

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1276

In the Matter of THE PUBLIC UTILITY)	
COMMISSION OF OREGON Staff's)	
Request to open an investigation regarding)	REPLY COMMENTS
Performance-based ratemaking)	OF THE RENEWABLE
Mechanisms to address potential build-vs.-)	NORTHWEST PROJECT
Buy bias.)	

The Renewable Northwest Project (RNP) submits these reply comments in Docket UM 1276.

Introduction

RNP's diverse membership of consumer, environmental and business interests is united in the view that increasing reliance on renewable resources makes economic and environmental sense for Oregon and the region. The RNP membership also represents nearly every point of view in this docket: consumer and environmental advocates who strongly support renewables, but are concerned about customer rate impacts and are wary of the notion of paying a utility to do something they either should or probably will do anyway; independent power producers who want to compete fairly with utility owned resources and preserve a market for their business model in Oregon; and, developers who prefer the utility ownership model because they primarily develop and sell renewable projects to utilities.

Further, RNP was a strong advocate for Senate Bill 838 and other Renewable Energy Standards (RES) in the region and is pleased to see Oregon's utilities focused on acquiring the resources to meet those standards. As stated in opening comments, RNP is generally agnostic as to how utilities acquire renewables. However, RNP believes diversity is the best policy in resource procurement -- diversity in types of renewables acquired and diversity in resource providers. RNP is concerned about the trend towards

utility ownership of renewable resources, and believes the best acquisition strategy is a balance between owned resources and purchase power agreements (PPAs).

RNP recommends the Commission implement a narrowly tailored incentive targeted to the bias toward owned resources. The incentive should encourage utilities to consider PPAs when they otherwise would prefer an owned resource, while still protecting utility customers. RNP supports Staff's proposal in this docket, believing it meets these criteria.

Background on Proposals

Following the Commission's June workshop, parties continued to discuss and refine PacifiCorp's CIM/pp proposal and NIPPC's 10% RFP adder proposal. In particular, RNP and some of our members worked closely over the summer with PacifiCorp on their CIM/pp proposal. RNP appreciates the time PacifiCorp's counsel and utility staff dedicated to refining that proposal to address its implication for wind projects. In September, PacifiCorp staff prepared a numerical example of the CIM/pp incentive. After reviewing the example, RNP and other parties became concerned about the potential financial impact of that proposal on customers. Parties then requested an extension of the schedule in the docket. Staff developed its incentive proposal in September and parties discussed that proposal at the October workshop. The NW Energy Coalition subsequently circulated its alternative proposal as well.

Staff's proposal was offered as a potential compromise, and RNP hoped it would represent a position that most parties could support. RNP supports Staff's proposal and limits our detailed comments below to that proposal. Staff's proposal includes some of the principles of the CIM/pp proposal, while providing a more modest financial incentive with other important consumer protections. RNP is not providing additional comments on any of the other proposals. In brief, while RNP is concerned that the CIM/pp may be too high of an incentive, the NWEC proposal is too modest. Ultimately, RNP seeks an

incentive that is significant enough to affect utility behavior, while recognizing that the utilities do not have money at risk and that customers are paying for the incentive.

Discussion of Issues

Value of Ownership

An assumption of this docket has been that utilities are biased toward owning resources largely due to the ability to earn a return on rate base. As a result, the proposals being considered focused on giving utilities a financial incentive to invest in PPAs to overcome this bias.

More recently, RNP has heard another reason for a preference for ownership of renewable resources advanced by both utilities and consumer advocates. They favor utility ownership of renewables for meeting Renewable Energy Standards because of the certainty ownership provides. They are concerned about the end of a contract term occurring when the utility must meet a RES and the potentially high cost of renegotiating that renewable contract or not having an option to renew. RNP appreciates and acknowledges that as a legitimate concern, but wanted to respond to the argument in the context of this docket.

It is difficult to predict what the value of a wind project will be in 20 years. The projects and land leases may well be as valuable as the Mid-Columbia hydro projects (which is often the analogy used). On the other hand, it is entirely feasible that utilities will find other renewable resources – geothermal, solar, wave power – that will be very cost effective and preferable for meeting their load and RES requirements. In that case, a utility that owns all of its wind resources may be disadvantaged. A wind PPA leaves that technology risk with the IPP. Again, the prudent strategy would be for utilities to pursue a combination of owned and contracted resources to meet the RES requirements.

Competitive Bid Requirement

RNP supports Staff's second eligibility criteria that the PPA must be selected via a Request for Proposal (RFP), consistent with Oregon's UM 1182 competitive bidding guidelines, in order to qualify for the incentive. An RFP is the proper way to ensure an understandable and fair process for bidders and the resulting best deal for customers.

The Joint Utilities' oppose this requirement, arguing it extends the mandatory bidding guidelines to a new set of PPAs. RNP believes the Staff proposal represents a compromise on the issue of size of PPA that can qualify for the incentive. Earlier in the docket, many parties supported an incentive available only for Major Resources, defined as 100 MW with a term five years or longer. The Utilities' consistently argued for the incentive to be available for "medium term" PPAs as well. Staff's proposal permits a utility to seek an incentive for resources of 25 MW and three years or longer. But to qualify for an incentive, any PPA must be the result of a competitive bidding process. RNP does not agree that it effectively expands the UM 1182 requirements. Utilities can continue to acquire some resources outside of the competitive solicitation process. In order to obtain an incentive, RNP believes it is appropriate to acquire the resource from an RFP.

