

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1934

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	NORTHWEST AND
COMPANY,)	INTERMOUNTAIN POWER
)	PRODUCERS COALITION
2018 Request for Proposals for)	COMMENTS ON PGE'S FINAL SHORT
<u>Renewable Resources.</u>)	LIST ACKNOWLEDGMENT

I. INTRODUCTION

Northwest and Intermountain Power Producers Coalition (“NIPPC”) provides these comments to the Public Utility Commission of Oregon (the “Commission”) regarding Portland General Electric Company’s (“PGE’s”) request for acknowledgement of its 2018 Request for Proposal (“RFP”) short list. NIPPC recommends that the Commission acknowledge PGE’s final short list based on the short list being consistent with the Commission-approved RFP and the IE’s determination that it will result in ratepayer savings.

NIPPC also recommends that the Commission promptly schedule workshops to investigate PGE’s transmission rights to determine how they can be best used to serve customers. The Commission-approved 2018 RFP included restrictive transmission and interconnection requirements which limited participation, and these should be reviewed after the RFP is acknowledged.

The Commission, however, approved the RFP with these components, and the bidders who fairly competed should not be penalized for participating in the RFP by the Commission declining to now acknowledge the short list. The resulting final short list

represents the least-cost and least-risk available resources given that the Production Tax Credit is expiring. Thus, ratepayers will be best served by the Commission acknowledging the short list, which authorizes PGE to begin serious contract negotiations with those bidders.

NIPPC notes that there is a difference in opinion between PGE and the Independent Evaluator (“IE”) regarding the ranking of the final short list bidders.¹ NIPPC represents the interests of the competitive power industry as a whole; thus, NIPPC does not take a position on this issue because it is not NIPPC’s role or purpose to involve itself in opining on the potential winners or losers of any particular RFP.

Finally, at the time of this filing, PGE has not yet responded to NIPPC’s discovery requests and NIPPC may submit comments on new issues later in this process after having an opportunity to review those.²

II. BACKGROUND

A. PGE’s Prior RFP (the 2016 RFP) Was Rushed and Flawed

PGE’s current resource acquisition plans began with the passage of Senate Bill (“SB”) 1547, which was signed into law on March 8, 2016 and doubled the state’s renewable portfolio standard obligations and incentivized early resource acquisition. On

¹ IE Report at 4-5.

² PGE’s responses to NIPPC’s data responses were due no later than October 24, 2018.

May 13, 2016, in response to this historic statute, PGE appropriately filed its 2016 RFP,³ which PGE ultimately withdrew.⁴

PGE's 2016 RFP was rushed and deeply flawed. First, PGE did not make any effort to work with stakeholders in the RFP's development, nor did it conduct an independent process to hire an IE.⁵ Industrial customers and Staff challenged whether PGE had a "need" for new renewable resources.⁶ Despite its flaws, NIPPC agreed that PGE needed new renewable resources and supported the Commission approving and allowing PGE to proceed with its RFP, with a number of revisions. NIPPC recommended, inter alia, that PGE's 2016 RFP be revised to: 1) require PGE to pay the full contract price for power deliveries under power purchase agreement ("PPA") options; and 2) remove burdensome transmission restrictions.⁷ Faced with uncertainty regarding whether the Commission would ultimately approve its 2016 RFP, PGE withdrew the RFP.⁸

B. PGE's 2016 IRP Was Acknowledged After a Revised Action Plan without Incorporating NIPPC's Transmission Recommendations

PGE then sought to establish a need for new renewable resources through its 2016 integrated resource plan ("IRP"). NIPPC supported PGE's resource need, but criticized

³ Re PGE Petition for Partial Waiver of Competitive Bidding Guidelines and Approval of Request for Proposals (RFP) Schedule, Docket No. UM 1773, PGE 2016 RFP (May 9, 2016) (eDockets shows a May 13, 2016 filing while the RFP is dated May 9, 2016).

⁴ Docket No. UM 1773, PGE Request to Close Docket (Aug. 18, 2018).

⁵ Instead, PGE unilaterally selected Accion Group, which had previously supervised the flawed RFP process that resulted in PGE's acquisition of the ill-fated Carty gas generation resources.

