
- End Effect
- Environmental Regulatory Risk
- Increases in Fixed Operations & Maintenance (O&M) Costs
- Capital Additions
- Changes in Allowed Return on Equity
- Verify Output, Heat Rate and Power Curve
- Construction Delays

¹ Order No. 11-001 at 6 (Docket UM 1276).

² Order No. 13-204 at 8-9 (Docket UM 1182).

³ Order No. 13-204 at 10 (Docket UM 1182).

⁴ Prehearing Conference Memorandum (Docket UM 1182).

The Commission instructed that the parties' comments should follow the framework used by the Commission in Order No. 13-204 (pp. 8-9) to analyze each risk item as follows:⁵

- (1) Parties should initially address whether the risk factor is related to resource ownership and provide support for any conclusion reached. If a party believes the risk factor is related to ownership, the party should provide recommendations to help the IE' s comparative analysis of that risk item for utility benchmark resources and other resource options.
- (2) The parties should focus on qualitative recommendations, rather than propose quantitative adjustments.

At the conclusion of this phase, the Commission will make any necessary changes to Guideline 10(d) to incorporate the resolutions reached in all the phases of this docket.

Summary Description of Initial Comments on the Remaining Issues⁶

Reply Comments were filed by Idaho Power Company, Pacific Power, Portland General Electric Company (collectively, the utilities), and Northwest and Intermountain Power Producers Coalition (NIPPC).

Most comments addressed the remaining eight risk factors. However, NIPPC chose not to address these factors, and focused instead on the structure of the Request For Proposal (RFP) process, contending as follows:

“The IE [Independent Evaluator] cannot properly utilize qualitative adjustments or perform adequate comparative analyses unless the RFP process is changed” to “either (1) [r]equire mandatory Commission acknowledgment of the utilities’ RFP short list; or, (2) [r]equire utilities procure certain resources through RFPs that do not include a utility ownership option and where IPPs will exclusively compete with one another.” See NIPPC Comments at 3.

At the conclusion of the original workshops in earlier phase of this proceeding to discuss the Commission’s directives in this docket, the parties identified a list of 12 comparative risks or advantages for the Commission to consider (Order No. 12-324 at 2). Commission Order No. 13-204 resolved four risk factors and established “an abbreviated schedule to address the remaining eight potential risk factors identified in this proceeding.”⁷ Staff believes that NIPPC’s Initial Comments is an improper attempt to expand the scope of this docket beyond the issues agreed to by all the parties, including NIPPC, and approved by the Commission. Therefore, Staff recommends that the Commission reject NIPPC’s recommendations to “either (1) [r]equire mandatory Commission acknowledgment of the utilities’ RFP short list; or, (2) [r]equire utilities procure certain resources through RFPs

⁵ Order No. 13-204 at 11 (Docket UM 1182; numbering added).

⁶ Staff provided summary descriptions of the issues in its Initial Comments filed in this docket on September 30, 2013.

⁷ Order No. 13-204 at 1 (Docket UM 1182).

that do not include a utility ownership option and where IPPs will exclusively compete with one another.”

Further, as explained herein, Staff will recommend that the Commission open another phase of this docket to consider NIPPC’s new Issue (1) but not to give any further consideration to NIPPC’s new Issue (2).

1. Changes in Forced Outage Rates (FOR)

Staff and the utilities do not recommend any changes to the current bid evaluation process with respect to this FOR risk. In addition, Staff agrees with PGE’s comment that the Commission’s conclusion with respect to heat rate degradation (See Order 13-204, p.10, Section C 2) also applies to FOR:

"[W]e believe that the risks and benefits associated with heat rate degradation should be evaluated based on the individual characteristics of each resource."

Therefore, Staff believes that there is no need to change the current FOR evaluation methods and that no changes should be made to the IE's comparative analysis of utility-ownership bids versus PPA bids for this risk factor.

2. End Effect

Staff and the utilities agree that the risk and reward of terminal value is related to resource ownership, more specifically to the utility benchmark resource.

