



November 14, 2025

Via electronic filing

Oregon Public Utility Commission
Attn: Filing Center
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**Re: Renewable Northwest's Initial Formal Rulemaking Comments on IRP/CEP
and RFP Rules**

***OPUC Docket AR 669 - Rulemaking to Amend Integrated Resource Plan Guidelines
and Competitive Bidding Rules***

I. Introduction

Pursuant to Administrative Law Judge ("ALJ") Spruce's October 9, 2025 Memorandum, Renewable Northwest ("RNW") submits these initial comments in this formal rulemaking proceeding regarding revisions to Division 90 System Planning rules, Division 89 rules governing resource procurement for electric companies' competitive bidding rules, Division 001 governing information requests in resource procurement and competitive bidding, and the repeal of the existing OAR 860-027-0400 rule governing integrated resource planning.

A diverse array of interests were represented throughout this proceeding and the preceding investigation docket. Staff of the Oregon Public Utility Commission ("Staff") has done a commendable job of balancing these varied interests and has put forth proposed rules that create positive modifications to the Oregon Public Utility Commission's ("Commission") resource planning and procurement requirements. These rules allow for flexibility for processes to move rapidly at times to meet the realities of shifting planning environments, resource needs, and market realities. They also allow for robust public participation, fulsome analytical rigor, and efficient optimization of ratepayer assets.

As Commission-regulated utilities continue to make necessary investments to meet the demands of load growth and state energy policies, well-designed planning and procurement processes are necessary to ensure least cost, least risk investments are made for Oregon customers. The Commission and its regulated utilities must only allow resources into rates to the extent that they have been demonstrated to be least cost, least risk and optimized for a shifting regulatory and

policy landscape. As drafted, the rules strike a sound balance of ensuring sufficient time and space for in-depth analysis while supporting a relatively expedient process.

Many of RNW's suggestions throughout this docket have been incorporated into Staff's draft rules. Rather than reiterating points RNW has made throughout this proceeding, these comments incorporate them here by reference. These comments will address several issues that remain contested in this proceeding, will address key provisions that RNW supports, a few areas of where we believe clarification is warranted, and will recommend certain discrete changes to the overall rules. Absent clear support of a specific provision in prior comments, RNW's silence on rule language should not be construed as support.

II. OAR 860-001-0205 - Information Requests

In response to the Commission's direction in Docket No. UM 2371,¹ RNW and other parties suggested that Staff incorporate rules providing for robust discovery in hybrid proceedings in this rulemaking. RNW largely supports the rules as drafted as they substantially mirror the rules that allow for discovery in the Commission's contested case processes where full discovery rights have long been conferred on parties.

The relevance—and, by proxy, the admissibility—of evidence requested through discovery has typically been assessed through the Commission's rules regarding discovery in contested cases and the Oregon Rules of Civil Procedure. Namely, as defined by OAR 860-001-0450, "relevant evidence" is that which tends to make the existence of any fact at issue in the proceedings more or less probable than it would be without the evidence and is admissible if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs. However, hybrid proceedings such as Integrated Resource Plans ("IRPs") and Requests for Proposals ("RFPs") are not decided based upon an evidentiary record, so the same standards of admissibility that govern the submission of evidence and the disputes thereof do not apply. Therefore, Staff has created a new standard for the scope of information that can be requested in these proceedings under draft OAR 860-001-0205(2):

[a]ny person who meets the requirements of this rule may request information from an energy utility that is commensurate with the need to provide relevant comment on a pending filing subject to this rule, and that is also commensurate with the resources available to the requester and the energy utility and the importance of the issues to which the request relates.

¹ *In re Portland General Electric Company, 2025 All-source Request for Proposals*, OPUC Docket No. UM 2371, Order No. 25-255 at 1 (Jul. 9, 2025).

RNW largely supports this draft language, as it appears that the information requested in hybrid proceedings may be broader in scope than the evidence sought to be added to evidentiary records in contested cases. Unlike contested case proceedings, the Commission is not strictly bound to the evidence submitted in the record when it renders decisions in hybrid cases, and it always retains the discretion to weigh certain information or arguments more heavily than others.

In prior comments, RNW requested clarification that this new rule would allow for a broader range of arguments and information to be requested through discovery because there are no formal admissibility hurdles to overcome when submitting comments in hybrid proceedings. In response, Staff indicated that it “does not find it helpful to compare this standard for discovery in contested cases.”² RNW respectfully disagrees. Providing clarity—even at a high level—regarding how this new standard will compare to the existing, well-understood standard in contested cases will avoid unnecessary disputes regarding information sought in these proceedings. Absent such clarification, future discovery disputes may emerge that could have been avoided altogether, resulting in a strain on scarce Commission and party resources.

Therefore, RNW requests that the Commission order adopting the rules in this proceeding be clear that the requirement that information requested be “commensurate with the need to provide relevant comment” be construed broadly and liberally.

