

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of)	UE 296
)	
PacifiCorp, dba Pacific Power, 2016 Transition)	PRE-HEARING MEMORANDUM
Adjustment Mechanism)	OF NOBLE AMERICAS ENERGY
)	SOLUTIONS LLC

I. INTRODUCTION AND SUMMARY

Noble Americas Energy Solutions LLC (“Noble Solutions”) hereby respectfully submits its pre-hearing memorandum to the Public Utility Commission of Oregon (“OPUC” or “Commission”) in the above-captioned matter. Although other parties primarily focus on net power costs for cost-of-service customers in PacifiCorp’s annual transition adjustment mechanism (“TAM”) dockets, Noble Solutions actively participates each year to address the transition adjustment calculations for direct access customers.

This year’s TAM carries additional significance over past years. First, Oregon’s 15-year-old direct access law has renewed significance because PacifiCorp’s customers have expressed interest in retail choice through the purchase of additional amounts of renewable energy through a voluntary renewable energy tariff.¹ Although Oregon law has long provided that customers should have access to retail alternatives through the direct access law, PacifiCorp’s customers have not been provided with meaningful opportunities for retail choice, as is reflected in the extremely low direct access participation levels in PacifiCorp’s service territory. Noble

¹ In ongoing docket UM 1690 to implement recently enacted House Bill 4126, PacifiCorp asserted: “Recent discussions with technology industry prospects working with the state of Oregon have highlighted interest in availability of ‘Green Tariffs’ based on experience with models in other states.” *PacifiCorp’s Statement of Principles*, OPUC Docket No. UM 1690 (June 16, 2014).

Solution/100, Higgins/6. Additionally, this docket is the first time that the Commission will approve rates for PacifiCorp's newly created five-year opt-out program. The Commission began implementation of the five-year program three years ago in docket UM 1587, to provide PacifiCorp's non-residential customers with a viable direct access alternative similar to Portland General Electric Company's ("PGE") only successful direct access program. *See In re Public Utility Commission of Oregon: Investigation of Issues Relating to Direct Access*, OPUC Docket No. UM 1587, Order No. 12-500, at 9 (2012).

Particularly in view of the broader significance of retail choice, the Commission must ensure that PacifiCorp's one-year (Schedule 294), three-year (Schedule 295), and five-year (Schedule 296) opt-out programs provide PacifiCorp's customers with meaningful opportunities. Noble Solutions submits three proposals in this docket to improve the opportunities available for retail choice:

- The Schedule 294, 295 and 296 transition adjustments should be adjusted to reflect the value of freed-up Renewable Energy Certificates ("RECs").

Otherwise, direct access customers will unreasonably pay for Renewable Portfolio Standard ("RPS")-related resources twice: once from their Electricity Service Supplier ("ESS") and a second time from PacifiCorp, which banks the RECs paid for by direct access customers for future use by cost-of-service customers.

- In calculating the Schedule 296 Consumer Opt-Out Charge, Schedule 200 costs should not be escalated in years six through 10 as proposed by PacifiCorp.

Rather, Schedule 200 costs used in this calculation should decline each year from year six through year 10 to reflect the decline in the Company's return on

generation rate base attributable to the departed customers' loads, due to the effects of increased accumulated depreciation.

- PacifiCorp's proposal for handling a direct access service request ("DASR") that arrives after the 13-business-day advance deadline for a customer to start the five-year program on January 1 is to deny participation in the program for a full year. This approach creates differential treatment between the five-year program participants and other direct access program participants, and the differential treatment is not clearly articulated in any tariff or rule. The better approach is that the customer tied to a late DASR should have the option to enter the five-year program late by paying PacifiCorp all applicable five-year opt-out charges that would have applied to the customer with a timely DASR submission.