Staff did not recommend using an adder to reflect the end effect of the benchmark resource. However, Staff stated that “we may recommend on a case-by-case basis to invite PPA bidders to offer an option to renew the PPA at the end of the initial term. Were the utility to execute the PPA renewal then the cost or benefit provided by a PPA would be passed on to ratepayers thus equalizing a utility owned resource and PPAs. Receiving bid adders for PPA renewal would allow parties and the IE to consider bids with and without end effect adders which will aid in determining which resource is in the best interest of ratepayers.” See Staff Initial Comments at 6.

The utilities believe that the utility benchmark resources offer greater customer benefits than PPAs when PPAs’ terms do not provide options for a utility to obtain similar value at the end of the PPA’s term. The utilities recommend the Commission direct the IEs to consider terminal value where appropriate during the bid evaluation process, either as part of the initial bid analysis or as part of a scenario analysis.

Idaho Power maintains that "high value" renewable resource locations are often scarce or unique in their suitability for generation permitting, construction and proximity to transmission facilities. Terminal value can also include the value of continuing to operate the generator beyond the originally projected useful life of the asset. The terminal value of UOG is retained by the utility for the benefit of customers. For PPAs, on the other hand,

the independent power producer ("IPP") retains all of the value associated with continued generation and all other value related to the site at the end of the contract term." See Idaho Power Reply Comments at 3.

PGE maintains that End Effects are specific to utility-ownership bids and that the criteria for considering this factor should be revised because "the competitive bidding guidelines and criteria do not include the option value (benefits) of repowering the site or extending the life of the plant through upgrades, component replacement, and capital improvements." See PGE Initial Comments at 3.

For that reason, "PGE recommends that the economic value associated with the option to repower a site or extending the life of the plant should be included in the evaluation of competitive bids. Including this option into the RFP bid evaluation process would yield results that more accurately reflect each bid's value to our customers." See PGE Reply Comments at 4. Pacific Power is also of the same opinion that "the Commission [should] direct the IEs to consider terminal value where appropriate during the bid evaluation process, either as part of the initial bid analysis or as part of a scenario analysis." See Pacific Power Reply Comments at 5.

Staff maintains that a PPA offering an option to renew it at the end of its term equalizes the benefits from a utility-owned resource and PPA resources and recommends that the Commission direct the IEs to consider terminal value where appropriate during the bid evaluation process.

3. Environmental Regulatory Risk

Staff and the utilities agree that environmental regulations are a risk associated with resource ownership.

Staff recommended in its initial comments that expected environmental risks be included in PPAs as a possible "change in law" and that the IE should review and evaluate any "change in law" clause associated with the IPP resource. The utilities agree with Staff that no adder should be used to account for this risk factor and that the IE's comparative analysis should make sure that the bids reasonably account for anticipated future environmental regulations.

4. Increases in Fixed O&M Costs

Staff and the utilities agree that this risk factor is associated with resource ownership. Staff recommended in its initial comments that no adder be included in the evaluation of this factor but that IEs should make sure that the fixed O&M costs included in the PPAs and the utility benchmark resources are in agreement with the escalation factor for O&M costs recently used in utility Integrated Resource Plans and general rate cases.

The utilities maintain that this risk is not material or significantly different enough between utility benchmark resources and PPAs. Therefore, the utilities agree that no changes to

current competitive bidding scoring criteria of bids for fixed O&M expenses but that the IE should verify that fixed and variable operation and maintenance values are reasonable.

5. Capital Additions

Staff believes this risk factor is related to the IPP and the utility benchmark resource. While Idaho Power does not consider capital additions to be a factor that differs significantly between utilities and independent generators (See Idaho Power Comments at 7), PacifiCorp maintains that “it is important to ensure that benchmark resource proposals include any planned capital additions that are part of a long-term maintenance program for major equipment.” See PacifiCorp Comments at 13.

Staff and PGE point out that this risk factor has been sufficiently addressed in Order No. 13-204 when the Commission directed the IE “to provide a more comprehensive accounting of the risks and benefits to ratepayers for construction cost over-runs and under-runs.”⁸ Therefore, no further action is needed to address this risk factor.