III. OAR Chapter 860, Division 89 - Competitive Bidding Rules

A. Procedural Timing Concerns

Draft rules OAR 860-090-0020 *et seq.* discuss the Commission’s Competitive Bidding Rules, which were a topic of robust discussion at the October 23, 2025 Rulemaking Hearing. At the hearing, representatives from Portland General Electric, Idaho Power Company, and PacifiCorp spoke at length about their concerns regarding changes to the RFP rules, specifically how the changes will, in their view, slow the process in a manner that could harm customers. RNW finds these arguments—largely provided without any reference to specific RFP rule—unavailing. As drafted, the rules allow for robust public process and participation while simultaneously allowing for the process to move faster when the utility can utilize a prior Independent Evaluator (“IE”) and when the utility does not make substantial substantive changes between RFPs, among others. Put simply, to the extent it is worried about timing, the utility retains control to allow the RFP process to proceed on a faster timeline.

As RNW has noted, IRPs and RFPs operate on an accelerated timeline with limited opportunities for discovery, and no opportunity for an evidentiary hearing, cross-examination, oral arguments,

² Order No. 25-373 at Appx. A., p. 55.

or legal briefing. Given the already compressed timeline, RNW appreciates the inclusion of a requirement under OAR 860-089-0250(3)(i) that the utility must provide an “[i]dentification of and an explanation for any changes in the draft RFP as compared to any prior RFP issued by the electric company for similar types of resources within the past three years.” This provision will help Staff and stakeholders target key areas for review within an RFP that will help enable a quicker proceeding. Further, OAR 860-890-0250(6) provides for a decision on a draft RFP within 80 days, but the utility “may request an alternate review period when it files the draft RFP for approval including a request for expedited review upon a showing of good cause.” Therefore, if the utility can demonstrate that there are minimal changes from its prior RFP, it is highly likely that it can request expedited review. The timing for regulatory review of a draft RFP is more squarely in the hands of the utility than it would have appeared from comments made at the rulemaking hearing.

Beyond procedural flexibility baked into the rules for the review of the draft RFP, utilities also retain the ability to expedite the back end of the RFP once it has been issued to market by creating a process that allows for flexibility and speed when possible. For example, PacifiCorp’s 2025 RFP, Docket No. UM 2383, contained several procedural requirements that had never before been utilized in the resource procurement process, such as several rounds of transmission consulting agreement studies. While RNW acknowledges that the UM 2383 was different by design compared to PacifiCorp’s prior RFPs, the proposed structure of the RFP was undoubtedly in the hands of the utility.

The rules allow for streamlined processes in other regards as well. For example, OAR 860-089-0200(5) allows for an electric company to engage the same IE for its next RFP. In the event the utility does not propose substantial changes from its prior RFP and parties and the Commission were satisfied with the IE’s work, the selection of the IE is likely to be streamlined. In addition, the Joint Utilities expressed concern regarding the new reports and summaries conducted by the IE, indicating they will add time to the process. As Staff notes, while the draft rules propose four additional reports by the IE, three of them are summary reports, which may be quite short.³ These reports will aid the Commission in rendering a decision in the matter. Despite speaking at length about the requirements imposed by these new reports, the utilities have failed to advance any reasonable arguments justifying their elimination.

B. Benchmark Bids - Ratepayer Asset Optimization and Employee Information Disclosure

The rules include provisions regarding the treatment of resources to be made available to third-party bidders in the RFP process under OAR 860-089-0300(3)-(4). As the Commission’s order in the informal phase of this rulemaking notes, the assets to be made available to third-party

³ OPUC Order No. 25-373 at Appx. A, p. 80.

developers in the RFP process are ratepayer assets.⁴ While the utilities have made a number of arguments against the optimization of assets for use in the RFP that would effectively increase competition and decrease costs for customers, none of the arguments address the fact that the assets in question are funded by and effectively owned by utility customers. Ratepayer-funded assets are routinely optimized for the benefit of customers in a variety of manners—including leasing space on utility poles, dispatching energy from otherwise under-utilized generating assets into wholesale electricity markets, and through other means. Requiring ratepayer funded assets to be utilized by third-party bidders to decrease the overall cost and increase competition in an RFP is in line with traditional utility regulation and business operation.

RNW continues to believe that benchmark bid elements (which will be defined iteratively in various RFPs and would be difficult to put into rule) and transmission rights be made available to third party bidders. In the currently proposed rule OAR 860-089-0300(3), electric companies “*may* make one or more elements of the benchmark resource . . . available for use in third-party bids.” 0300(4) provides that the “electric company *must* evaluate whether it is in the best interest of customers to make the use of transmission rights held by the electric company available to third-party bidders.”

RNW supports the language regarding the evaluation of transmission rights. Additionally, an assessment of whether utilizing transmission rights is in the best interest of customers should include detailed analysis regarding whether such an approach is likely to lower the overall cost of an RFP for customers. In RNW’s view, 0300(3) should have a similar mandatory requirement. Under the current permissive standard, the utility is under no affirmative obligation to optimize ratepayer funded assets in the RFP process. RNW submits that the final rule should either require that the utilities *must* make elements of the benchmark resource available to third-party bidders or, if the permissive standard is retained, require the utility to justify why a decision to not make assets available was made.