II. REGULATORY BACKGROUND

A. Oregon's Direct Access Law and Regulations.

Under a retail direct access program, the direct access customer continues to use the utility's distribution system but obtains energy from another retail supplier. Noble Solutions/100, Higgins/5. Initially enacted in 1999, Oregon's direct access law ("S.B. 1149") specifically instructs the Commission to develop policies to "eliminate barriers to the development of a competitive retail market structure[.]" ORS 757.646(1). In its findings supporting the legislation, the legislative assembly declared that "retail electricity consumers that want and have the technical capability should be allowed, either on their own or through aggregation, to take advantage of competitive electricity markets as soon as is practicable." Or. Laws 1999 ch. 865. The direct access law requires that all nonresidential retail customers be

allowed direct access to competitive markets by purchasing generation services from a Commission-certified ESS. *See* ORS 757.600(6), (16), -601(1), -649(1)(a).

The direct access law also directs that the provision of direct access to some retail electricity customers “must not cause the unwarranted shifting of costs to other retail electricity consumers of the electric company.” ORS 757.607(1). The Commission may impose transition charges to the departing direct access customer for an “uneconomic utility investment,” which is a utility investment that was prudent when it was incurred, but the full costs of which cannot be recovered as a result of direct access without transition charges. ORS 757.600(35). Conversely, the Commission may require the utility to provide a transition credit to the departing direct access customer for an “economic utility investment,” which is an investment that was prudent at the time it was incurred but the full benefits of which are no longer available to the direct access customer without transition credits. ORS 757.600(10).

The Commission's rules provide that direct access customers “will receive a transition credit or pay a transition charge equal to 100 percent of the net value of the Oregon share of all [investments] as determined pursuant to an auction, an administrative valuation, or an ongoing valuation.” OAR 860-038-0160(1). The Commission’s rules further require that PacifiCorp use of the “ongoing valuation” method, which compares the value of the output of the utility’s freed-up generation at projected market prices for a defined period to an estimate of the revenue requirement of the asset for the same time period. *See* OAR 860-038-0005(41), -0140. The logical premise behind the ongoing valuation method is to credit or charge direct access customers the difference between market prices and cost-of-service rates during the specified time period. *Noble Solutions/100, Higgins/8-9*. The design logic in this approach places

departing direct access customers in an economically “break even” position with respect to the choice of direct access service, while at the same time holding non-participating customers harmless. *Id.*

B. PacifiCorp’s Direct Access Programs.

Prior to the 2016 shopping year, customers in the PacifiCorp territory have had a choice between one-year and three-year programs, pursuant to which the customer is never able to cease paying for PacifiCorp’s generation resources. However, PacifiCorp’s new five-year program provides the first opportunity for eligible direct access customers to eventually be relieved of paying PacifiCorp for generation resources they do not use.

1. PacifiCorp’s One-Year (Schedule 294) and Three-Year (Schedule 295) Programs.

PacifiCorp’s one-year and three-year programs implement a perpetual ongoing valuation rate structure. PacifiCorp’s transition adjustment equals the difference between PacifiCorp’s net power cost (as reflected in Schedule 201) and the estimated market value of the electricity that is freed up when a customer chooses direct access service. Noble Solutions/100, Higgins/10. However, even though PacifiCorp’s transition adjustment results in a credit to the customer, PacifiCorp’s direct access customers must continue to pay for the Company’s fixed-generation costs through Schedule 200. Noble Solutions/100, Higgins/11. The end result is that the one-year or three-year program participant pays substantial amounts to PacifiCorp for generation resources the customer does not use. *See id.* (noting that the 2016 one-year program participants on Schedule 48 will pay PacifiCorp \$26.47 per MWh on Schedule 200 but only receive a transition credit of \$7.87 per MWh during Heavy Load Hours and an average credit of \$3.35 per MWh during Light Load Hours).