6. Changes in Allowed Return on Equity (ROE)

Staff believes that this risk is tied to resource ownership. Idaho Power and PacifiCorp argued that it is impossible to accurately predict a return on equity over the life of a resource and that there is no basis to compare a future utility ROE to the ROE included in an IPP's bid. See Idaho Power Comments at 7 and PacifiCorp Comments at 16. PGE and PacifiCorp maintained that Staff has previously resolved this issue when it determined based on historical ROE data that customer impacts were not expected to be material. The utilities recommended that the Commission take no further action for this risk factor. Likewise, Staff is of the opinion that no adjustment is necessary to address this risk factor.

7. Verify Output, Heat Rate and Power Curve

Staff recommended in its initial comments that the IE verify that the RFP includes the same performance measures in terms of total annual output, average annual output, minimum and maximum net output to be produced by the IPP and the utility benchmark resource. PacifiCorp maintained that “The most effective way to ensure that the output, heat rate, and power curve at the start of resource life are appropriately established as part of the bid evaluation process is to require the IE to review and validate that the long-term performance assumptions are reasonable.” See PacifiCorp Comments at 19.

Idaho Power Company maintained that “the actual resource performance will not be known until the in service date and therefore cannot be a basis by which the IE can compare an IPP bid to a benchmark resource.” See Idaho Power Comments at 7.

Idaho Power and PGE recommended against the inclusion of this risk factor in the IE's comparative analysis. Staff disagrees and continues to support its initial recommendation.

⁸ Order No. 13-204 at 1 (Docket UM 1182).

8. Construction Delays

Staff and the utilities agree that this risk factor applies to both utility-owned and to IPP-bid PPA resources. Staff and the utilities also are in agreement that the presence of contract negotiations and liquidated damages in the contracts are important mitigation factors against this risk and recommended no further adjustment to the price bid for this risk factor.

NIPPC's Recommendations for a Short-List Acknowledgment and Resource Set Aside for IPPs.

As stated earlier, NIPPC addressed two issues that were outside the scope of the Commission's directive in its Order No. 13-204. Accordingly, Staff asks that the Commission deny NIPPC's request to broaden the current phase of this docket to consider either of its two newly-raised issues. However, as stated earlier, Staff recommends that the Commission open another phase of this docket to consider NIPPC's new Issue (1) but not to provide further consideration to NIPPC's new Issue (2). Staff reaches its recommendation for the following reasons.

Regarding NIPPC's recommendation for utilities to set aside certain resources for IPPs' exclusive bids [i.e., its new issue (2)], Staff does not believe that this recommendation could be implemented without a significant investigation into the impacts of such drastic policy change on rates and analysis of how resources acquired under such policy would fit in the utilities' integrated resource plans. Therefore, Staff recommends the Commission reject NIPPC's proposal to require utilities procure certain resources through RFPs that do not include a utility ownership option and where IPPs will exclusively compete with one another.

As for NIPPC's first recommendation to require mandatory Commission acknowledgment of the utilities' RFP short list [i.e., its new issue (1)], NIPPC claims that the lack of acknowledgment of the bidders' short list "has eroded the integrity of the entire process and omits an important opportunity for the IE to demonstrate to the Commission and Staff how short-listed companies compare with the Benchmark Resource and with one another and whether they are all being evaluated evenly." See NIPPC Comments at 4. NIPPC also contends that "the enhanced transparency would ...increase the credibility of the overall process." Finally, NIPPC alleges that "requiring acknowledgment of the short list would provide the Commission with important information by which to assess the progress of the RFP and the quality of resources being offered to the utilities." See NIPPC Comments at 5.

Staff reviewed the history of this issue and found that Staff and the utilities have in the past strongly recommended the Commission to acknowledge the utilities' short-list of bidders.⁹ However, Guideline 13 as approved in Commission Order No. 06-446 gives the utilities discretion to seek Commission's acknowledgment of the their short-list.

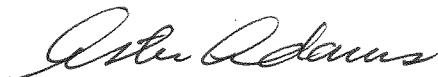
⁹ To the extent Staff's following comments rely upon prior Commission dockets and filings, Staff requests the Commission take official notice of such dockets, Orders and filings. See OAR 860-001-0460.

