

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

AR 614

IN THE MATTER OF RULEMAKING
RELATED TO A NEW LOAD DIRECT
ACCESS PROGRAM

FURTHER COMMENTS OF SHELL
ENERGY NORTH AMERICA (US), L.P.
ON THE OREGON PUBLIC UTILITY
COMMISSION'S PROPOSED RULES

Shell Energy North America (US), L.P. ("Shell Energy"), a registered energy service supplier ("ESS") in Oregon, submitted comments on June 18, 2018 addressing the Commission Staff's May 22, 2018 draft proposed rules for a New Large Load Direct Access program. Following the June 21, 2018 hearing in this proceeding, Shell Energy submitted "supplemental comments" on the draft proposed rules on July 6, 2018.

On July 17, 2018, Administrative Law Judge Nolan Moser issued a Memorandum soliciting comments on a revised draft of the Commission Staff's proposed rules. Shell Energy herein provides its further comments on the revised draft proposed rules.

I.

TRANSITION RATE

Under revised Section 720(1)(a), the proposed "New Large Load Direct Access Service Transition Rate" is reduced from 25 percent of fixed generation costs for five years, to 20 percent of fixed generation costs for five years. This modification to the proposed Transition Rate is not meaningful. At any level, the proposed Transition Rate is not justified. The proposed Transition Rate does not reflect actual utility procurement costs that are "stranded" as a result of a new large customer selecting direct access service.

The utilities acknowledge that they do not plan or procure for large new load of 10 MWa or more. As a consequence, this new, unanticipated large customer load does not lead to

Further Comments of Shell Energy North America (US), L.P.

AR 614

Page 1

stranded utility generation/procurement costs. The proposed “Transition Rate” is nothing more than a re-distributive “tax” on new large load customers that elect direct access service. This tax should be rejected.

II.

EXISTING LOAD SHORTAGE TRANSITION ADJUSTMENT

Under revised Section 720(2), the proposed “Existing Load Shortage Adjustment” would apply in the event a participating New Large Load Direct Access customer’s load experiences an “Existing Load Shortage” (load declines at the customer’s (or an affiliate’s) existing facilities served under cost-of-service rates). The revised proposed rule states, however, that “[a] consumer may be excepted from charges made under this section if the consumer can demonstrate that the change in load in question is not due to load shifting activity.” The revised proposed rule (Section 720(2)(j)) defines “load shifting” in a manner that limits the application of the “Shortage Adjustment” to circumstances in which the customer has deliberately shifted load from existing facilities to new facilities to take advantage of the New Large Load Direct Access program.

Shell Energy opposed the original proposed Existing Load Shortage Adjustment because it was open-ended and presented the potential for the utility to micro-manage a customer’s operations. Shell Energy supports this proposed revision because the revised language, if adopted, would not impose a Shortage Adjustment on a customer unless it is demonstrated that the customer intentionally shifted its load to take advantage of the favorable rate under the New Large Load Direct Access program. This limiting language is reasonable.

III.

RATE ADDER

Under revised Section 740(3), in order to justify a “rate adder” for New Large Load Direct Access customers that transition to cost-of-service rates (after a three-year transition

period), the electric utility would be required to request Commission approval, and would be required to demonstrate that the customer's return "will result in a significant increase to existing cost-of-service rate[s]." In general, Shell Energy continues to object to a "rate adder" that is targeted exclusively at New Large Load Direct Access Customers. For the reasons set forth in Shell Energy's previous comments, any such rate adder would be unduly discriminatory.

Nevertheless, if a rate adder is to be adopted, Shell Energy supports the revised language. Under this revision, the burden would be on the utility to demonstrate that the return of a New Large Load Direct Access Customer results in a "significant increase" to existing cost-of-service rates. The revised language provides an opportunity for a customer and other stakeholders to contest the utility's petition to the Commission.

IV.

NEW LARGE LOAD DIRECT ACCESS PROGRAM CAP

Revised Section 750(1) would place a 6 percent "cap" (rather than the original proposed 12 percent cap) on participation in the New Large Load Direct Access program, with a "sunset" of the cap after five years. Shell Energy does not support a cap on participation in the New Large Load Direct Access program. No limit is imposed on the amount of new large customer load that may select utility cost-of-service rates. No limit should be imposed on eligible customers selecting New Large Load Direct Access Service, either.

The New Large Load Customer Direct Access program applies to new load that was not anticipated by the utility. No justification exists to limit participation in this program.

V.

SUBMISSION OF CONTRACTS TO THE COMMISSION

New proposed Section 730(1)(c)(A) would require a New Large Load Direct Access customer to provide the Commission, upon request, with "contracts or other materials" necessary

Further Comments of Shell Energy North America (US), L.P.

AR 614

Page 3

to establish that the customer is not served with energy resources that include an allocation of coal-fired resources after January 1, 2030. Shell Energy objects to this proposed revision.

Direct access customers should not be required to provide their energy supply contracts to the Commission under any circumstances. The terms of these contracts are proprietary and commercially sensitive, and often are governed by strict confidentiality provisions.

The objectives of the proposed eligibility requirement (no allocation of coal-fired resourced after January 1, 2030) can be satisfied through execution of an affidavit or other affirmation by the customer and/or its ESS. Disclosure of a customer's contracts is not necessary.

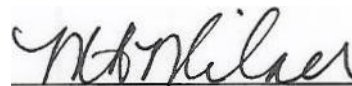
VI.

CONCLUSION

The utilities acknowledge that they do not plan procurement for new load of 10 MWa or greater. The rules for the New Large Load Direct Access program can and should be simplified in order to encourage load growth and promote competitive choice. The Commission should not impose unnecessary and burdensome restrictions on this incremental load program.

Thank you for the opportunity to provide these further comments.

Respectfully submitted,



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