⁶ Docket No. UM 1773, Order No. 16-280, Appendix A Staff Report at 5, 12-13 (July 29, 2016).

⁷ Docket No. UM 1773, NIPPC Comments at 1-2 (June 6, 2016); Docket No. UM 1773, NIPPC Comments 1-23 (July 27, 2016).

⁸ Docket No. UM 1773, PGE Request to Close Docket (Aug. 18, 2018).

PGE's IRP because, inter alia, PGE foreclosed considering alternative transmission opportunities, and PGE should have relied upon short-term transactions or long-term PPAs rather than building a new gas plant.⁹ NIPPC pointed out that PGE had failed to provide the stakeholders with information regarding its transmission resources so that the Commission could determine how much transmission it owned, and that "PGE is not treating its transmission system as belonging to ratepayers, but is instead relying upon an approach that could lead to PGE selecting overall more expensive utility owned generation."¹⁰ NIPPC pointed out that access to BPA transmission was critical to any future RFP, and PGE had sufficient transmission to ensure a robust RFP.

The Commission ultimately acknowledged PGE's resource need, which provided PGE with firm grounds to move forward with its renewable RFP. NIPPC supported PGE's claimed resource need, but the Commission initially declined to acknowledge the RFP for 175 average megawatts ("MWA") of new renewable energy resources. Instead, the Commission agreed "to allow PGE the opportunity to file a revised action plan regarding renewable resource procurement and present that to the Commission."¹¹ While the Commission did not adopt NIPPC's specific transmission recommendations, the Commission directed PGE to "[h]old a workshop to explore the issue of transmission and the potential access to higher capacity wind resources in Montana and Wyoming."¹² Nothing meaningful came out of this transmission evaluation requirement. Ultimately,

⁹ In RE PGE, 2016 IRP, Docket No. LC 66, NIPPC Comments at 1-3, 17-40 (Jan. 24, 2017); Docket No. LC 66, NIPPC Final Comments at 1-5, 11-26 (May 12, 2017).

¹⁰ Docket No. LC 66, NIPPC Final Comments at 2.

¹¹ Docket No. LC 66, Order No. 17-386 at 1 (Oct. 9, 2017).

¹² Id. at 19.

the Commission acknowledged PGE’s revised action plan to acquire 100 MWa of renewable resources.¹³

C. The Commission Acknowledged PGE’s 2018 RFP, including Significant Transmission Restrictions

PGE then moved forward with the development of this RFP (the “2018 RFP”). PGE rebuffed NIPPC’s efforts to comment on the RFP’s preparation and drafting. PGE also sought to hire an IE, and did not inform NIPPC that it was in the process of seeking IEs, which initially prevented NIPPC from informing potential IEs about submitting applications. While PGE’s criteria for hiring an IE were deeply flawed and appeared designed to reduce the independence of an IE, a number of well-qualified potential IEs sought to be hired. NIPPC and industrial customers [REDACTED], and recommended that the Commission retain Bates White. Bates White was formerly known as Boston Pacific, which has provided critical reviews of, and identified significant flaws in, previous RFPs.

On March 9, 2018, PGE filed its 2018 RFP. NIPPC submitted initial comments focusing on the facts that PGE’s transmission and interconnection requirements would have the practical impact of ensuring that many “least cost and least risk resource options [] will not be able compete, or even participate, under PGE’s RFP as proposed.”¹⁴ The main practical transmission provider to reach PGE is BPA, which has unique transmission requirements. NIPPC made a number of different recommendations to remedy the transmission and interconnection impediments in the RFP.¹⁵ NIPPC also raised over a dozen additional concerns, including PGE’s “specified energy” restrictions,

¹³ Docket No. LC 66, Order No. 18-044 at 1 (Feb. 2, 2018).