Staff believes that NIPPC's request to require mandatory Commission acknowledgment of the utilities' RFP short list of resources is not unreasonable given the background of this issue explained above and the recent history surrounding this issue. In recent cases related to PGE's 2012 RFP for energy and capacity resources, some parties made allegations that had PGE sought acknowledgment of its final short list, "it would have provided information to the Commission, ratepayers, and other interested parties about the process that PGE had followed in selecting its short list and that it was likely to apply in making its final selection. Seeking acknowledgement would have allowed the Commission, ratepayers, and other interested parties to give input that would have been beneficial to everyone concerned, and it would have increased the level of satisfaction with PGE's RFP process." See Calpine Comments at 5.^{10, 11}

Because acknowledgment of a utility's selection of its final short-list is an issue that was hotly debated by the parties in this docket before Order No. 06-446 and given the recent revival of the issue described above, Staff is of the opinion that NIPPC's recommendation to require utilities to seek Commission's acknowledgment of their short list of resources is not unreasonable. Therefore, Staff recommends that the Commission set an additional procedural schedule for all the parties to provide comments on the issue of whether or not the Commission should require utilities to seek its acknowledgment of the short list of resources.

This concludes Staff's Reply Comments.

Dated at Salem, Oregon, this 1st day of November, 2013.



Aster R. Adams, Ph.D.
Program Manager
Energy Resources & Planning

¹⁰ Case No. DR 46: In the Matter of TROUTDALE ENERGY CENTER, LLC, Petition for Declaratory Ruling. Comments of Calpine Corporation. See also similar claims in Docket No. UM 1535, Request for Investigation of Grays Harbor Energy, LLC at pp. 27-28.

¹¹ To the extent Staff's following comments rely upon prior Commission dockets and filings, Staff requests the Commission take official notice of such dockets, Orders and filings. See OAR 860-001-0460.

CERTIFICATE OF SERVICE

UM 1182
REPLY COMMENTS

I certify that I have, this day, served the foregoing document upon all parties of record in this proceeding 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 860-001-0180, to the following parties or attorneys of parties.

Dated this 1st day of November, 2013 at Salem, Oregon



Kay Barnes
Public Utility Commission
3930 Fairview Industrial Drive SE
Salem, Oregon 97302
Telephone: (503) 378-5763

UM 1182
SERVICE LIST

*OREGON DEPARTMENT OF ENERGY	
KACIA BROCKMAN (W) SENIOR ENERGY POLICY ANALYST	625 MARION ST NE SALEM OR 97301-3737 kacia.brockman@state.or.us
MATT KRUMENAUER (W) SENIOR POLICY ANALYST	625 MARION ST NE SALEM OR 97301 matt.krumenauer@state.or.us
*OREGON DEPARTMENT OF JUSTICE	
RENEE M FRANCE (C) (W) SENIOR ASSISTANT ATTORNEY GENERAL	NATURAL RESOURCES SECTION 1162 COURT ST NE SALEM OR 97301-4096 renee.m.france@doj.state.or.us
AVISTA CORPORATION	
DAVID J MEYER (W) VICE PRESIDENT & CHIEF COUNSEL	PO BOX 3727 SPOKANE WA 99220-3727 david.meyer@avistacorp.com
AVISTA UTILITIES	
PATRICK EHRBAR (W) MANAGER, RATES & TARIFFS	PO BOX 3727 SPOKANE WA 99220-3727 pat.ehrbar@avistacorp.com
CASCADE NATURAL GAS	
MICHAEL PARVINEN (W) MANAGER - REGULATORY AFFAIRS & GAS SUPPLY	8113 W GRANDRIDGE BLVD KENNEWICK WA 99336 michael.parvinen@cngc.com
CITIZENS' UTILITY BOARD OF OREGON	
OPUC DOCKETS (W)	610 SW BROADWAY, STE 400 PORTLAND OR 97205 dockets@oregoncub.org
ROBERT JENKS (C) (W)	610 SW BROADWAY, STE 400 PORTLAND OR 97205 bob@oregoncub.org
G. CATRIONA MCCrackEN (C) (W)	610 SW BROADWAY, STE 400 PORTLAND OR 97205 catriona@oregoncub.org
DAVISON VAN CLEVE	
IRION A SANGER (C) (W)	333 SW TAYLOR - STE 400 PORTLAND OR 97204 ias@dvclaw.com
DAVISON VAN CLEVE PC	
S BRADLEY VAN CLEVE (C) (W)	333 SW TAYLOR - STE 400 PORTLAND OR 97204 bvc@dvclaw.com