Additionally, the one-year and three-year program participants will pay the ESS for generation supply and pay PacifiCorp for delivery service. Noble Solutions/100, Higgins/6. At the conclusion of the one-year or three-year term, the customer returns to cost-of-service or elects a new one-year or three-year term. Noble Solutions/100, Higgins/6-7. Under this regime, the customer never stops paying for PacifiCorp's generation resources. Noble Solutions/100, Higgins/7.

If a direct access customer's net payment to PacifiCorp for generation is greater than the savings that would otherwise occur from shopping (i.e., if the payment to PacifiCorp is greater than the difference between cost-of-service generation rates and the retail market price), it results in a negative value proposition for the shopping customer. Noble Solutions/100, Higgins/12-15. In practice, PacifiCorp's transition adjustment calculation, including the use of GRID for calculating the transition adjustment, by design results in a negative value proposition for the one-year and three-year programs. *See id.*

2. PacifiCorp's Five-Year Program (Schedule 296).

In this TAM, for the first time, the Commission will also approve rates for PacifiCorp's five-year program that allows customers to eventually migrate to 100 percent market prices without any remaining obligations to PacifiCorp for generation resources – similar to what PGE has implemented for the past decade. Schedule 296 consists of two major parts: (1) a five-year transition adjustment component that is nearly identical to the calculation of the Schedule 294 and 295 transition adjustments; and (2) a Consumer Opt-Out Charge, which brings forward into years one through five the projected Schedule 200 costs for years six through 10, net of projected net power cost savings attributed to the departed opt-out load. Noble Solutions/100, Higgins/19-

20. In addition to the Schedule 296 charge, the customer must also pay PacifiCorp the base Schedule 200 charge for the five years, which may be updated in each rate case during that period. Noble Solutions/100, Higgins/20. From the effective date of the opt-out election forward, the customer will also pay the ESS for generation supply and pay PacifiCorp for delivery service. *Id.*

During the opt-out period, the five-year program results in an even more significantly negative value proposition for the direct access customers than the one-year and three-year programs. The first source of the negative value proposition is the same calculation mechanics that result in a negative value proposition in the one-year and three-year programs. Noble Solutions/100, Higgins/20. The additional source of unfavorable economics for the five-year program is the Consumer Opt-Out Charge, which brings forward projected costs from years six through 10 and recovers them in years one through five. *Id.*

To illustrate the economic barrier, the record demonstrates that in the first year of the five-year program, a Schedule 48 customer would pay an average of \$26.98 per MWh for Schedule 200, while receiving a transition adjustment credit of \$9.01 per MWh, for a net charge of \$17.97 per MWh, prior to considering the Consumer Opt-Out Charge. Noble Solutions/100, Higgins/21. Absent the Consumer Opt-Out Charge, this net charge could produce, *at best*, a break-even value proposition for direct access customers under the Commission's administrative rules. But in practice, PacifiCorp's transition adjustment results in a negative value proposition, due to the design of the PacifiCorp transition adjustment calculation (discussed previously). Then, *in addition*, the customer would pay a Consumer Opt-Out Charge of \$5.75 per MWh. *Id.*

These charges exist prior to purchasing the generation supply that will actually serve the customer's load from the ESS.

III. PROCEDURAL BACKGROUND

On April 1, 2015, PacifiCorp initiated this case with its application. On June 29, 2015, Noble Solutions, Commission Staff, the Industrial Customers of Northwest Utilities ("ICNU"), and the Citizens Utility Board of Oregon ("CUB") filed opening testimony. On August 3, 2015, Commission Staff and ICNU filed cross-answering testimony, and PacifiCorp filed reply testimony. The hearing is scheduled for August 25, 2015.

IV. LEGAL STANDARD

When the Commission sets rates for a public utility, it is performing a quasi-legislative function. *Gearhart v. Pub. Util. Commn. of Or.*, 356 Or. 216, 221, 339 P.3d 904 (2014). "A new rate order will supersede an old one." Or. Atty. Gen. Opin. No. 6454, 1992 WL 526799 at *9 (June 8, 1992). This is so because "[e]ven when conditions remain the same, the administrative understanding of those conditions may change, and the agency must be free to act." *Id.* (quoting Davis, *Administrative Law Text*, § 18.01, at 370-71 (3d ed. 1972)).