¹⁴ NIPPC Initial Comments at 2 (March 30, 2018)

¹⁵ Id. at 2-15, 27-28, 39-40.

and proposed use of generic fill that could provide an advantage to utility-owned resources.¹⁶ NIPPC’s final comments pointed out that PGE withheld key transmission information from the stakeholders and Commission in both the IRP and RFP, and that:

[T]he transmission problem is tantamount. PGE should be using its transmission assets to ensure the best deal possible for its ratepayers and to maximize its ability to integrate new resources into its generation portfolio. Instead, PGE is using its transmission to ensure that utility-owned generation can out-compete other bidders.¹⁷

The Commission ultimately approved PGE’s 2018 RFP with modifications.

PGE’s final RFP included many of NIPPC’s recommended changes, including some minor ones related to transmission, and recognized the Commission’s “increasing need to understand the technical and complex information necessary to determine whether transmission rights held for the benefit of customers are being deployed to support least cost, least risk outcomes. We intend to hold a future Commissioner workshop to examine these transmission issues.”¹⁸

The Commission required PGE to modify the RFP to allow bidders to rely upon up to three years of conditional firm bridge service, and PGE also amended the RFP to allow bidders to be earlier along in the transmission acquisition process.¹⁹ The Commission, however, did not make most of NIPPC’s recommended changes to the RFP

¹⁶ Id. at 20-21, 23-24 and Attachment A.

¹⁷ NIPPC Final Comments at 3-4 (April 30, 2018).

¹⁸ Order No. 18-171 at 4 (May 21, 2018). The Commission also modified the RFP “to clearly state that a PPA bidder may omit or edit the specified energy provisions in the PPA” and that the PPA bidder should not be penalized for modifying the specified energy terms. Id. at 3.

¹⁹ Id. at 3-4 (adopting transmission related changes regarding 15 vs. 60 minute scheduling and conditional firm, but ordering a transmission workshop instead of more significant transmission changes). NIPPC notes that is made substantially the same transmission related arguments in Puget Sound Energy’s recent RFP, which PSE agreed to make and allow bidders to use its transmission rights.

related to transmission requirements. These were the final terms that the Commission approved and the Commission was well aware of NIPPC's view that the 2018 RFP could potentially exclude some low cost and low risk generation resources because of transmission restrictions.

D. The Commission's Newly Adopted Competitive Bidding Guidelines Require a Utility to Explain and Demonstrate Why It Should Not Use Ratepayer Funded Assets to Benefit Ratepayers

PGE's RFP was designed and run based on the Commission's recently superseded competitive bidding guidelines. Given this, it was appropriate for PGE to conduct the RFP using then current guidelines and not the new rules. The Commission made modest improvements in the competitive bidding rules, but did not adopt some of NIPPC's recommendations. NIPPC is unclear whether the Commission-adopted improvements would have had a significant difference in the ultimate short list in this RFP; however, what is clear is that the adoption of NIPPC's recommendations would have had a positive and material impact on this RFP.

For example, NIPPC proposed in the competitive bidding rulemaking that the Commission should find any utility decision not to offer important utility owned resources de-facto imprudent, and referenced "recent RFPs in which transmission capacity constraints have effectively prevented or limited bidders and the number of viable bids as evidence of the need for this provision."²⁰ The Commission did not go as far as NIPPC recommended, but now requires that a utility decision not to offer up utility owned resources to third-party bidders as part of the RFP be analyzed and explained "to the Commission at the time of RFP development, as well in a subsequent prudence

²⁰ Re Rulemaking Regarding Allowances for Diverse Ownership of Renewable Energy Resources, Docket No. AR 600, Order No. 18-324 at 10 (Aug. 30, 2018).

determination.”²¹ This could have improved the Commission’s decision making process, since PGE declined to offer up its own transmission resources in this RFP and refused to provide an explanation of this decision or even proper accounting of its transmission resources in this RFP, its IRP or its 2016 RFP.

III. COMMENTS

A. The Commission Should Acknowledge PGE’s Final Shortlist

PGE’s final short list contains bids from three projects totaling 600 MWs. The projects include a proposed 100 MW wind PPA, a 200 MW wind PPA (which is part of a larger 400 MW project), and the Benchmark, which is a 100 MW build own transfer (“BOT”) and 200 MW PPA.²²

PGE received 26 bids from ten discrete projects, which were primarily wind resources and located in Oregon.²³ Two projects and eight bids failed to meet the bid submittal thresholds. These two projects were eliminated because on interconnection and transmission issues.²⁴ Three more projects were eliminated between the initial and final short list because of interconnection and transmission issues.²⁵ Thus, there were not more than five projects the eligible to participate in the RFP based on the interconnection and transmission restrictions.²⁶

NIPPC understands that the Commission may be concerned that, if it had adopted an RFP with less restrictive transmission and interconnection requirements, then there

²¹ Id. at 11.

