



Oregon Citizens' Utility Board

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June 18, 2018

Public Utility Commission of Oregon
Attn: Lance Kaufman
201 High St SE, Suite 100
Salem, Oregon 97301

Re: AR 614 Comments – Rulemaking Related to a New Load Direct Access Program

Dear Mr. Kaufman:

The Oregon Citizens' Utility Board (CUB) hereby submits its written comments on the draft rules set forth in AR 614 – New Load Direct Access (NLDA) Program. CUB appreciates the opportunity to provide comments on the draft rules in a proceeding whose outcome has the potential to result in unwarranted cost shifting to Oregon's residential electric customers, which is prohibited by ORS 757.607(1).

1. OAR 860-038-0720 – Transition Rates

CUB emphatically supports draft rule OAR 860-038-0720(1)(a), which establishes that electric companies offering NLDA to new large load customers must recover 25 percent of the fixed generation costs for five years as part of the NLDA service transition rate. CUB believes that establishing this threshold for fixed generation cost recovery is reasonable. Without this amount, CUB would be unable to support NLDA customers being able to switch between traditional cost-of-service and direct access.

CUB is confused about the addition of the word “prudent” in draft rule OAR 860-038-0720(1)(b) regarding recovery of NLDA program administrative costs in the transition rate. Recovery of “prudent” costs is a term of art in utility ratemaking that applies to capital investments. Utilities receive return of and a return on prudently incurred capital costs. The administrative costs discussed here are not capital costs. Since these costs are only being incurred to facilitate the NLDA program, there should not be any doubt that they are to be recovered through NLDA transition rates. Residential customers that are inherently ineligible for participation in NLDA should not have to bear any risk that these costs may be shifted to them. Using the word “prudent” implies that some administrative costs might not be recovered in the NLDA transition rate. CUB recommends removing “prudent” in this context because it is an improper qualifier and all administrative costs should be recovered in the NLDA transition rate.

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2. OAR 860-038-0740 – Nonresidential Standard Offer, Default Supply and Return to Cost of Service

CUB strongly urges the Commission to adhere to the requirement in ORS 757.607(1) that direct access programs must not cause unwarranted cost shifting when considering the NLDA draft rules. In draft rule OAR 860-038-0740(3), an electric company must charge a current or former NLDA consumer a rate adder to hold existing cost-of-service customers harmless if there is a cost-of-service rate increase more than one tenth of one percent (0.1%) in any given year. To CUB, any rate increase (however small) to existing cost-of-service rates due to the NLDA program should be paid for by NLDA customers.

CUB views this as a safety valve to ensure the cost shifting protections in ORS 757.607(1) are met. While 0.1% is admittedly a low threshold that significantly protects existing cost-of-service customers from unwarranted cost shifting, CUB believes that existing customers should not have to bear the risk of any rate increase due to the NLDA program.

3. OAR 860-038-0750 – New Large Load Direct Access Program Caps

CUB remains supportive of a cap on NLDA program participation. Traditionally, similar programs have included caps, with the caveat that they can be revisited if they are causing unwarranted cost shifting or are otherwise inequitable. A cap mitigates the risk to existing cost-of-service customers if the transition charge is not accurate and NLDA customers are being subsidized by existing cost-of-service customers.

CUB is uncertain whether a five-year sunset for the cap is appropriate. A five-year window may be inadequate to determine the impact on cost-of-service customers of the NLDA program. CUB looks forward to continuing to work with parties and the Commission to draft rules regarding the NLDA program cap.

Respectfully Submitted,

/s/ Michael P. Goetz

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