

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1182(1)**

In the Matter of The
Public Utility Commission of Oregon's
Investigation regarding Competitive Bidding

STAFF'S CLOSING COMMENTS

The Commission opened docket UM 1182(1) in order to obtain parties input on three issues: (1) whether the role of the independent evaluator (IE) should be expanded by retaining the IE through negotiations and final resource selection (Guideline 11); (2) whether the threshold for a "major resource" should be lowered to include more projects in the competitive bidding process (Guideline 1); and (3) determination of the appropriate analytical framework and methodologies to use to evaluate and compare resource ownership to purchasing power from an independent power producer (Guideline 10(d)). In her Prehearing Conference Memorandum, Administrative Law Judge Wallace adopted the parties' recommendation to divide this proceeding into two phases. Phase I will address the first two issues set forth above and Phase II will address the third issue. *See* Prehearing Conference Memorandum issued January 26, 2011.

On March 31, 2011 the following parties submitted comments that addressed Phase I of this proceeding:

- The Citizens' Utility Board of Oregon (CUB)
- the Industrial Customers of Northwest Utilities (ICNU)
- the Northwest and Intermountain Power Producer's Coalition (NIPPC)
- PacifiCorp
- Portland General Electric (PGE)
- Idaho Power Company
- Renewable Northwest Project (RNP)
- Northwest Energy Coalition (NVEC)

Summary Recommendation

On the first issue of whether the role of the IE should be expanded to retain the IE through utility negotiations and final resource selection, Staff continues to support its recommendation that the IE should not continue through utility negotiations and final resource selection. Staff's recommendation is predicated on the fact that the Commission can always require the utility to retain the IE through final negotiations if it is warranted in a particular case. Changing the language of the Guideline to require IE involvement through final negotiations in every RFP is overly burdensome and unnecessary.

On the second issue, Staff does not recommend lowering the threshold below the current 100 MW of generating capacity for a single major resource for inclusion in the competitive bidding process. Further, Staff continues to recommend that the Commission adopt its suggested criteria which are designed to prevent a utility from dividing a single major resource into multiple projects solely to avoid the Commission's competitive bidding guidelines.

Independent Evaluator

Guideline 11 states that the IE will prepare a Closing Report for the Commission after the utility has selected the final short-list. In addition, the IE will make available any detailed scoring and evaluation results to all non-bidding parties in the RFP docket, subject to the terms of the protective order. Order No. 11-001 invited comment on whether the role of the IE should be expanded by retaining the IE through the utility's negotiations and final resource selections to further address the utility preference to build its own resources.

Idaho Power, PGE and PacifiCorp do not support an expanded IE role in the RFP process. The three utilities state that the RFP process must be transparent, fair and a truly competitive acquisition process that results in lower costs to customers. At the same time, they assert that this process must achieve these goals without being overly burdensome to bidders or overly costly to customers. PGE, PacifiCorp and Idaho Power then argue that the additional costs and burden of an IE through final negotiations outweighs the potential benefits.

RNP, CUB and NIPPC support the extended role of the IE beyond the short list approval stage, and believe that the additional cost is outweighed by the benefit of having a third party evaluator ensure that the utility give equal consideration to all bids.

ICNU recommends that any expansion of the role of the IE should not impose additional costs on Oregon ratepayers or constitute acknowledgement or pre-approval of a resource acquisition. But, ICNU believes it is necessary to retain the IE beyond the IE closing report only if there is a utility ownership option on the shortlist.

NWEC does not have a recommendation with regard to retaining the IE through final negotiation.

The Commission has experience in Dockets UM 1368 and UM 1429 in directing the IE to continue to monitor final negotiations. Staff's experience with the extended IE role in these dockets was that, while it was informative, it did not provide information that would have much evidentiary value in a subsequent ratemaking proceeding. In addition, PacifiCorp, PGE and Idaho Power make salient points associated with potential uncertainty and confusion that may arise if

the IE is to play a role in evaluating negotiations. For example, the parties would need to clearly understand what the IE is evaluating, for what purpose and the criteria it is using for such evaluation.