²² IE Report at 1-2.

²³ PGE Final Request for Acknowledgement of Final Shortlist at 10.

²⁴ IE Report at 12.

²⁵ Id. at 19-20.

²⁶ NIPPC is not certain the basis for the exclusion of two of the five remaining projects because PGE did not respond to discovery requests by the time of this filing, despite the response being due October 24, 2018.

would have been a much greater pool of resources that could have competed and potentially lower cost and less risky generation could have bid into the RFP. The IE noted that the RFP “saw a number of disqualifications, mainly due to the requirements surrounding transmission service”, which included “some with very attractive prices.”²⁷

These concerns do not warrant failing to acknowledge the RFP short list, which includes 600 MWs of low cost energy for PGE’s consumers. NIPPC details the history of PGE’s successful efforts over the last few years to design an RFP that would significantly limit the number of potential bidders to demonstrate why the Commission *should* acknowledge the final short list as compliant with the RFP. The small number of projects that bid into the RFP, as well as their locations and resource characteristics, are exactly as NIPPC warned, and should be what the Commission expected. In addition, the fact that most of the bids were eliminated due to interconnection and transmission constraints should not be surprising, but is again what NIPPC anticipated. Essentially, since the Commission was aware of and approved this RFP as designed, it is too late to refuse to acknowledge the expected results of the RFP because they do appear to be in accordance with the approved RFP.

It would be unfair to the bidders that participated in the RFP and harmful to the competitive market in Oregon for the Commission to decline to acknowledge the final short list. PGE, with the Commission’s oversight and approval, designed and managed the RFP. The IE concludes that the RFP was fairly run, based on these parameters. Bidders spent considerable resources participating in the RFP, and all three projects on

²⁷ Id. at 5.

the short list include PPA options and a diversity of ownership that is generally consistent with NIPPC's prior recommendations.

It would also harm ratepayers for the Commission not to acknowledge PGE's shortlist. We cannot be certain what the results would have been with different transmission and interconnection requirements, and it is also possible that the short list would be unchanged. Even more important, the short list bids should be less risky and lower cost than other alternatives that will be available in the near future, given the expiring production tax credits and the declining investor tax credit. There is no opportunity and it would be unfair for a "redo", and ratepayers will be better off, if PGE is given the "green light" to negotiate with the bidders on the final short list.

B. The Commission Should Investigate Whether Utility Transmission Is Being Used to Benefit Ratepayers

The IE recommended ways to improve future RFPs, including that in future RFPs PGE should "consider ways to be more flexible in its planning and acquisition of projects, specifically with regards to transmission requirements and giving projects more time to make service commitments."²⁸ This recommendation was based on the IE's observation that there were "a number of disqualifications, mainly due to the requirements surrounding transmission service."²⁹

The Commission directed in both PGE's IRP and RFP for there to be transmission workshops to address PGE's use of transmission.³⁰ The Commission may wish to expand this process to include PacifiCorp, which recently concluded an RFP that resulted

²⁸

Id.

²⁹

Id.

³⁰

Docket No. LC 66, Order No. 17-386 at 19; Docket No. UM 1934, Order No. 18-171 at 4.

in a limited number of potential winning bids because of transmission and interconnection issues. NIPPC recommends that the Commission promptly schedule such a workshop, and consider opening an investigation into transmission-related issues. The Commission needs to better understand the utilities' transmission rights, how those rights are being used, and how they should be utilized to benefit ratepayers.

IV. CONCLUSION

NIPPC recommends that the Commission acknowledge PGE's final RFP shortlist, and hold workshops to investigate the utilities use of transmission rights.

Dated this 25th day of October 2018.

Respectfully submitted,



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