BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1837

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation into the Treatment of New Facility Direct Access Load.	Simultaneous Opening Comments

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BACKGROUND

The purpose of this docket is to investigate the appropriate treatment of direct access transition adjustments for new nonresidential customer load on a generic basis (i.e. without the benefit of utility-specific information). As such, Staff's comments in this proceeding are theoretical in nature, and are intended to identify and discuss the existence and interplay of certain issues. Ultimately, whether the Commission can and should approve a new direct access program for new load will depend on the particular proposals of such a program. As Staff stated in briefing, in a theoretical sense, Staff sees no reason that the Commission cannot, or should not, consider reduced or eliminated transition charges for new customer load—in the following comments Staff finds that there are policy concerns, but potential solutions may exist in a properly designed program.

Parties filed opening and reply briefs in this case on September 8, 2017, and October 10, 2017, respectively. In those briefs, parties discussed the legal authority of the Commission to consider the elimination and/or reduction of transition adjustments to new load. The majority of the parties agreed that the Commission has the authority to reduce or eliminate transition charges for new direct access load, so long as the Commission concludes that doing so does not result in unwarranted cost shifting or unjust discrimination among customers taking substantially similar service.

On November 6, 2017 parties held a workshop with two primary goals. The first was to discuss the scope of the investigation and identify important policy questions to consider. The second was to provide information on the utilities' planning process. From that workshop, parties comprised a list of questions that were important to consider when examining the issue. The questions are listed below, and will be discussed in further detail in the remainder of Staff's comments.[1]

1. Should the Commission exercise its discretion and consider reduced or eliminated transition charges for new load?
2. What types of new customer direct access loads can utilities accurately plan for?
3. Can utilities plan in a manner that allows new customer direct access without adverse impacts on cost-of-service customers?
4. Do utilities currently have investments or costs rendered un-economic as a result of new direct access customers?
5. Can utilities treat new customers differently from existing customers without discriminating?
6. Do transition adjustment charges mitigate risk to utilities and cost-of-service customers associated with the Provider of Last Resort requirements?

[1] In its comments, Staff often discusses how current Direct Access programs operate. In those circumstances, Staff is referencing Long-Term Direct Access programs, in which a customer has a transition adjustment for a fixed period of time, but no transition adjustment after the five year window.

7. What parameters can be placed on the type of new load receiving altered transition adjustment treatment to minimize cost shifting?
8. What constitutes new customer load, and what actions can invalidate new customer status?
9. What provider of last resort obligations should be imposed on the utility for new direct access load?
10. In the event that new direct access load wants to return to cost of service rates, how should that be structured?
11. What are the impacts on cost-of-service customers of modifying transition adjustments for new customers?
12. Are there benefits to cost-of-service customers from direct access customers paying distribution charges?
13. Should the source of energy (green energy vs thermal/market) be considered in a potential new program for new load and direct access?
14. Should a new program for new direct access load be included in the current program caps for existing direct access programs?

Staff finds two pieces of legislation particularly informative to its investigation in this proceeding:

SB 1149

Direct Access in Oregon was first approved by the Oregon Legislature when it passed Senate Bill (SB) 1149. SB 1149, among other things, restructured the electric power industry in Oregon and allowed for non-residential customers of Oregon's two largest investor-owned utilities to participate in direct access. The legislature communicated several policy goals of SB 1149 in the preamble, which states in part:

- Whereas price and service unbundling is the best way to identify the costs associated with generation, transmission and distribution of electricity services and is essential to the development of a competitive market; and
- Whereas restructuring of the electricity industry must be crafted in a way that retains the benefits of low-cost resources for consumers; and
- Whereas all Oregon retail electricity consumers should be provided fair, non discriminatory access to competitive electricity options; and
- Whereas 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; and
- Whereas this state must adopt reasonable transition policies, including a portfolio access option and public purpose funding, that lead to a competitive electricity market that is accessible to and benefits all classes of electricity consumers; and
- Whereas this state must adopt adequate electricity consumer protections.[2]

Oregon's Direct Access laws are codified in ORS 757.600-757.691. Staff finds relevant to this discussion ORS 757.646(1), which states:

[2] https://www.energytrust.org/wp-content/uploads/2016/11/sb1149.pdf

> The duties, functions and powers of the Public Utility Commission shall include developing policies to eliminate barriers to the development of a competitive retail market structure. The policies shall be designed to mitigate the vertical and horizontal market power of incumbent electric companies, prohibit preferential treatment, or the appearance of such treatment, of generation or market affiliates and determine the electricity services likely to be competitive. The commission may require an electric company acting as an electricity service supplier do so through an affiliate.

