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VIA ELECTRONIC FILING

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Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-3398

Attn: Filing Center

RE: AR 614—Transmission Issue

The electric companies have been asked by stakeholders in the Public Utilities Commission of Oregon (OPUC) Docket No. AR 614 to provide more detail about their concerns regarding transmission, particularly OAR 860-038-0590(3)(a), set forth below. Portland General Electric Company (PGE) and PacifiCorp d/b/a Pacific Power request that the AR 614 rules make explicit that 860-038-0590(3)(a), which does not have any equivalent in Federal Energy Regulatory Commission (FERC) rules, was not intended to and does not apply to New Load Direct Access (NLDA) customers. This change will ensure that NLDA customers are treated the same as any new transmission customer on PGE's or PacifiCorp's system.

We jointly offer these comments in advance of comments due August 1, to further clarify the position of PGE and PacifiCorp.

860-038-0590 Rule Excerpt

(3) Each electric company shall provide nondiscriminatory access to transmission, distribution and ancillary services, including transmission into import-limited areas and local generation resources within import-limited areas, to serve all retail consumers. An electric company shall not give preference or priority in transmission and distribution pricing, transmission and distribution access, or access to, pricing of, or provision of ancillary services and local generation resources, to itself or its affiliate relative to persons or entities requesting transmission or distribution access to serve direct access consumers. No preference or priority may be given to, nor any different obligation assigned to, any consumer based solely on whether the consumer is purchasing service from an electric company or an ESS.

(a) Any transmission or distribution capacity to which an electric company has entitlements, by ownership or by contract, for the purpose of serving its Oregon load shall be made available to an electric company and ESSs that are serving such load on at least a pro rata basis. An electric company shall describe in its tariff filings how it proposes to provide substantively comparable transmission and distribution service to all retail consumers at the same or similar rates if:

(A) Access to the electric company's transmission or distribution facilities or entitlements is restricted by contract or by regulatory obligations in other jurisdictions; or

(B) If providing transmission or distribution service on a pro rata basis would result in stranding generating capacity owned or provided through contract by the electric company;

The rule was promulgated, after SB 1149 was enacted, to implement direct access. At the time that direct access rules were promulgated, the only direct access options under consideration were for existing customers, for which the electric company had already planned from both a generation *and* transmission perspective. Accordingly, the rules contemplate that transmission and/or distribution capacity “to which an electric company has entitlements” for the purpose of serving its Oregon load must be made available to an electricity service supplier (ESS) to serve a direct access load on a pro rata basis.

This approach of transferring, on a pro rata basis, reserved electric company transmission rights, makes sense in the context of an existing cost-of-service customer switching to direct access. The electric companies had planned for, from both an energy and delivery perspective, those departing customers’ loads. Departing customers had been previously included in the electric utilities’ load forecast when determining and reserving transmission capacity under FERC open access rules. Assigning a pro rata share of reserved transmission rights to follow the departing customer is a reasonable allocation of the electric company’s reserved transmission capacity. New large loads that would qualify for the proposed NLDA program, however, are by definition not included in the utility’s system planning so the utility has not reserved transmission capacity to transfer to the new load.

The issue is simply whether transmission capacity has been reserved in accordance with FERC requirements. PGE and PacifiCorp are required to post available transmission capacity and must follow strict guidelines for allocation of that capacity. Electric utilities cannot provide a preference to transmission capacity to any eligible transmission customer. Accordingly, new load participating in the NLDA program should be exempt from OAR 860-038-0590(3)(a), (3)(a)(A) and (3)(a)(B), because the electric company has no entitlement to transmission capacity under FERC’s open access rules for loads in which it has not planned for. Therefore, an explicit statement in that regard is necessary to avoid any confusion and to avoid preferential treatment for NLDA customers relative to other transmission customers.

Exemption from OAR 860-038-0590(3)(a), (3)(a)(A) and (3)(a)(B) does not affect a new load's non-discriminatory access to the transmission system and ensures that NLDA customers are treated the same as any new customer. Both PGE and PacifiCorp are obligated to provide transmission access to any eligible customer, including "any retail customer taking unbundled transmission service pursuant to a state requirement,"¹ and "an Energy Services Supplier (ESS) certified by the Oregon Public Utility Commission (OPUC) to serve Retail End Users,"² under their respective FERC-approved Open Access Transmission Tariff (OATT). An ESS for new loads participating in a NLDA program would simply submit a new transmission service request for a determination of whether sufficient transmission capacity is available, or network upgrades are required to serve the new load. This is the same analysis the utility conducts when it receives a transmission service request to initiate service to any new transmission customer.

A simple example illustrates this concern. Assume an electric company has an existing large customer interested in direct access and a new large load seeking direct access, both located (or to be located) on the southern end of the utility's system. Also assume that the utility borders another utility (or organized market) to the south. Available transmission capacity to the neighboring utility/market would be posted for all eligible customers pursuant to the utility's OATT. For the existing customer, the utility would already have reserved sufficient transmission capacity to serve that customer's load. The posted available transmission capacity is net of the transmission rights reserved for the electric company's use to serve the existing customers' load. Transferring the transmission rights from the utility to the departing customer would have no impact on the posted unused/non-reserved transmission capacity. For the new large load, however, the transmission capacity necessary to serve that load has not been reserved by the utility. The posted available transmission capacity may or may not be sufficient to serve the new load. Additionally, other eligible transmission customers may have priority to available transmission capacity to export to the neighboring utility/market. In order for the electric company to comply with its FERC requirements, any new load participating in a NLDA program must be required to submit a new transmission service request as a new eligible transmission customer to ensure transmission capacity is not over subscribed.

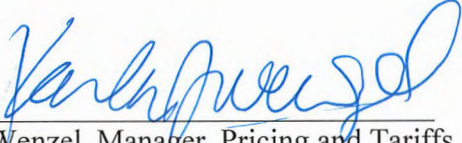
To avoid confusion, the NLDA rules should make clear that OAR 860-038-0590(3)(a), (3)(a)(A) and (3)(a)(B) of the existing direct access rule, requiring a prorated allocation of the electric utilities' reserved transmission capacity, does not apply to NLDA load. Rather, the ESS, for any new load, would follow the OATT process to acquire transmission rights necessary to serve the new load.

¹ See e.g. PacifiCorp OATT Section 1.12.

² See e.g. PGE OATT Section 1.26, iii.

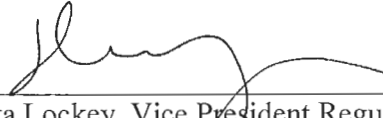
Respectfully submitted,

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