Oregon law requires that rates assessed to direct access customers in each final Commission order be fair, just and reasonable. ORS 756.040(1); ORS 757.210(1); *see also American Can Co. v. Davis*, 28 Or. App. 207, 224, 559 P.2d 898 (1977) (holding that commission has the duty, after a proper showing of evidence is made, to change rates to ensure they are just and reasonable). The burden of proof is borne by the utility throughout the proceeding. ORS 757.210(1); *In Re Portland General Electric Co.: 2012 Annual Power Cost Update*, OPUC Docket No. UE 228, Order No. 11-432, at 3 (2011). Thus, the Commission has a

statutory duty to ensure that the direct access rates approved in this docket are just and reasonable and provide eligible customers with a meaningful opportunity to access competitive retail markets.

V. ARGUMENT

The Commission should adopt Noble Solutions' reasonable recommendations to improve opportunities available for retail choice and prevent assessment of unjust and unreasonable rates to PacifiCorp's direct access customers.

A. The Commission Should Adopt Noble Solutions' Proposed REC Credit in the Transition Adjustment Calculation for Schedules 294, 295, and 296.

The Commission should ensure that direct access customers receive a credit for the freed-up value of PacifiCorp's RPS resources during the period that those RPS resources are not used to meet the RPS obligations tied to the customer's load. Noble Solutions' proposal is a conservative and reasonable way to compensate one-year, three-year, and five-year program participants for the economic utility investment in RPS resources.

When a customer purchases generation from an ESS, PacifiCorp's RPS obligation is reduced proportionately for the customer's departed load, and thus the direct access election frees up RECs that were previously acquired by PacifiCorp to serve the departed load. Noble Solutions/100, Higgins/16; ORS 469A.005(11), -.052(1)(b), -.065, -.600(29). Oregon's RPS allows PacifiCorp to bank the freed-up RECs to meet the needs of future RPS compliance years – thus, ensuring preservation of the value of this economic utility investment freed up by the direct access election even if the RECs are not sold in the current year. ORS 469A.140; Noble Solutions/100, Higgins/18. At the same time, the ESS must meet the RPS obligation for the direct access customer's load, which at present requires that 15 percent of supply come from

qualifying renewable electricity. ORS 469A.052; ORS 469A.065.² The law presumes that the direct access customer will pay the ESS for those RPS compliance costs.

Yet the direct access customer still pays for PacifiCorp's RPS compliance costs both through Schedule 200, through which the fixed costs of utility-owned renewable generation are recovered, and Schedule 201, through which power purchases of RPS-eligible resources are recovered. Noble Solutions/100, Higgins/15. In other words, the direct access customer pays twice for RPS compliance – once to PacifiCorp through Schedules 200 and 201 for RECs that *are not* used to meet the RPS requirement for the customer's load, and a second time to the ESS for the RECs that *are* used to meet the RPS requirement for the customer's load.

Direct access customers are entitled to a credit for the value of the economic utility investment in RPS attributes freed up by the direct access election. ORS 757.600(10); OAR 860-038-0160(1). Noble Solutions recommends that the Commission adopt a credit in the transition adjustment calculation based upon the average price of unstructured (or unbundled) RECs that are projected to be sold in the current year. Noble Solutions/100, Higgins/17. For example in this year, the REC credit would be equal to the 2014 average price of unstructured RECs multiplied by 15 percent. *Id.* The REC credit would apply to the calculation of the