ORS 757.607 provides that the Commission must ensure that direct access programs do not result in unwarranted cost shifting from direct access customers to remaining retail customers, and allows for the Commission to establish transition credits and charges to address unwarranted cost-shifting concerns. ORS 757.607(2) specifically states:

> The direct access, portfolio of rate options and cost-of-service rates may include transition charges or transition credits that reasonably balance the interest of retail electricity consumers and utility investors. The Commission may determine that full or partial recovery of the costs of uneconomic utility investments, or full or partial pass-through benefits of economic utility investments to retail electricity consumers, is in the public interest.

Although not part of Oregon's Direct Access laws specifically, ORS 757.310 and ORS 757.325 are the Commission's discrimination statutes and apply to a utility's direct access programs. ORS 757.622 requires the Commission to establish terms and conditions for default electricity service to nonresidential customers, while providing for viable competition among Electric Service Suppliers (ESS).

SB 979

In the 2017 legislative session, SB 979 was introduced and proposed a number of changes related to direct access, one of which was to exclude new commercial and industrial load from transition adjustment charges. While SB 979 was ultimately not signed in to law, it prompted Staff to ask the Commission to open an investigation into the treatment of new facility direct access loads on May 16, 2017. The Commission approved that request in Commission Order No. 17-071 and the investigation was docketed as UM 1837.

SHOULD THE COMMISSION EXERCISE ITS DISCRETION?

Should the Commission exercise its discretion and consider reduced or eliminated transition charges for new load?

While this question is central to the issue, it is informed by considering the answers to all of the questions identified in the previous section, and discussed below. Ultimately, Staff does not believe that it is in a position to make a definitive recommendation in this round of comments, because as discussed above, a recommendation whether to approve a direct access program that allows for reduced or eliminated transition charges for new load would depend on the specific program design. Staff feels confident that a program, if designed correctly, could allow new load to choose its energy source without unwarranted cost shifts to cost of service customers, and without running afoul of unjust and unwarranted discrimination requirements. The main consideration for Staff is whether the approval of such a program would result in a competitive advantage of certain firms over others, and whether that outcome would be consistent with the legislature's articulated policy and prohibitions on undue and unreasonable discrimination. As stated above, ORS 757.646(1) charges the Commission with "developing policies to eliminate barriers to the development of a competitive retail market structure" that includes determining electricity services are likely to be competitive. A new load program would result in different treatment and power costs for two identical firms except for the date which they joined the utility. In the extreme example, a shift in the competitive balance between two firms within a service area could affect all ratepayers through the loss of load from the comparatively disadvantaged firm. However, Staff does not recommend that the Commission bar, as a matter of policy, the possibility of approving alternative direct access programs for new loads. Staff discusses undue and unreasonable discrimination below.

If the Commission were to ultimately decide to implement a program, Staff believes that several elements would be key in order to ensure a proper treatment for all customers. In the following questions, Staff examines the attributes of a program that would result in the proper incentives and outcomes for all customers.

DIRECT ACCESS LOADS AND UTILITY PLANNING

What types of new customer direct access loads can utilities accurately plan for?

Inherent in a potential direct access program that would allow for reduced or eliminated transition charges for qualifying new load is that the participant would permanently opt-out of the utility's system. Therefore, Staff's focus on planning is directed at each utility's long-term direct access program (i.e. permanent opt-out direct access customers), as those are the only direct access participants that pay transition charges for a fixed period of time, and for which the utility no longer plans for the load after a fixed period of time.[3]

Utility planning for load can be divided into two buckets—the long-term load forecast used in their integrated resource plans (which will inform future resource choices), and

[3] Both PGE and PacifiCorp offer direct access programs with shorter durations, in which direct access customers pay transition charges over the relevant period of time. The utility, however, continues to plan for this load as these customers have not permanently elected to take service from an alternative provider.

the annual load forecast, which is used to plan for meeting load obligations in the short-term and can also inform short-term resource decisions. During the November 6, 2017 workshop, each utility presented on its planning process for load, including direct access load, for purposes of both the IRP and their annual forecasts. Staff finds the utilities in a better position to explain the details of their respective processes, but offers some observations based on the discussion at the workshop.