Under OAR 860-089-0300(1), the proposed rules provide that a utility employee who has participated in the development of an RFP within the last three years must be screened from reviewing bids, and that employees must disclose their roles within the last five years relevant to RFP formulation and review. As detailed in prior comments, RNW appreciates the rules’ consideration of the impact of utility employee roles on the RFP process. In order to ensure that the intent of Division 89 “to provide an opportunity to minimize long-term energy costs and risks, complement the [IRP] process, and establish a fair, objective, and transparent competitive bidding process, without unduly restricting electric companies from acquiring new resources and negotiating mutually beneficial terms”⁵ is met, it is essential that utility employees cannot

⁴ OPUC Order No. 25-373 at Appx. A, p. 10.

⁵ AR 669 - Responses to Comments, Staff Matrix, p. 2.

unfairly advantage the utility in the RFP process. RNW supports this provision of rules as drafted.

IV. Chapter 860, Division 90 - Integrated Resource Plans

As a whole, RNW feels that the proposed Division 90 rules represent reasonable changes to the existing IRP construct. Formalizing the IRP requirements into rule rather than guidelines should clarify their role in future applications and avoid potential dispute regarding their applicability. While the rules as a whole strike a sound balance and help ensure the Commission, Staff, and parties are able to review IRPs in depth and utilizing the best information available, there are a few instances where RNW believes more robust requirements are warranted.

For example, Staff's proposed rules did not include RNW's recommendation to adopt a provision that would require utilities to fund modeling software licenses to Commission Staff and intervenors. Staff found that "logistics and cost issues related to parties' access to utility modeling software to be outside the scope of the rulemaking docket."⁶ RNW respectfully disagrees. This practice would align with the Washington Utilities and Transportation Commission's recent order adopting Integrated System Planning rules⁷ and would strengthen the Commission's ability to make informed decisions based on a more robust record that reflects the broader public interest. While "Staff believes that the database underlying model runs will be available via the information request rules proposed as part of this rulemaking,"⁸ confirming the availability of this data to stakeholders in rule would avoid later potential discovery disputes. Therefore, RNW continues to advocate for the following language to be included in OAR 860-090-0030 and -0110:

When a utility's integrated resource plan relies on modeling software subject to a license fee, the utility must provide software licenses, at its own expense, to Commission Staff and any interested party with the technical capability to review modeling files or conduct independent modeling. Upon request, the utility will provide the underlying data needed to analyze the utility's modeling in discovery in the individual proceeding.

Creating a requirement in rule that utilities share software licenses and/or underlying data to parties that have the ability to analyze the data would lead to better IRP decisions that would benefit the Commission, parties, and utility customers.

⁶ OPUC Order No. 25-373 at Appx. A, p. 8.

⁷ General Order R-609, Docket U-240281, (Sept. 26, 2025), available at <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=260&year=2024&docketNumber=240281>

⁸ OPUC Order No. 25-373 at Appx. A, p. 8.

On balance, however, the proposed rules strike a sound balance that enables robust participation by interested stakeholders with new procedural milestones to ensure utilities are utilizing the best available data in an increasingly changing environment. On this point, RNW agrees with the comments of the PacifiCorp representative at the rulemaking hearing that IRPs should make decisions based on the most up to date information available.

Regarding the requirement for a load forecast and needs assessment, the rule language in OAR 860-090-0060(6)(a) currently provides that the utility's resource needs must be based on a load forecast that utilizes the most recent data at the time the needs assessment calculation is performed. The prior rule language required that the load forecast be conducted no more than three months before the needs assessment. RNW believes that the three month horizon—or some similar temporal limitation—be included in the rules to provide some safeguard to ensure the utility is not relying on stale data to justify its resource planning strategy. In a dynamic and shifting energy environment in which new large loads can be substantial drivers of resource decisions, it is essential to use the best and most recent data available.

Beyond these pieces, RNW largely supports the rules as drafted. RNW supports the provision that resource acquisitions, including conducting competitive acquisitions, be included in the near-term action plan under OAR 860-089-0060(10)(a). RNW continues to support the inclusion of a matrix demonstrating how each portfolio performed against the portfolio scoring metrics and that clearly demonstrates why the preferred portfolio was selected under OAR 860-090-0060(7)(h). RNW thanks Staff for including a requirement under -0060(7)(i) that multi-jurisdictional utilities develop at least one portfolio that optimizes resources across its entire system. Taken together with the requirement for a portfolio scoring matrix and overarching requirement for the utility to select a least-cost, least-risk portfolio, this multi-jurisdictional portfolio should be assessed on a level playing field with other resource planning options.

V. Conclusion

RNW appreciates Staff's work in developing draft rules for resource planning and competitive procurement that align with the principles outlined in UM 2348 and are responsive to stakeholder feedback. As a whole, the rules represent a reasonable compromise on contested issues that will serve to strengthen the Commission's resource planning and procurement processes. RNW reserves the right to address issues not raised in these comments later in the proceeding.

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Respectfully submitted this 14th day of November, 2025,

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