



Northwest and Intermountain Power Producers Coalition

REPLY COMMENTS ON VOLUNTARY RENEWABLE ENERGY TARIFF Docket UM 1690

The Northwest and Intermountain Power Producers Coalition (“NIPPC”) respectfully provides the following brief reply comments in Docket UM 1690, regarding whether the Commission should authorize utilities to offer a Voluntary Renewable Energy Tariff (“VRET”). As discussed in greater detail in NIPPC’s initial comments, the Commission has a simple and effective mechanism available to allow – or require – utilities to offer a VRET mechanism through the Direct Access Regulations, separate and apart from their current direct access tariff. Under a Direct Access VRET, any entity (including the utilities, through affiliates) could form an Electricity Service Supplier (“ESS”) and be authorized to sell desired renewable energy products to the market. Doing so would allow for the development of significant new renewable energy resources, while at the same time protecting non-participants from cost shifts and without harming the competitive marketplace. In comments to date, no party has provided any rational basis to not move forward with this approach, nor offered any other option that meets the goals articulated in HB 4126.

1. The Utilities have not met their burden in this proceeding.

At the outset, NIPPC notes that the legislative provisions directing the Commission to open this docket were largely sponsored by the utilities, but they have failed to make any reasonable effort to offer a VRET proposal that would meet the needs of customers and/or the statutory goals outlined for consideration in HB 4126. The Commission has been tasked with conducting a study to consider the impact of allowing electric companies to offer a VRET, and to determine whether, and under what conditions, it is in the public interest to allow electric companies to provide such service. It is reasonable to expect that, if the utilities desire to move forward, they would put forth and defend a proposal that meets the public interest.

This proceeding has been underway for more than eight months, with multiple opportunities for comment by interested constituencies, both on paper and at public

workshops. After all this time and effort, PacifiCorp simply refuses to identify any essential features of a VRET, preferring instead to ask for virtually unlimited flexibility to do whatever it may desire. After all of this time and effort, Portland General Electric (“PGE”) is willing to offer only “cost of service” or “cost of service-plus” options, despite a clear understanding by virtually all parties that customers do not desire that service.

Plainly, the utilities have made little effort to outline any conditions that would make a VRET reasonable or in the public interest, as required by the legislation. This is not difficult to understand, since the utilities have demonstrated no interest in a VRET that would meet the requirements of the legislation. The “voluntary” in the VRET refers to the option of customers to take VRET service, not whether the utilities should choose to offer it. But, to the extent the Commission believes that a workable VRET requires the utilities to desire to offer such service, than it should conclude these proceedings and find that no VRET is in the public interest.

a. PGE’s “Cost of Service” proposals are not worth pursuing.

Throughout this proceeding, customers have made it abundantly clear that they are interested in a green tariff that allows for certainty with respect to costs.¹ Both PGE and PacifiCorp recognize that cost certainty is an essential feature for customers.² Despite this fact, PGE offers just two suggested models for VRET service, both of which are based on PGE’s cost of service. As such, they do not provide the cost certainty desired by customers. Nor has PGE proposed solutions for the numerous, complex issues raised by its proposal. For example, to the extent PGE purchases new renewable resources to meet a VRET load, who pays the cost for

¹ See, e.g., attachment to comments from World Resource Institute, *Emerging Green Tariffs in U.S. Regulated Electricity Markets*: As the [Corporate Renewable Energy Buyer’s] Principles make clear, these customers want more than just the Renewable Energy Certifications (RECs) that allow them to credibly claim they are using green power—**they also want access to the long-term, fixed price structure of renewable energy.**” (Emphasis added.)

² See, e.g., PacifiCorp December 12 Comments, at p. 1 (“Although [PacifiCorp] does not identify essential features of a VRET, a consistent need identified by customers is certainty, which a VRET could address through set terms that guarantee the VRET offering for a term longer than available to customers through existing tariffs.” See also PGE’s June 16, 2014 Statement of Principles, expressly recognizing that: “multi year contracts is a must. One consistent theme we heard from customers is that this product will have more success if we can pass on the price surety of the resource we source.”

existing, underutilized generation? If either the customer or the generation resource defaults, who bears the risk? After all, as long as PGE is using its existing facilities and staff, there is essentially no way for PGE to create a program that fully holds non-participating customers harmless.