As discussed more fully below, there is potential that cost-of-service (COS) customers may absorb cost-shifts for uneconomic utility investments if load is planned for but instead the load chooses direct access with no transition charges. In looking specifically at the loads which the utility could accurately plan for, Staff believes there is likely a correlation between the size of the load and the length of notice of the load coming online. In conversations with the utilities, it was clear that large loads[4] give a varying degree of notice, but generally the larger the load, the more work required to receive power and thus the more notice generally given. This has the effect of minimizing much of the risk to COS from short term planning needs.

The largest loads[5] are individually forecast by both PGE and PacifiCorp on an annual basis using information from the customer themselves and the knowledge of the employees who work with these businesses. The likelihood of a large load being expected to come online, but going straight to direct access without the utility's prior knowledge, is low; however, the potential effects are large.[6] Further, it is unlikely that the utilities would expect a load forecast on an individual basis to come online, without knowing the source or identifying the business.

In the case of smaller loads, a regression approach is used for the annual load forecast. This is based on business cycle trends and economic and industry data. Here, the risk of sunk costs is smaller. A few firms deciding to go direct access is unlikely to cause the utility to change its load planning, but the likelihood of an un-forecasted direct access customer is higher. The issue would be if a large number of firms all made the same choice without the utility's foresight. In both customer size forecasts, direct access loads are simply the historic percentage of total load applied to the forecast. With relatively flat direct access participation, this method is reasonable. However, if the Commission were to change direct access by allowing new load to avoid transition adjustment charges, the utilities will likely want to alter their methodology.

For long term planning, both utilities use regression models as well, the process is similar to short term forecasting only that the data is more aggregated. This makes sense given the purpose of long term forecasting, as using aggregated data provides a simpler model whose results point to larger trends and more general takeaways. A bigger picture, with less detail, similar to lenses of a microscope. The effect it has on

[4] In this context Staff is referring to generally any load which would qualify for direct access as a large load.
[5] Roughly the top 25 highest loads on the system or top 1% of customers.
[6] It should be noted, that although the potential impact is large, it is not necessarily negative. If the Utility is already in a short position, then new load choosing direct access over COS would benefit other customers.

this issue is that, like the short term load forecasting, a single firm's decision will not affect the load forecast accuracy, as the forecast is not forecasting a single firm. Even if the firm was a large firm (individual short term forecast), its opt-out decision would have an indeterminate effect on the accuracy of the long term forecast. As an example, let's say that in year 10 of the forecast, this very large load will either join the utility at COS or go direct access. For the forecast to accurately predict the event, it would need to over-forecast loads for years 1-9, in order to have the load correct in year 10. This results in a forecast with 9 years of incorrect forecasts and 1 year of correct forecasts, whereas a forecast that incorrectly estimated the customer choice in year 10 could have 9 years of correct forecasts, with 1 year of incorrect forecasts.[7] The point being that these forecasts are not meant to measure the actions of a single firm, they are meant to measure the actions of the entire customer class. This is made more relevant by the fact that forecasts become less precise the farther they are made into the future. This means that the range of expected outcomes widens as you look farther out.[8]

IMPACTS OF MODIFIED PLANNING ON COST-OF-SERVICE CUSTOMERS

Can utilities plan in a manner that allows new customer direct access without adverse impacts on cost-of-service customers?

Central to the question of adverse impacts to remaining cost-of service customers is how the utility plans for direct access load today, and whether its planning can be adjusted to minimize or eliminate assumptions about future direct access load so as to reduce or eliminate such load providing a basis for new resource investment. If a utility plans for future load that instead chooses direct access, this has the potential of producing an uneconomic investment for the utility – that is, utility investment that may be difficult or impossible to recover without transition adjustment charges. The goal of transition adjustment charges is to allow for the recovery of this uneconomic utility investment from the departing load that caused the stranded cost in a way that balances the interests of consumers with shareholders. As discussed in Staff's briefs in this proceeding, the Commission may approve direct access programs that allow for cost-shifting (i.e. the recovery of some or all uneconomic utility investment from remaining cost-of-service customers), so long as the Commission finds that such a program does not result in "unwarranted" cost-shifting. Whether a cost-shift is unwarranted can only be determined in the context of a specific proposal, as the program design and utility-specific information would be necessary in order to determine the extent of any cost-shifts, and whether such cost-shifts would be warranted given the overall program design and direct access policy objectives.