² This percentage increases to 20 percent in 2020 and increases to 25 percent in 2025. ORS 469A.052(1). Importantly, Oregon's RPS calculates the quantity of RECs that must be retired in any given *compliance year* from the MWh of electricity sold by the utility or ESS to retail customers in that year. ORS 469A.052(1). Thus, if the customer stops purchasing electricity from the utility in the compliance year, the amount of RECs required to be retired by the utility is reduced proportionately. The RPS law and the OPUC's administrative rules require the filing of an RPS compliance report by June 1 of the year following the compliance year. ORS 469A.170; OAR 860-083-0350. In practice, the Commission does not require the utilities and ESSs to retire the RECs until after issuance of an order approving the compliance report. *See, e.g., In the Matter of Noble Americas Energy Solutions, 2013 Renewable Portfolio Compliance Report*, OPUC Docket No. UM 1697, Order No. 14-368, Append. A at 1-2 & n.2 (Oct. 28, 2014) (noting that ESS should retire 2013 compliance year RECs *after* Commission order approving compliance for 2013). Thus, the RECs retired for a compliance year should always flow directly from the MWh of load served by the utility or the ESS in that compliance year.

transition adjustment for the one-year (Schedule 294), three-year (Schedule 295), and five-year (Schedule 296) programs, as well as for the Consumer Opt-Out Charge that captures the Company's fixed costs for years six through 10 in the five-year opt-out program (Schedule 296).³ Noble Solutions/100, Higgins/15-19, 22. While this proposal results in a relatively small value, recognition of this economic utility investment freed up by the direct access election is necessary to establish equitable direct access policies.

PacifiCorp suggests that the REC credit is unreasonable because PacifiCorp does not plan to sell the freed-up RECs and instead plans to bank the RECs for future use. Noble Solutions/102, Higgins/9. But the fact that PacifiCorp may bank the freed-up RECs rather than sell them to an ESS that has picked up the direct access load or another party is not reasonable grounds for failing to recognize the value of the freed-up RECs in the TAM calculation.⁴ *Id.* The Commission should adopt Noble Solutions' reasonable proposal for a REC credit.

B. The Commission Should Require PacifiCorp to Properly Account for Depreciation in Schedule 296.

As explained below, the undisputed evidence supports adoption of Noble Solutions' proposed treatment of depreciation in the Consumer Opt-Out Charge. Therefore, the Commission should adopt this proposal to prevent the assessment of unjust and unreasonable rates to participants of the five-year program.

³ For purposes of calculating the credit associated with the Consumer Opt-Out Charge, the calculation will need to take into account the increased compliance requirements for compliance years after 2020 and 2025. Noble Solutions/100, Higgins/22:10-13.

⁴ PacifiCorp only provided this single basis to oppose a REC credit when asked in discovery. Noble Solutions/102, Higgins/9. However, PacifiCorp asserted additional bases to oppose a REC credit for the first time in its reply testimony filed on August 3, 2015. Noble Solutions intends to respond to these new arguments in post-hearing briefing after additional discovery and the hearing.

In docket UE 267, the Commission allowed PacifiCorp to include a Consumer Opt-Out Charge in its five-year program. However, the Commission specifically explained that the purpose of docket UE 267 was merely “to approve tariffs for PacifiCorp’s Five-Year program,” and “if in the future the [parties] believe that they have new evidence or arguments demonstrating that the customer opt-out charge is unjust or unreasonable, they may seek our review at time.” *In the Matter of PacifiCorp, dba Pacific Power: Transition Adjustment, Five-Year Cost of Service Opt-Out*, OPUC Docket No. UE 267, Order No. 15-195 at 2-3 (June 16, 2015). Indeed, the Commission has a statutory obligation to ensure that rates assessed to direct access customers are fair, just and reasonable. ORS 756.040(1); ORS 757.210(1).

