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March 19, 2012

Via Electronic and U.S. 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 Public Utility Commission of Oregon Investigation
Regarding Competitive Bidding.
Docket No. UM 1182, Phase II

Dear Filing Center:

Enclosed please find the original and five (5) copies of the Phase II Opening Comments of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Thank you for your assistance, and please do not hesitate to contact our office if you have any additional questions.

Sincerely yours,

/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, where paper service has not been waived.

Dated at Portland, Oregon, this 19th day of March, 2012.

/s/ Sarah A. Kohler
Sarah A. Kohler

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

**UM 1182
Phase II**

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	OPENING COMMENTS OF INDUSTRIAL
OREGON)	CUSTOMERS OF NORTHWEST UTILITIES
)	ON THE ISSUES FOR THIS PROCEEDING
Investigation Regarding Competitive)	
Bidding.)	
_____)	

I. INTRODUCTION

The Industrial Customers of Northwest Utilities (“ICNU”) submits these Comments on the appropriate scope of Phase II of the reopened investigation into competitive bidding. ICNU believes that the competitive bidding process remains biased in favor of utility ownership options, and encourages the Oregon Public Utility Commission (“OPUC” or the “Commission”) to use the second phase of the process to adopt specific revisions that help to mitigate this bias. ICNU has been informed that the Commission is concerned about staffing resources and does not want to review every issue regarding how utility bias impacts the competitive bidding process, but only those issues that can be analytically calculated and have a measurable impact on resources that are selected. If the issues in this case are going to be limited, then time should not be spent evaluating the utility proposals that would further increase this bias by adopting bid price adders that favor utility ownership options. The end result of this case should not be a competitive bidding process further weighted against independent power producers.

ICNU recommends that the Commission use this phase of the proceeding to review at a minimum: 1) capital cost overruns during the first years of operation; 2) decreased performance of thermal and wind generation; and 3) increased operation and maintenance (“O&M”) costs. ICNU does not yet have a position on whether any specific frameworks or methodologies should be adopted in this proceeding, but looks forward to working with the parties and reviewing proposals that could result in a more even handed bidding process that would result in the utilities acquiring the lowest cost and least risk resources.

II. BACKGROUND

The Commission recently reaffirmed its conclusion that the current resource procurement process is biased in favor of utility-owned resources compared to purchase power agreements (“PPAs”). Re An Investigation Regarding Performance-Based Ratemaking Mechanisms to Address Potential Build-vs.-Buy Bias, Docket No. UM 1276, Order No. 11-001 at 5 (Jan. 3, 2011). The Commission has considered a number of potential remedies to this problem, including requiring resources to be placed in rates only if costs are lower than market, adopting monetary incentives for entering into PPAs, and adopting competitive bidding guidelines. The focus of this proceeding is to make improvements to the competitive bidding process “to fully address utility self-build bias.” Id. at 6. The Commission directed the parties to address this issue in Phase II by accounting for and comparing the risks of utility ownership and inviting comments “on the analytic framework and methodologies that should be used to evaluate and compare resource ownership to purchasing power from an independent power producer.” Id.

The parties have met to discuss these issues in workshops, and some parties have invested considerable effort in analyzing information to develop workable analytical frameworks and methodologies, in order to accurately estimate the risks of utility ownership and PPAs. The parties discussed nearly a dozen issues, the majority of which were factors that attempted to address the utility bias against entering into PPAs. The utilities, however, raised a number of issues that, in their view, undervalued utility ownership options, and proposed solutions that would adjust the competitive bidding process accordingly. After Staff informed the parties that the Commission may want to consider only a few issues, the parties discussed narrowing the list of issues, but were unable to reach an agreement upon a common list of issues.

III. COMMENTS

ICNU supports the Commission focusing its limited time and resources on those issues that have an impact upon the utility self-ownership bias and are capable of being addressed with analytical or methodological revisions to the existing competitive bidding process. ICNU strongly opposes considering the utilities' proposals that would further predispose the process in favor of utility ownership, unless the Commission intends to address the much longer list of all issues that contribute to an unfair request for proposal ("RFP") process.

The Commission should consider whether capital costs included in the competitive bidding process have been underestimated during the first five years of operation. Use of five years of data is a reasonable compromise between the utilities' proposal to look only to the time the facility is operational and the Northwest Intermountain Power Producers' ("NIPPC") original proposal to look at capital costs for the life of the plant. From a practical

purpose, ratepayers are ultimately responsible for any prudently incurred capital cost overruns at utility-owned resources, while ratepayers may be shielded from certain cost overruns associated with PPAs. Information has already been provided to the parties in this case that makes the *prima facie* case that these cost overruns may be significant and can be reasonably calculated, and the Commission should consider adopting a framework or methodology to address this issue in the formal RFP process.

The Commission should also consider accounting for the risks associated with declining capacity factors and heat rates for both thermal and wind resources. Heat rate degradation is a significant risk associated with thermal plants, and the current process shoulders ratepayers with the risk that utility-owned resources will experience heat rate degradation. Similarly, ratepayers bear the risk that estimated wind resource capacity factors will not match the amount estimated for utility-owned projects. Certain utility owned wind resources have failed to match their original estimated capacity factors, which has harmed ratepayers. Some parties have argued that heat rate and wind capacity factors are two separate issues, but ICNU believes that decreased performance should be considered regardless of the resource type.

Finally, the Commission should use this proceeding to consider the different values that a utility owned resource and a PPA will provide regarding increased O&M costs. If there is a significant actual cost increase that is not accounted for in the competitive bidding process, and ratepayers can be protected from this cost increase in a PPA (but not a utility owned resource), then the Commission should consider a framework or methodology to address this issue.

IV. CONCLUSION

ICNU recommends that the Commission allow the parties to review a limited number of important issues that may be significant factors in biasing the competitive bidding process in favor of utility owned resources. The Commission has already determined that a bias exists, and that it is not interested in more radical fixes to the problem, such as removing utility-owned resources from rate base or allowing a return on investment when a utility enters into a PPA. The Commission has decided to rely upon the competitive bidding process, which ICNU believes has not adequately eliminated this bias, and should consider proposals that may reduce (rather than increase) this bias.

Dated this 19th day of March, 2012.

Respectfully submitted,

/s/ Irion A. Sanger

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