Forecast Planning

As previously discussed, PacifiCorp and PGE both use regression analysis to forecast load in any given year. Given the ability for any customer who qualifies for direct access

[7] This is true for a linear forecasting and generally true for all other standard forecasting methodology. It is the difference between a straight line between two points and a smooth curved line between two points.
[8] Staff understands that the utilities do not utilize probabilistic forecasting, however the fact that confidence intervals widen along the forecast horizon remains.

to circumvent the utility's service, the forecast could be biased. If the over-estimate of future load was used as the impetus to build or acquire more capacity, then there could be stranded costs that COS customers would need to pay when a load does not arrive. However, as discussed, Staff does not see the potential effect as being large. Further Staff believes that changes to the planning process and program design features could mitigate these risks further. Should this be the case, then COS customers would not have to bear the costs of uneconomic investment.

Impacts on Cost-of-Service Customers
In the abstract, it is difficult if not impossible to definitely state the impacts to cost-of-service customers if utilities were to adjust planning for long-term direct access load such that new load could enjoy reduced or eliminated transition charges. Stranded costs due to loss of expected load is not the only possible impact to customers. It is relatively safe to assume that for an average firm choosing a power service provider, price would be near the top of the determining factors. If the firm can purchase power for less from an ESS than a utility, on average, then all of the utility's customers are sharing in costs which are above the market. When the new firm does not take service from the utility, COS customers do not receive the benefit of lowering the average cost of power. The issue here is that the excess costs are not derived from load that the utility was planning to take, but rather, the excess costs derive from another mechanism (i.e. efficiency differences). If the goal of direct access is to increase choice and competition, new load should not be beholden to these differences in efficiency. If that were the case, transition adjustment charges would not have an end date for long-term direct access. That is, transition charges would be needed if the goal was to keep cost of service customers economically indifferent to direct access, for all direct access customers, so long as market was below a utility's embedded costs, no matter how long it has been since the customer opted out. The Commission previously made the policy choice not to hold customers accountable for differences in efficiency, but merely cost differences that arise once planned for needs change. In short, the transition adjustment charges provide time to adjust planning.

While Staff believes this would be the case in the majority of real world scenarios, it could certainly be the case that marginal costs are above average total costs for a utility. If that were the case, serving a new load would raise average total costs. In this scenario, not serving the load would aid COS customers. This is why, in the abstract it is difficult to state the impact on COS customers.

Free Choice
Under the scenario just mentioned, it would seem that new load may have a "free choice." If the primary determinant in provider of power is price, new load able to freely choose between cost-of-service rates with the utility and direct access could always reduce its own power costs. This would most likely also result in utility customers paying higher rates than they would otherwise pay. A new load would only choose to receive power from the utility in cases where the market was higher than a utility's embedded costs. This would result in more load to spread fixed costs over, but would also likely raise the marginal costs of power as the utility would be required to meet the new load

by purchasing from market or utilizing less efficient generation. This is a concern that Staff is still considering; however, three potential counter-points exist:

1) Direct access is designed to promote competition; allowing a firm to choose its power source based on price is exactly how a competitive market operates. It encourages suppliers, including utilities, to be more efficient and reduces the need for regulators to design incentives to limit costs.
2) There are other reasons a firm may desire to be direct access than simply price. Many firms have self-imposed green energy mandates. Others might value the flexibility and options available on the market.
3) "Provider of last resort" obligations could be structured to reduce a firm's opportunity to act on its "free choice." Staff will discuss this later in comments.

INVESTMENTS OR COSTS RENDERED UN-ECONOMIC

Do utilities currently have investments or costs rendered un-economic as a result of new direct access customers?

This is theoretically possible, but without factual evidence in this proceeding or a proposal for a specific direct access program for new load, it is not possible to determine specifically for PGE and PacifiCorp.

CUSTOMER DISCRIMINATION

Can utilities treat new customers differently from existing customers without discriminating?

As discussed in Staff's briefs, utilities are prohibited from charging different rates for like and contemporaneous service under substantially similar circumstances, and from giving undue or unreasonable preference or advantage to any particular person or locality. The Commission retains discretion to determine whether the specific rate proposed, including a direct access program, is consistent with these restrictions. Additionally, the Commission must construe these requirements in conjunction with SB 1149.