The underlying policy determination in adoption of the Consumer Opt-Out Charge is that the five-year opt-out customer must pay for the projected costs of PacifiCorp’s fixed assets in Schedule 200 in years six through 10, just as the customer would have paid for those assets had the customer remained a cost-of-service customer during those years. *See In the Matter of PacifiCorp, dba Pacific Power: Transition Adjustment, Five-Year Cost of Service Opt-out*, OPUC Docket No. UE 267, Order No. 15-060, 4-7 (Feb. 24, 2015). PacifiCorp proposes that the Consumer Opt-Out Charge be calculated based on projected Schedule 200 costs for years six through 10, and that the costs be projected by simply escalating current Schedule 200 costs at the rate of inflation. Noble Solutions/100, Higgins/23. PacifiCorp has provided no substantive reason why these fixed costs should *increase* for 10 years after the customer provides notice that it will not use these fixed resources.

In contrast, Noble Solutions’ witness, Mr. Kevin Higgins, testifies that PacifiCorp’s *incremental* fixed generation costs that it may decide to incur during years six through 10 should

not be incurred on the departed customer's behalf because that customer provided notice of its decision not to use PacifiCorp's generation assets five years prior. Noble Solutions/100, Higgins/23. Rather, the opt-out charge for years six through 10 should be limited to the generation investment that had been built for the departed customer's benefit at the time of the departure. *Id.* Under basic rate-making principles, once the portfolio of assets is "frozen" for the purposes of this stranded cost calculation, the revenue the Company earns from its return on these assets will decline each year as a portion of those assets is depreciated and amortized. Noble Solutions/100, Higgins/24.

Mr. Higgins recommends two changes to PacifiCorp's proposed treatment of assumed fixed generation costs in the Consumer Opt-Out Charge. First, the assumed Schedule 200 costs in the Consumer Opt-Out Charge should not be escalated in years six through 10. Noble Solutions/100, Higgins/23-24. Second, the Schedule 200 entry should decline by approximately 2.36 percent per year from years six through 10 to properly account for depreciation and reduced returns. Noble Solutions/100, Higgins/24-25. These two refinements reduce PacifiCorp's sample Consumer Opt-Out Charge from \$8.24 per MWh to \$5.56 per MWh for Schedule 30-S and from \$5.75 per MWh to \$3.26 per MWh for Schedule 48-P. Noble Solutions/100, Higgins/24-25. No witness has disputed the substantive merit of Mr. Higgins' proposed treatment of depreciation.

Instead, PacifiCorp solely argues that the orders in docket UE 267 preclude consideration of depreciation in the Consumer Opt-Out Charge. PAC/500, Dickman/84-86. However, no existing Commission order specifically addresses the treatment of depreciation in the Consumer Opt-Out Charge. Evidence regarding PacifiCorp's incorrect depreciation assumption was not

presented in docket UE 267 because Noble Solutions, along with a broad coalition of other parties, presented evidence that the *entire* Consumer Opt-Out Charge should be rejected. The past challenge to the entire charge does not preclude any party from now presenting evidence that an individual aspect of the proposed charge is miscalculated.

More fundamentally, PacifiCorp's argument ignores that the doctrines of claim preclusion and issue preclusion cannot erect a barrier to establishing just and reasonable rates in this proceeding. In *American Can Co.*, the court held that the Commission even had a duty to review and change the rates set forth in an unexpired special contract. 28 Or. App. at 224 (holding "the Commissioner had not only the right, but indeed the duty, in exercising his authority to set just and reasonable rates, to consider and, upon a proper showing, to change the Crown-Pacific Contract with respect to the rate to be charged thereunder"). The Commission recently explained that "while it is appropriate for an administrative agency to prevent parties from relitigating matters in which it acted in a judicial capacity, the same is not true when the administrative agency acts in a legislative capacity." *In Matter of PacifiCorp, dba Pacific Power: Application to Reduce the Qualifying Facility Contract Term and Lower the Qualifying Facility Standard Contract Eligibility Cap*, OPUC Docket No. UM 1734, Order No. 15-209, at 3 (July 7, 2015) (citing Or. Atty. Gen. Opin. No. 6454, 1992 WL 526799 (June 8, 1992)). Because this proceeding is a quasi-legislative rate-setting proceeding, prior orders cannot preclude the proper calculation of the Consumer Opt-Out Charge in this proceeding.

