

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

In the Matter of Amending, Adopting,
and Repealing WAC 480-107, Relating
to Purchases of Electricity,

DOCKET NO. UE-190837

NORTHWEST & INTERMOUNTAIN
POWER PRODUCERS COALITION
COMMENTS

State Of WASH.
UTIL. AND TRANSP.
COMMISSION

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I. INTRODUCTION

The Northwest & Intermountain Power Producers Coalition (“NIPPC”) appreciates this opportunity to submit comments on the Washington Utilities and Transportation Commission (the “Commission” or “WUTC”) rulemaking regarding updating its purchases of electricity rules in WAC 480-107. NIPPC appreciates that Washington is moving forward with making substantive improvements in its rules for utility acquisitions and requests for proposals (“RFPs”) for electricity. As NIPPC has already submitted extensive comments in multiple rounds of comments, NIPPC limits its responses to the specific questions identified in the Commission’s June 1, 2020 Notice of Opportunity to File Written Comments (“Notice”). Where appropriate, NIPPC refers the Commission to prior comments on these issues.

II. COMMENTS

A. The Commission Should Provide Additional Time for Stakeholders to Review Utility RFPs

The draft rules (“Draft Rules”) propose to shorten the timelines for filing RFPs following the integrated resource plan (“IRP”) by reducing the proposed 60-day comment period to 30-days and requiring a Commission decision to 60 days after the RFP is filed. NIPPC opposes such a short period of time to review and submit comments on the

utility's RFP because such a period of time will simply be inadequate. Adopting such an abbreviated schedule will demonstrate that the Commission is not serious about the RFP process.

NIPPC addressed the appropriate timing to review and approve a utility RFP in its Docket U-161024, November 2, 2016 comments on pages 30-32, and its September 21, 2018 comments on pages 39-40.

NIPPC notes that since filing its earlier comments, the Oregon Public Utility Commission ("Oregon Commission") adopted new rules on electric utility resource acquisitions. The Oregon Commission's rules provide for an 80-day period of review, with an option for an additional 30 days.¹ However, the Oregon RFP review process is actually much longer because the Oregon Commission's rules require significant portions of the draft RFP to be reviewed in the IRP or in the docket selecting the independent evaluator,² which is why the Commission selected a *short* 80-110 day review process.

B. RFPs Should Be Open to Diverse Resource Types and Ownership

The Draft Rules require the utilities to accept bids for a variety of energy resource types and ownership structures, and the Notice asks if this requirement should be changed

¹ OAR 860-089-0250(6).

² OAR 860-089-0250(2). One option is to review many aspects of the RFP in the IRP: "[t]he draft RFP must reflect any RFP elements, scoring methodology, and associated modeling described in the Commission-acknowledged IRP. The electric company's draft RFP must reference and adhere to the specific section of the IRP in which RFP design and scoring is described." If the utility does not take this approach, the utility must provide an opportunity for stakeholders to comment on the RFP prior to its filing in a separate docket in which the IE is selected: "Unless the electric company intends to use an RFP whose design, scoring methodology, and associated modeling process were included as part of the Commission-acknowledged IRP, the electric company must, prior to preparing a draft RFP, develop and file for approval in the electric company's IE selection docket, a proposal for scoring and any associated modeling."

from “must” to “may.” NIPPC believes that the Commission’s rules should be resource agnostic and should ensure that all resource technologies allowed under the law have an opportunity to fairly compete. The word “must” should be retained.

NIPPC’s prior comments addressed these questions in its September 21, 2018 comments at pages 14 and 23-25.

C. The Rules Should Require the Utilities to Provide More Information for Bidders to Design Their Projects to Meet the Utilities’ Needs

The Draft Rules appropriately increase the amount of information that a developer will be provided to understand and design their projects to meet the utilities’ needs in the RFP. NIPPC, however, recommends that the rules be improved by requiring the utilities to provide earlier notice in the IRP process regarding what resources they need, and greater specificity in the RFP process to require the utilities to identify the specific resource characteristics that they want prior to the RFP being issued.

NIPPC’s prior comments addressed these questions in its November 2, 2016 comments at pages 22-23 and 32-43, and its October 26, 2018 comments at pages 7-10.

D. The RFP Minimum Size Threshold Should Be 50 MWs

Rules should require the utilities to conduct an RFP for resource needs of 50 MWs and above with a term of five years or more, but only if the utility can own a resource. RFPs should not be required if the utility is only seeking power purchase agreements without ownership options. The purpose and need for an independent evaluator stems from the utilities’ bias to own resources. It stands to reason that, if a utility is seeking to acquire resources without the option for utility ownership, then the

need for certain rules, like the requirement for an independent evaluator, for example, would be greatly diminished.

NIPPC's prior comments addressed these questions in its November 2, 2016 comments at pages 8-11 and 22-23 and its September 21, 2018 comments at pages 12-14 and 30-31.

E. The Rules Should Require an Independent Evaluator for Repowering of Existing Utility-Owned Generation

The Draft Rules require “that the repowering of the utility-owned resource be evaluated with the other responsive bids to the RFP”, and the Notice asks “[w]hat are the benefits and drawbacks of this requirement”?³ NIPPC is not aware of any reason why to *not* require a utility to conduct an RFP to determine that repowering is the least cost and least risk utility resource. However, NIPPC is open to considering the arguments of other stakeholders on this question.

F. The Most Important Criteria for an Independent Evaluator Are Their Independence from Utilities and Their Understanding of Utility Bias

As explained above, the primary justification to incur the additional costs associated with an independent evaluator is to prevent utility bias toward ownership, which costs ratepayers more over the long-term. Potential independent evaluators should be required to demonstrate that they understand this bias and the utility incentives, and that they can identify the different ways in which RFPs can be designed to address this bias. A good independent evaluator will understand these issues and be able to effectively communicate how it will monitor and police utility behavior. Finally, the independent evaluator should demonstrate a willingness to learn from the Commission,

³ Notice of Opportunity to File Written Comments at 3 (Jun. 1, 2020).

Staff and stakeholders about unique Northwest issues and ways in which prior RFPs may have been and in the future may be biased in favor of utility ownership. In Oregon, NIPPC has reviewed the applications submitted by independent evaluators, been provided the opportunity to submit questions to potential independent evaluators, and has discussed these issues with the independent evaluators during the RFP process. NIPPC has found this interaction with the independent evaluators to be productive in improving the quality of RFPs.

The independent evaluator should also have the ability to perform a financial due diligence check, as explained in NIPPC's earlier comments. The independent evaluator should be familiar with and have full access to the utility's cost and risk models and sensitivity analyses. It should be preferred, but not required, that the independent evaluator be familiar with Northwest energy markets. Finally, the Commission should consider the overall costs of the independent evaluator in the context of the planned resource acquisition selecting the appropriate independent evaluator.

The Commission should review Oregon's rules regarding the duties of the independent evaluator: OAR 860-089-0200.

To ensure that qualified candidates apply to become the independent evaluator, the Commission Staff and stakeholders should be provided an opportunity to review and comment on the solicitation to hire the evaluator.

NIPPC's prior comments addressed these questions in part in its November 2, 2016 comments at pages 28-29, and its September 21, 2018 comments at pages 14-17, 32-35, and 39-40 (in particular page 40 on "Choosing the Independent Evaluator"); and its October 26, 2018 comments at page 14.

III. CONCLUSION

NIPPC appreciates the opportunity to submit comments as the Commission works to improve the utilities' electricity procurement process.

Dated this 29th day of June 2020.

Respectfully submitted,



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