As compared to Utah and other states that require additional IE involvement through the negotiation phase, this Commission does not have a pre-approval process for new resources. At the time of ratemaking, Staff reviews the history of the resource, from an acknowledged Integrated Resource Plan Action Item to an RFP shortlist, and further through actual acquisition. As stated in Opening Comments, if Staff finds that the resource deviates significantly from what was acknowledged in the short-list of bids, whether it is a different resource or has different cost characteristics, the burden of proof that the resource is prudent and in the best interest of customers is on the Company.

Further, if a benchmark resource, or self-build option, which was not the top bidder going into negotiations were to be selected and the top bidder were to fall-out of the process, Staff would focus considerable effort in determining the reasoning behind this development and whether this was in the best interest of customers. Staff believes that the information it can obtain from the utility through data requests, testimony, and workshops is sufficient to make a prudence determination. An IE report on final negotiations would likely provide limited benefit in a prudence determination.

The Commission always has the discretion at the time of shortlist acknowledgement to require the utility to retain the IE through final negotiations. Staff recommends that Guideline 13, RFP Acknowledgement, be modified to include the following sentence:

At the time of short-list acknowledgement proceedings, Staff will provide a recommendation to the Commission in its evaluation as to whether the Commission should retain the IE through final negotiations.

Major Resource

Guideline 1 established the expectation that the utilities will issue RFPs for major resources having generating capacity greater than 100 MW and an operating life longer than five years. At the time these Guidelines were adopted, parties did not contemplate that a utility may attempt to avoid this requirement by artificially sizing a resource below the 100 MW threshold.

In its Opening Comments, Staff recommended that the Commission adopt criteria that would clarify the definition of a single resource or project. No party objected to adding additional clarification.

RNP was the only party that recommended that the Commission lower the threshold below 100 MW, but specifically cited solar, geothermal and biomass as the only types of resources that would require RFP's below 100 MW.

CUB did not support lowering the threshold below 100 MW, but did recommend that bids only be solicited on an "all-source" basis and not by resource type.

Staff does not support lowering the threshold of a major resource below 100 MW. Staff agrees with the majority of the parties that the commercial scale of the vast majority of wind and baseload energy projects in the industry today is above 100 MW. At this time, Staff believes that projects greater than 100 MW benefit more from the structure provided under the Guidelines.

On a related issue, Staff continues to recommend that the Commission define a single major generating resource, to remove any incentive for a utility to divide a single major resource into multiple projects for the sole purpose of avoiding the Commission's competitive bidding requirements.

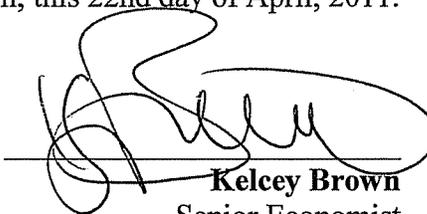
Staff continues to recommend the following criteria be applied when determining a single major resource:

1. There is a presumption that multiple generating plants are actually a single major resource if the plants are located on one or more adjacent parcels of land or on parcels within a five mile radius;
2. There is a presumption that multiple generating plants are actually a single major resource if the construction of the multiple plants is performed by the same general contractor, or under the same contract, or multiple contracts entered into within two years of each other.
3. If facilities will be completed in phases over time, the utility must demonstrate that each of the phases of the facility would independently qualify as a single facility.
4. Other factors or considerations which demonstrate that each generating plant is not a separate and distinct facility based on its construction, operation, on-line date, or maintenance agreements.

The primary benefit of an RFP is that it provides greater assurance that the Company has obtained the least-cost resource on behalf of customers. It is with this in mind that Staff hopes to provide additional transparency in the utilities future acquisition of resources and further the Commissions ability to meet its goals in our competitive bidding process.

This concludes Staff's comments.

Dated at Salem, Oregon, this 22nd day of April, 2011.

A handwritten signature in black ink, appearing to read 'Kelcey Brown', written over a horizontal line.