The Commission expressly stated that Noble Solutions could present "new evidence or arguments demonstrating that the customer opt-out charge is unjust or unreasonable." *In the Matter of PacifiCorp, dba Pacific Power: Transition Adjustment, Five-Year Cost of Service Opt-*

Out, OPUC Docket No. UE 267, Order No. 15-195 at 2-3. Noble Solutions has presented such evidence in this docket. No party disputes the substantive accuracy of Noble Solutions' proposal. The Commission should therefore adopt Noble Solutions' proposed treatment of depreciation.

C. The Commission Should Adopt Noble Solutions Reasonable Proposal for a Late DASR.

The Commission should ensure equal treatment with regard to late direct access service requests (or "DASR") in the new five-year program. *See* Noble Solutions/100, Higgins/26-31. Adopting Noble Solutions' DASR proposal will prevent logistical issues from thwarting a customer's election to enter the five-year program.

Switching to direct access service requires at least two submissions to PacifiCorp. First, PacifiCorp's Rule 22 requires the departing direct access customer to submit a Change of Service Election Declaration ("CSED") during the enrollment window. If the customer fails to timely submit a CSED to PacifiCorp, the customer will not be allowed to receive direct access service. *See* PacifiCorp's Rule 22. Next, the ESS must submit to PacifiCorp a DASR, which contains all information required to effect the switching of such customer's supplier. OAR 860-038-445(2). The DASR is due at least 13 business days prior to the effective date of the direct access service, which this year requires a submission on or before December 14, 2015 for service commencing on January 1, 2016. OAR 860-038-0445(8), (9); Noble Solutions/100, Higgins/27. As with the three-year program, the three-week enrollment window in the new five-year program reaches into December and thus imposes a significant risk that in the limited available time between the Thanksgiving and December holidays, the ESS will be unable to timely complete and submit the DASR. *See* Noble Solutions/100, Higgins/27-28.

In this case, PacifiCorp proposes discriminatory and differential treatment for customers attempting to enroll in the five-year program. PacifiCorp has consistently honored the direct access election even in the event of a late DASR for the one-year and three-year programs – in some cases for a DASR that was several months late. Noble Solutions/100, Higgins/28; Noble Solutions/105, Higgins/5. PacifiCorp states it will continue to honor late DASRs for the one-year and three-year programs. Noble Solutions/105, Higgins/6-7. Yet, for the five-year program, PacifiCorp proposes to deny participation in the program by a customer tied to a late DASR, even if the DASR is only one day late. *Id.* PacifiCorp’s proposed discriminatory treatment of customers attempting to enroll in the five-year program is not clearly stated in any tariff. Noble Solutions/100, Higgins/29-30.

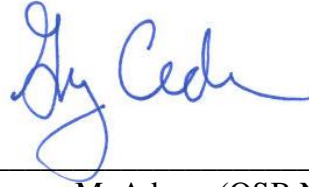
Noble Solutions proposes that the customer tied to a late DASR should have the option to enter the five-year program with service starting 13 business days after the late DASR is provided to the Company. Noble Solutions/100, Higgins/30-31. PacifiCorp expressed concern that such a customer could avoid some of the cumulative five-year opt-out charges in the event of a service date commencing after January 1. *Id.* But Noble Solutions’ proposal addresses this concern by requiring the customer to pay PacifiCorp all applicable five-year opt-out charges that would have applied between January 1 and the effective date of the late DASR. *Id.* The Commission should adopt this reasonable proposal.

VI. CONCLUSION

The Commission should adopt Noble Solutions’ three reasonable proposals in this docket to ensure direct access customers are assessed just and reasonable rates and are provided with meaningful retail choice opportunities.

DATED this 17th day of August, 2015.

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