Staff sees the largest issue being that a potential program could change the competitive balance between two competing firms. If for example a current firm's load is being served by an incumbent utility, it would be subject to transition charges under the utility's current direct access program offerings. Conversely, eligible new load could avoid or pay reduced transition charges, thereby enjoying an advantage against other firms within the same region. In the extreme, this advantage could harm all customers if the firm who is a current utility customer decreases its load or goes out of business as a result of the disadvantage. This could lead to stranded costs and harm to the general public. Staff is still considering how large of an issue this might potentially be. Firms in the same industry often locate close to each other in order to take advantage of a

knowledgeable and experienced labor pool. However, in order for a new program to affect the competitive balance, one firm would need to be new load, and the industry would have to be one which consumed large amounts of power.

Whether such a program's disparate treatment would lead to unwarranted or unjust discrimination is a question of Commission policy and would depend on the specific program design.

PROVIDER OF LAST RESORT AND TRANSITION ADJUSTMENT CHARGES

Do transition adjustment charges mitigate risk to utilities and cost-of-service customers associated with the Provider of Last Resort requirements?

Transition adjustment charges are intended to recover all or a portion of uneconomic utility investment.[9] ORS 757.622 requires the Commission to establish terms and conditions for default electricity service to nonresidential consumers, while providing for viable competition among ESSes.

Utilities have emergency and default service offerings in place, which have the effect of compensating the utility for load returning to the Company from direct access under emergency situations or otherwise. If a customer needs emergency service, the emergency service tariff is meant to provide power to these customers and recover the costs of doing so. Once a customer can no longer be placed on the emergency service schedule, it moves to a standard offer service, which provides power at market plus administration costs.

The only true risk to COS customers would be in the event of a market failure or transmission constraint. In the event of one of these two events, it is questionable whether a transition adjustment charge would make a difference. Staff believes that theoretically speaking, a utility would not recover the transition adjustment charge if it were not able to provide the power. That is, the utility is getting recovery as if it were providing the power, the assumption being that it could provide the power. If that is the case, then a transition adjustment charge does help mitigate a small amount of the total risk.

NEW LOAD TYPES

What parameters can be placed on the type of new load receiving altered transition adjustment treatment to minimize cost shifting?

As noted earlier, the biggest potential risk to COS customers would be a large load choosing the new program when the utility was planning to serve the load. As such,

[9] ORS 757.600(31).

Staff believes that there should be both a minimum to participate[10] as well as a maximum individual load without sufficient notice. Staff continues to examine the proper size and length of time which would protect COS customers when a large load enrolls in the program.

HOW TO DEFINE NEW LOAD

What constitutes new customer load, and what actions can invalidate new customer status?

A proper definition of new load is important to reduce the potential to take advantage of the system. As some businesses change ownership with minimal impact to operations, it does not seem reasonable to base a definition on ownership. Staff prefers a metric which will err on the side of being too stringent. At this time, Staff finds that it is a reasonable to require that investment in new assets, at a new location, be required in order to meet the definition of "new load." This would reduce the ability to game the system, and limit the participants to load which truly is "new." Further, it allows for a firm who is currently a COS customer to invest in its business using new facilities and take part in the new program. This would limit the competitive advantages of new customers.

PROVIDER OF LAST RESORT CHANGES

What provider of last resort obligations should be imposed on the utility for new direct access load?

A direct access program that allows for eliminated or reduced transition charges for qualifying new direct access load means that the utility should no longer plan to meet that load on a long-term basis from day one; to do otherwise would mean investment in the utility system that may ultimately go unrecovered by the direct access customer. A question of how to deal with a utility's obligation to be a provider of last resort arises when considering they are no longer planning to meet the load. This is a similar issue which arose during the implementation of SB 1149. One option proposed was to allow for curtailment of a direct access customer returning on an emergency basis. Ultimately, the Commission declined to permit curtailment for returning direct access load without sufficient notice. Staff does not see a difference between a current long-term direct access customer and a new load direct access customer with regard to this issue—and therefore, they should be treated equally. Once enrolled and past the 5-year window, both customers are no longer being considered in a utility's planning process, and pose the same potential risks to the utility and COS customers should they need to return to the utility on short notice. Should direct access become a large percentage of a service area's load, the Commission may want to reconsider the implications of this process, but Staff does not see the impetus to treat new load direct access differently than long-term direct access on this issue because the costs caused by each would be the same.

[10] 1 MWa and 2 MWa for PGE and PacifiCorp respectively.

NEW DIRECT ACCESS LOAD MOVING TO COST-OF-SERVICE

In the event that new direct access load wants to return to cost of service rates, how should that be structured?