The Joint Utilities' also argue that the RFP requirement is particularly concerning as it applies to renewable resources due to RES laws and the competitiveness of acquiring renewables. RNP recognizes that there is competition for wind resources in the region. But many utilities acquire resources via competitive solicitation; the RFP requirement in this docket does not create a significant disadvantage for Oregon utilities. In addition, it appears that both PGE and PacifiCorp already have sufficient resources for the near-term RES requirements. They are rightly focused on continuing to expand their renewable acquisitions, but neither utility is in a position of needing to ramp-up acquisitions so quickly that an RFP process would result in missed opportunities.

Finally, RNP believes an RFP is appropriate because the process will provide checks and balances to ensure that any PPA eligible for an incentive was selected fairly

and represents real value to customers. RNP's opening comments in this docket reiterated our position in UM 1182 – the importance of getting resource decisions right in the first place. An RFP provides an upfront opportunity to ensure utilities acquire the right mix of resources, in this case hopefully a balance between owned resources and PPAs. The other regulatory tool – prudence review in a rate case – requires the Commission to second guess the utilities decision potentially years after the fact. While future disallowance of cost will certainly impact utility decision making, it is obviously too late for the utility's customers to get the benefit of a cost effective PPA and too late for the IPP that was prepared to offer that contract.

Self Build Option

RNP supports Staff's position that any PPA selected for an incentive must be in lieu of a utility ownership option. Comparing PPAs in an RFP to a utility self build is the obvious way to determine the value to customers of the risks assumed in a PPA, as opposed to customers shouldering the same risks in the utility owned resource.

RNP concedes that it may be sufficient for the utility to demonstrate the general availability of an ownership option, as opposed to a specific self-build alternative. However, RNP recognizes that a key concern with this docket is the possibility of a utility being paid an incentive to do what they were going to do anyway in the absence of an incentive. If a utility plans to pursue a variety of PPAs as part of their IRP, and the IRP does not indicate that the decision to pursue those PPAs is as an alternative to an owned resource, it is not appropriate for customers to pay for an incentive for that PPA. One way to address this concern is to require the self-build option in an RFP, to ensure that any PPA selected for an incentive was clearly in lieu of a utility owned option.

Risk Allocation

RNP supports Staff's third criteria that any PPA eligible for the incentive must absorb certain risks of project development, performance and operation. The incentive is the proxy value for the risk reduction benefits of a PPA. Thus, any PPA that receives an incentive must retain those risks.

Further, RNP believes it is an appropriate role for the Independent Evaluator (IE) to assess the risks absorbed in a PPA and include that analysis in their formal recommendation to the Commission. RNP does not believe the evidence of consolidation or non-consolidation under the Financial Accounting Standards Board Financial Interpretation 46(R) is sufficient on its own to determine if a PPA qualifies for an incentive. It is appropriate for the IE to rely on that assessment as one factor in determining the balance of risks. The IE should also be directed to review the utility's own discussion of the relative risks and benefits within its IRP, as required by UM 1056.

RNP suggests for renewable contracts there are a few key risks that a project owner retains. During project construction, the risk of delays and cost over-runs of project construction are borne by the project developer under a PPA. Some contracts may also provide for liquidated damages for failure to come on-line by a set date, which is advantageous for a utility counting on that resource for its load or to meet an RES. Once a wind project is operating, a significant risk is whether the actual long-term wind performance meets the expected performance (i.e, the wind does not blow as much as projected). For a utility owned wind project, the customers will see rate increases due to inaccurate estimation of the wind resource. The project developer retains that risk under the PPA. The price of the contract is firm, only the return to the owner will drop if the wind blows less then expected. Further, a PPA can have production or output guarantees that create a financial penalty, keeping the utility whole.

10% Pre or Post Tax

RNP believes 10% is an appropriate incentive level, representing substantial value to the utility. Ideally, we'd leave it at that, but nothing is ever simple in utility regulation. The issue of when taxes are factored into the incentive calculation means that, if 10% is a pre-tax value, the utility will see something less then 10%, probably 6-7%. If the utility calculates the incentive after taxes are factored, giving the utility a full 10% incentive, the customers will pay something greater then 10%, maybe 12-14%.

RNP supports the Joint Utilities' and NIPPC's view that the 10% incentive should be calculated on a post-tax basis. RNP believes the Staff proposal includes important consumer protection elements, including capping the incentive at 1% of the utility's previous year revenues, and providing Commission review at least within three years of the incentive going into rates. In combination with the RFP requirement, these provisions ensure any incentive is limited and represents real value to utility customers. Therefore, it is reasonable to provide the full 10% incentive to the utility.

Conclusion

RNP believes the Commission should implement a utility incentive consistent with the Staff proposal.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **REPLY COMMENTS OF THE RENEWABLE NORTHWEST PROJECT** on the following persons on January 29, 2008, by hand-delivering, faxing, e-mailing, or mailing (as indicated below) to each a copy thereof, and if mailed, contained in a sealed envelope, with postage paid, addressed to said attorneys at the last known address of each shown below and deposited in the post office on said day at Portland, Oregon:

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DATED this 29th day of January, 2008.

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