



RICHARDSON ADAMS, PLLC
ATTORNEYS AT LAW

richardsonadams.com
Tel: 208-938-7900 Fax: 208-938-7904
P.O. Box 7218 Boise, ID 83707 - 515 N. 27th St. Boise, ID 83702

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VIA ELECTRONIC FILING

Commission Chair Lisa Hardie
Commissioner Stephen Bloom
Commissioner Megan Decker
Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, Oregon 97301-3398

RE: UM 1837/AR 614 – Comments of Calpine Energy Solutions, LLC

Dear Commissioners:

I write on behalf of Calpine Energy Solutions, LLC (“Calpine Solutions”) in support of Staff’s proposal to open an expedited rulemaking to complete the investigation into a direct access program tailored for new loads (“new load direct access” or “NLDA”).

Calpine Solutions and its predecessors have served Oregon customers as an electricity service supplier in the Oregon Public Utility Commission’s (“Commission”) direct access programs for over a decade and have regularly participated in Commission proceedings during that time. In that time, it has become clear that the main impediments to direct access that currently exist are the stranded cost charges (referred as “transition charges” in Oregon law) and the limited time available during the enrollment windows for eligible customers to commercially transact. These requirements exist in part to address a need to protect remaining cost-of-service customers from paying for the existing generation commitments made by the utility prior to the time that the direct access customer elects to buy generation services from the market. Calpine Solutions agrees with Staff that the Commission should expeditiously move forward with offering a NLDA program where transition charges and other program limitations are eliminated or relaxed.

In addition to the background provided in Staff’s memorandum, it is important to keep in mind that Oregon’s legislature has determined 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 at preamble. The existing direct access law specifically instructs the Commission to develop policies to “eliminate barriers to the development of a competitive retail market structure.” ORS 757.646(1). The law allows the Commission to assess “transition charges” to direct access

customers only if necessary to recover costs of “uneconomic utility investments” incurred for such customers. ORS 757.607(2); 757.600(31), (35). Staff’s prior comments have correctly applied these legal principles here to conclude: “If a utility did not rely on the future new load of a specific large customer when making investments, than a NLDA program would not render these investments uneconomic as defined by current Oregon law.” *Staff’s Reply Comments* at 5 (filed December 19, 2017). Accordingly, the Commission is well within its authority, and even has an affirmative obligation, to implement a direct access program that appropriately offers reduced, or eliminated, transition charges to new loads. Notably, other states have waived stranded cost charges for new loads with little to no process, given the apparent lack of basis for such charges. *See, e.g., Petition of Google, Inc.*, Nevada Public Utilities Commission Docket No 17-04019, 2017 Nev. PUC LEXIS 105 (Sept. 8, 2017).

While the details of a NLDA program remain to be finalized, the parties have made significant progress over the past year, which has included two rounds of briefing, two rounds of written comments, and two in-person workshops. Calpine Solutions looks forward to continuing to work with the other parties to reach consensus on as many of the terms and conditions for such a program as possible, and to having the Commission address any remaining issues. Ideally, the administrative rules that would emerge from the rulemaking would provide sufficient specificity that the program could be implemented expeditiously after adoption of the rules, without additional protracted proceedings. The Commission’s endorsement of expediting the remainder of the process would ensure that the barriers to direct access for new loads can be removed as soon as is practicable, as the direct access law originally envisioned in 1999.

Sincerely,



Gregory M. Adams
RICHARDSON ADAMS, PLLC
Attorney for Calpine Energy Solutions, LLC