ESLER STEPHENS & BUCKLEY	
JOHN W STEPHENS (W)	888 SW FIFTH AVE STE 700 PORTLAND OR 97204-2021 stephens@eslerstephens.com; mec@eslerstephens.com
IDAHO POWER COMPANY	
REGULATORY DOCKETS (W)	PO BOX 70 BOISE ID 83707-0070 dockets@idahopower.com
LISA D NORDSTROM (C) (W)	PO BOX 70 BOISE ID 83707-0070 lnordstrom@idahopower.com
LEGAL & CONSULTING SERVICES	
ANN L FISHER (W)	PO BOX 25302 PORTLAND OR 97298-0302 ann@annfisherlaw.com
MCDOWELL RACKNER & GIBSON PC	
LISA F RACKNER (C) (W)	419 SW 11TH AVE., SUITE 400 PORTLAND OR 97205 dockets@mcd-law.com
MRW & ASSOCIATES, LLC	
WILLIAM A MONSEN (C) (W)	1814 FRANKLIN ST SUITE 720 OAKLAND CA 94612 wam@mrwassoc.com
NORRIS & STEVENS	
DAVID E HAMILTON (W)	621 SW MORRISON ST STE 800 PORTLAND OR 97205-3825 davidh@norrstev.com
NORTHWEST NATURAL GAS COMPANY	
ALEX MILLER (W)	220 NW SECOND AVE PORTLAND OR 97209-3991 alex.miller@nwnatural.com
NW & INTERMOUNTAIN POWER PRODUCERS COALITION	
ROBERT D KAHN (W)	1117 MINOR AVENUE, SUITE 300 SEATTLE WA 98101 rkahn@nippc.org
NW ENERGY COALITION	
WENDY GERLITZ (W)	1205 SE FLAVEL PORTLAND OR 97202 wendy@nwenergy.org
PACIFIC POWER	
MARY WIENCKE (C) (W)	825 NE MULTNOMAH ST, STE 1800 PORTLAND OR 97232-2149 mary.wiencke@pacificcorp.com

PACIFICORP, DBA PACIFIC POWER	
OREGON DOCKETS (W)	825 NE MULTNOMAH ST, STE 2000 PORTLAND OR 97232 oregondockets@pacificorp.com
PORTLAND GENERAL ELECTRIC	
STEFAN BROWN (C) (W)	121 SW SALMON ST - 1WTC1711 PORTLAND OR 97204 stefan.brown@pgn.com
RATES & REGULATORY AFFAIRS - PATRICK HAGER (C) (W)	121 SW SALMON ST 1WTC-0702 PORTLAND OR 97204 pge.opuc.filings@pgn.com
PORTLAND GENERAL ELECTRIC COMPANY	
DAVID F WHITE (C) (W)	121 SW SALMON ST., 1WTC1301 PORTLAND OR 97204 david.white@pgn.com
PUBLIC UTILITY COMMISSION OF OREGON	
ASTER ADAMS (C) (W)	PO BOX 1088 SALEM OR 97308-1088 aster.adams@state.or.us
PUC STAFF--DEPARTMENT OF JUSTICE	
MICHAEL T WEIRICH (C) (W)	BUSINESS ACTIVITIES SECTION 1162 COURT ST NE SALEM OR 97301-4096 michael.weirich@state.or.us
RENEWABLE NORTHWEST PROJECT	
MEGAN WALSETH DECKER (W)	421 SW 6TH AVE #1125 PORTLAND OR 97204-1629 megan@rnp.org
RICHARDSON ADAMS, PLLC	
GREGORY M. ADAMS (C) (W)	PO BOX 7218 BOISE ID 83702 greg@richardsonadams.com