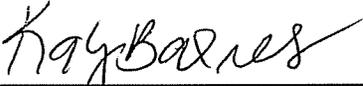
Kelcey Brown
Senior Economist
Electric Rates & Planning

CERTIFICATE OF SERVICE

**UM 1182 (1)
(CLOSING 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 22nd day of April 2011, at Salem, Oregon.



Kay Barnes
Public Utility Commission
Regulatory Operations
550 Capitol St NE Ste 215
Salem, Oregon 97301-2551
Telephone: (503) 378-5763

UM 1182
Service List (Parties)

| | |
|--|---|
| <p>*DEPARTMENT OF JUSTICE</p> <p>JANET L PREWITT ASSISTANT AG</p> | <p>NATURAL RESOURCES SECTION 1162 COURT ST NE SALEM OR 97301-4096 janet.prewitt@doj.state.or.us</p> |
| <p>*OREGON DEPARTMENT OF ENERGY</p> <p>MATT HALE MANAGER ENERGY TECHNOLOGY</p> | <p>625 MARION ST NE SALEM OR 97301 matt.hale@state.or.us</p> |
| <p>VIJAY A SATYAL SENIOR POLICY ANALYST</p> | <p>625 MARION ST NE SALEM OR 97301 vijay.a.satyal@state.or.us</p> |
| <p>AF LEGAL & CONSULTING SERVICES</p> <p>ANN L FISHER ATTORNEY AT LAW</p> | <p>PO BOX 25302 PORTLAND OR 97298-0302 energlaw@aol.com</p> |
| <p>AVISTA CORPORATION</p> <p>DAVID J MEYER VICE PRESIDENT & CHIEF COUNSEL</p> | <p>PO BOX 3727 SPOKANE WA 99220-3727 david.meyer@avistacorp.com</p> |
| <p>AVISTA UTILITIES</p> <p>PATRICK EHRBAR MANAGER, RATES & TARIFFS</p> | <p>PO BOX 3727 SPOKANE WA 99220-3727 pat.ehrbar@avistacorp.com</p> |
| <p>CASCADE NATURAL GAS</p> <p>KATHERINE BARNARD MANAGER - REGULATORY AFFAIRS & GAS SUPPLY</p> | <p>8113 W GRANDRIDGE BLVD KENNEWICK WA 99336 kathie.barnard@cngc.com</p> |
| <p>DENNIS HAIDER EXECUTIVE VP, REGULATORY, GAS SUPPLY & BUS DEVELOP</p> | <p>8113 W GRANDRIDGE BLVD KENNEWICK WA 99336 dennis.haider@mdu.com</p> |
| <p>CITIZENS' UTILITY BOARD OF OREGON</p> <p>GORDON FEIGHNER ENERGY ANALYST</p> | <p>610 SW BROADWAY, STE 400 PORTLAND OR 97205 gordon@oregoncub.org</p> |
| <p>ROBERT JENKS EXECUTIVE DIRECTOR</p> | <p>610 SW BROADWAY, STE 400 PORTLAND OR 97205 bob@oregoncub.org</p> |
| <p>G. CATRIONA MCCrackEN LEGAL COUNSEL/STAFF ATTY</p> | <p>610 SW BROADWAY, STE 400 PORTLAND OR 97205 catriona@oregoncub.org</p> |