Moreover, PGE's model will harm the development of the competitive retail market. Under the current market, ESS providers can offer renewable products to meet customer needs. To the extent a utility is able to offer service to segments of the market unavailable to the direct access market, the competitive market will suffer. To the extent PGE's models are considered at all, they should only be permitted under the same terms and conditions as ESS entities can provide service under direct access. By way of example, if PGE is allowed to provide service to a supermarket chain at one location, but not all, or offer such service for just a portion of the year, PGE would gain a significant competitive advantage that would harm the competitive market. PGE has not offered a solution that meets the statutory hurdles of HB 4126.

b. PacifiCorp has failed to offer any proposal at all.

While PGE proposed a VRET model that customers do not want, PacifiCorp failed to propose any VRET model at all. PacifiCorp's comments respond to the bulk of the complex questions asked by Commission Staff with vague and general statements requesting flexibility, suggestions that various topics are premature, or otherwise avoiding specificity of any kind. As with PGE, PacifiCorp did not bother to fill out the VRET Models Summary Table, as expressly requested by Staff. After more than eight months, PacifiCorp has made no effort to support any proposal at all, let alone one that could pass the statutory hurdles.

2. A Direct Access VRET remains the only viable option.

As set forth in further detail in NIPPC's initial comments, a solution already exists that meets all of the express desires of the customers for a VRET, and can pass all statutory hurdles: a VRET administered under Oregon's Direct Access program, as codified in Division 38 of the Commission's Regulations, Direct Access, §860-038-0001,

et seq. Under Direct Access, a utility (through an affiliate) or any other qualified ESS can offer customized power sales to non-residential customers, including long-term, fixed price offers for renewable energy products. Virtually all parties to this proceeding (other than the utilities) support some form of Direct Access VRET and/or expressly indicate that there must be a symmetry between the existing Direct Access program and any VRET adopted.³ ***No party has offered any reasoned explanation why a Direct Access-based VRET would not be a fully workable solution.***

In an odd twist, PacifiCorp -- perhaps the participant with the most antipathy to the VRET direct access proposal -- essentially makes the case for the direct access approach in its attempt to distinguish a VRET from the existing direct access program. PacifiCorp states:

³ See, e.g., ▶ ***ICNU comments at p. 4***, "ICNU believes it likely that new ESS offerings, potentially combined with additional or refined direct access tariffs are the best option for a successful VRET and would be fully consistent with the language and intent of HB 4126;" ▶ ***Renewable Northwest comments at p. 2*** "A direct project linkage approach may appear somewhat similar to, and thus would need to be explicitly differentiated from (or, *alternatively, linked to*) Direct Access" (emphasis supplied); ▶ ***CUB comments, at p. 2*** "There may be some very valid reasons why direct access is not a viable solution for large customers seeking more renewable resources. But those reasons should be fully explored and any flaws, or issues, in the current structure of direct access should be addressed or corrected;" ▶ ***Iberdrola comments at 1***: "In order to ensure standard regulated service customers do not cross-subsidize VRET customers, the provision of electricity products different from standard regulated service should not be different between direct access and VRET;" at 3 "It should consider that a competitive retail market in Oregon is already limited by a) program caps imposed by regulation, and b) significant transition charges and other impediments. In this context, a new tariff to increase the opportunities for incumbent utilities to serve commercial and industrial customers (for which direct access is an option) can only serve to limit further the development of a competitive retail market;" ▶ ***Shell Comments at 4*** "Direct access is a straightforward program that provides the supplier and the customer with maximum flexibility to develop an innovative renewable procurement structure. In assessing the various models that are presented in response to HB 4126, the Commission should ask whether any of the models provide the simplicity and flexibility offered through a robust direct access program;" at 5 "a voluntary enhanced renewable procurement option offered by the electric utility is not necessary as long as a robust direct access market is encouraged and nurtured;" ▶ ***WRI, Above and Beyond: Green Tariff Design for Traditional Utilities (the "WRI/WWF Working Paper) at 3*** "the models throughout the country that give energy end-users the broadest access to the energy services and hedges they desire (including access to renewable energy) are those that offer some form of direct access or retail choice;" ▶ ***Yam Services comments at 1*** (noting that the existing Direct Access program already allows for provision of ancillary services); ▶ ***Noble Solutions at 4-5*** ("The same, or comparable, terms of service applicable to DA, in order to maintain a level playing field between DA service and VRET, need to be incorporated into the VRET tariff -- this includes all the rules that limit DA activity (i.e. enrollment windows, notice to return, program caps, etc.) . . . "The primary incentive that the utilities can offer to promote use of additional "green energy" above and beyond the requirements of Oregon's RPS would be to lift the program restrictions that currently exist to limit DA service for those customers who wish to purchase a "green energy" product from source to sink."