Staff continues to examine potential issues and consequences of a new program enrollee electing to take service from the utility. At this time, as with default service in emergency situations or otherwise, Staff believes that new load direct access should be treated the same as other long term direct access customers. The utility's need to plan to serve the load is the same as with other long term direct access customers. As such they should be required to provide the same length of notice,[11] be charged the same for emergency service, and be provided the same standard offer (market based) service as other permanent opt-out customers.

IMPACTS OF MODIFIED TRANSITION ADJUSTMENTS ON COST-OF-SERVICE

What are the impacts on cost-of-service customers of modifying transition adjustments for new customers?

As previously stated, the consequences depend on the structure of the specific program, its enrollment, and the utility's cost structure and planning changes. The fact that Staff is not certain COS customers can avoid absorbing cost-shifts, especially in the short-term, is one of the reasons Staff is not prepared to recommend a change in transition charge policy in this round of comments. One potential solution to the impacts to COS customers would be to have new load program enrollees pay a portion of standard transition adjustment charges. Staff envisions a design where the utility calculates its excess capacity costs at a given time, and splits those costs evenly among the new load program participants. In this manner, COS customers would be held harmless and the new load customers would realize reduced but not eliminated transition adjustment charges.

DIRECT ACCESS AND DISTRIBUTION CHARGES

Are there benefits to cost-of-service customers from Direct Access customers paying distribution charges?

Under current direct access programs, customers pay distribution charges to contribute their fair share for the distribution network they use. These charges are reduced due to the fact that direct access customers contribute less to the utility's franchise fee obligation. Staff believes that any new program should operate in a similar manner. Any potential benefit to COS customers from direct access results when a direct access customer "in-fills" a distribution network, meaning the firm locates where the distribution

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[11] 2 or 3 years notice for PGE and 4 years for PacifiCorp

network is already set up. This is most likely neutralized by direct access customers who require new distribution equipment for their service.

ENERGY SOURCE CONSIDERATIONS

Should the source of energy (green energy vs thermal/market) be considered in a potential new program for new load and Direct Access?

This is one potential solution to the issue of a free choice. If the Commission were to require that reduced or eliminated transition charges for new load direct access be conditions on the underlying resource, such as renewable energy, in place of service from a utility, it would allow for companies who have green mandates to meet those objectives and provide flexibility to new load customers. On the other hand, requiring green energy could be construed as running counter to the direct access principle of promoting competition and customer choice. SB 1149 does not contemplate the resource choice of ESS's and imposing a requirement of green energy in a potential new program could run counter to the intent of the legislature.

PROGRAM CAPS

Should a new program for new direct access load be included in the current program caps for existing direct access programs?

A program cap effectively acts as a failsafe against a large number of customers all choosing to go to direct access at one time. As mentioned previously, this is precisely the risk when considering smaller loads. It may be beneficial to consider a program cap in order to alleviate this risk. On the other hand, it could be unfair to customers if some fit under the cap, but others who want to enroll later then cannot, especially when considering the cutoff point. Two customers who apply for the program days apart might end up with differing outcomes.

PGE and PacifiCorp both have participation caps for their long-term direct access programs. A complication with including the new load program under the current direct access caps is that PGE and PacifiCorp have different caps and have different levels of participation within their respective caps. PGE is above 75% of the way to its program cap (300 MWa) while PacifiCorp is well below 50% of its cap (175 MWa). For this reason, Staff does not recommend utilizing the current caps under a new program design; however, Staff does recommend utilizing some level of a cap, at least initially. It would protect COS customers from a large trend towards direct access which could affect load planning, and it would allow for utilities to being to understand the likely enrollment and learn to incorporate it into their forecasts. Staff believes the cap should be revisited after a few years, as it is not meant to limit the customers who elect to take part in the program but allow for a smooth transition and protect COS customers during the early stages.

SUMMARY AND CONCLUSION

Staff believes that a properly designed program could potentially allow new load direct access customers to have reduced or eliminated transition adjustments without unreasonable cost-shifts to COS customers. However, there are still issues of equity and impacts Staff continues to contemplate, and whether Staff would support such a program would depend on the specific attributes of that program. Staff will continue to consider the potential consequences and solutions related to such a program, and will review the comments by other parties in this docket in order to more specific recommendations in this case. Generally, Staff does not believe that the Commission should, as a matter of policy, decline to consider specific programs that may be proposed by the utilities or other interested parties.

This concludes Staff's Opening Comments.

Dated at Salem, Oregon, this 22nd of November, 2017.

Scott Gibbens
Senior Analyst
Energy Rates, Finance and Audit Division