| | |
|--|--|
| <p>DAVISON VAN CLEVE</p> <p>IRION A SANGER ASSOCIATE ATTORNEY</p> | <p>333 SW TAYLOR - STE 400 PORTLAND OR 97204 mail@dvclaw.com</p> |
| <p>DAVISON VAN CLEVE PC</p> <p>S BRADLEY VAN CLEVE</p> | <p>333 SW TAYLOR - STE 400 PORTLAND OR 97204 mail@dvclaw.com</p> |
| <p>ESLER STEPHENS & BUCKLEY</p> <p>JOHN W STEPHENS</p> | <p>888 SW FIFTH AVE STE 700 PORTLAND OR 97204-2021 stephens@eslerstephens.com; mec@eslerstephens.com</p> |
| <p>IDAHO POWER COMPANY</p> <p>CHRISTA BEARRY</p> | <p>PO BOX 70 BOISE ID 83707-0070 cbearry@idahopower.com</p> |
| <p>LISA D NORDSTROM ATTORNEY</p> | <p>PO BOX 70 BOISE ID 83707-0070 lnordstrom@idahopower.com</p> |
| <p>MCDOWELL RACKNER & GIBSON PC</p> <p>LISA F RACKNER ATTORNEY</p> | <p>419 SW 11TH AVE., SUITE 400 PORTLAND OR 97205 lisa@mcd-law.com</p> |
| <p>NORRIS & STEVENS</p> <p>DAVID E HAMILTON</p> | <p>621 SW MORRISON ST STE 800 PORTLAND OR 97205-3825 davidh@norrstev.com</p> |
| <p>NORTHWEST NATURAL GAS COMPANY</p> <p>ALEX MILLER DIRECTOR - REGULATORY AFFAIRS</p> | <p>220 NW SECOND AVE PORTLAND OR 97209-3991 alex.miller@nwnatural.com</p> |
| <p>NW ENERGY COALITION</p> <p>WENDY GERLITZ SENIOR POLICY ASSOCIATE</p> | <p>1205 SE FLAVEL PORTLAND OR 97202 wendy@nwenergy.org</p> |
| <p>NW INDEPENDENT POWER PRODUCERS</p> <p>ROBERT D KAHN EXECUTIVE DIRECTOR</p> | <p>1117 MINOR AVENUE, SUITE 300 SEATTLE WA 98101 rkahn@nippc.org;rkahn@rdkco.com</p> |

| | |
|---|---|
| <p>PACIFIC POWER & LIGHT</p> <p>JORDAN A WHITE SENIOR COUNSEL</p> | <p>1407 W. NORTH TEMPLE, STE 320 SALT LAKE CITY UT 84116 jordan.white@pacificorp.com</p> |
| <p>PACIFICORP</p> <p>NATALIE HOCKEN VICE PRESIDENT & GENERAL COUNSEL</p> | <p>825 NE MULTNOMAH SUITE 2000 PORTLAND OR 97232 natalie.hocken@pacificorp.com</p> |
| <p>PACIFICORP, DBA PACIFIC POWER</p> <p>OREGON DOCKETS</p> | <p>825 NE MULTNOMAH ST, STE 2000 PORTLAND OR 97232 oregondockets@pacificorp.com</p> |
| <p>PORTLAND GENERAL ELECTRIC</p> <p>RATES & REGULATORY AFFAIRS - PATRICK HAGER</p> | <p>121 SW SALMON ST 1WTC-0702 PORTLAND OR 97204 pge.opuc.filings@pgn.com</p> |
| <p>V. DENISE SAUNDERS</p> | <p>121 SW SALMON ST 1WTC1301 PORTLAND OR 97204 denise.saunders@pgn.com</p> |
| <p>PUBLIC UTILITY COMMISSION</p> <p>MAURY GALBRAITH</p> | <p>PO BOX 2148 SALEM OR 97308 maury.galbraith@state.or.us</p> |
| <p>PUC STAFF--DEPARTMENT OF JUSTICE</p> <p>MICHAEL T WEIRICH</p> | <p>BUSINESS ACTIVITIES SECTION 1162 COURT ST NE SALEM OR 97301-4096 michael.weirich@doj.state.or.us</p> |
| <p>RENEWABLE NORTHWEST PROJECT</p> <p>MEGAN WALSETH DECKER</p> | <p>917 SW OAK, STE 303 PORTLAND OR 97205 megan@rnp.org</p> |
| <p>RICHARDSON & O'LEARY</p> <p>GREGORY M. ADAMS</p> | <p>PO BOX 7218 BOISE ID 83702 greg@richardsonandoleary.com</p> |
| <p>RICHARDSON & O'LEARY PLLC</p> <p>PETER J RICHARDSON</p> | <p>PO BOX 7218 BOISE ID 83707 peter@richardsonandoleary.com</p> |