“A VRET is fundamentally different from direct access. While direct access allows customers to choose their own service provider, the service the customer receives is fundamentally the same as what they would receive from the incumbent utility. However, a VRET allows customers to choose unique terms of service to ensure that generation serving the customers reflects that customer’s generation profile needs (e.g., 100 percent renewable or 100 percent zero-emission). Thus, while both programs provide the customer with additional choice, their core purposes are different.”

PacifiCorp is correct that, under direct access, a customer could choose to take the same generation mix that they receive from the incumbent utility. But it is also true that, under the existing direct access regime, a customer can already choose to do *exactly* what PacifiCorp maintains to be the core purpose of a VRET: ***to choose unique terms of service to ensure that generation serving the customers reflects that customer’s generation profile needs (e.g., 100 percent renewable or 100 percent zero-emission).*** And, while the utilities’ current direct access tariff offerings have some limitations that may reduce current customer interest, the Commission could easily direct the utilities to offer a new tariff service under the Direct Access Regulations applicable only to renewable energy that is separate and apart from the utilities’ existing direct access tariffs on file. Because direct access can meet the “core purpose” of a VRET, while protecting non-participating customers and the retail market, it is the best – and realistically the only – mechanism for a VRET that meets the public interest and the statutory considerations identified in HB 4126.

3. VRET Models Considered in States Without Direct Access are not Applicable.

The comments submitted by the World Resource Institute include a table documenting other VRET-like products currently proposed or finalized within the country. NIPPC appreciates this inclusion and believes it helps further discussions in this proceeding. However, it is important to note that none of these states currently has a direct access program.

As WRI has previously made clear, the models throughout the country that give energy end-users the broadest access to the energy services and hedges they desire (including access

to renewable energy) are those that offer some form of direct access or retail choice. As noted by WRI, “In many states, however, companies cannot pursue these strategies. They have to find other options that fit within a traditional utility model—or, as some are doing, seek to open the markets to allow third parties and the approaches they have found so useful.”⁴ It is only those states that do not offer some form of direct access where customers are forced to seek alternatives within the utility model; states in which customers have been unable to “open the markets to allow third parties and the approaches they have found so useful.”

The models WRI has identified in its comments come *entirely* from “closed” states that do not have a direct access/retail choice program in place – they are states where customers are forced back to the utility, and have no alternatives. These models are not applicable to Oregon, where direct access is already available.

4. **Conclusion and Recommendation:**

NIPPC recommends that the Commission include the following conclusions in any study issued in this proceeding:

- (a) It is not in the public interest to allow utilities to offer a VRET to commercial and industrial customers unless it can be done in a manner that:
 1. Will not cause cost shifts to non-participating customers;
 2. Will not harm the continued development of a competitive retail market;
 3. Will promote further development of significant new renewable resources; and
 4. Will ensure that any new generation is developed through a competitive procurement process.

- (b) Market participants currently have the ability to purchase renewable power from an ESS at long term, fixed rates (or under other negotiated terms and conditions) under the existing Direct Access Regulations.

⁴ See *Above and Beyond: Green Tariff Design for Traditional Utilities* (the “WRI/WWF Working Paper”) at 3.

Respectfully submitted this 9th Day of January, 2015

/S/

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UM 1690 - CERTIFICATE OF SERVICE

I hereby certify that, on this 9th day of January, 2015, I served the foregoing **Northwest and Intermountain Power Producers Coalition Reply Comments On Voluntary Renewable Energy Tariff** in docket UM 1690 upon each party listed in the UM 1690 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and one copy by U.S. mail, postage prepaid, to the Commission's Salem offices

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