

BEFORE THE  
PUBLIC UTILITY COMMISSION OF OREGON  
AR 614

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

SUPPLEMENTAL 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”) is an energy service supplier (“ESS”) serving Oregon direct access customers. Shell Energy submitted written comments in this docket on June 18, 2018. In its written comments, and during the June 21, 2018 hearing, Shell Energy addressed four issues in connection with the proposed rules for new large load direct access service. In these supplemental comments, Shell Energy briefly summarizes these four issues, but focuses on four additional issues introduced by the utilities in their June 18 comments and at the June 21 hearing.

**I.**

**INTRODUCTION**

In its June 18 comments, and at the June 21 hearing, Shell Energy addressed the following issues:

First, under Section 720(1)(a), the Commission should eliminate, from the “New Large Load Direct Access Service Transition Rate,” the proposed 25 percent fixed generation cost transition adjustment. The proposed charge does not reflect actual “stranded” utility procurement costs, because this new and unanticipated large customer load does not lead to stranded utility costs.

Second, under Section 720(2), the Commission should eliminate the proposed “Existing Load Shortage Adjustment,” which would apply in the event a participating new large load direct access customer’s load declines at its existing facilities served under cost-of-service (“COS”) rates. A customer’s energy usage at its facilities should not be micro-managed by the utility or the Commission. Preventing customers from “gaming” can be accomplished by means other than a penalty applied based on the level of a customer’s energy usage at existing facilities.

Third, under Section 740(3), the Commission should remove the proposed “rate adder” for new large load direct access customers that transfer to COS rates. Any such charge would be unduly discriminatory. Moreover, it would be impossible to determine a causal connection between a customer’s return to COS rates (after a three-year transition period) and an increase in existing customers’ COS rates.

Fourth, during the June 21 hearing, Shell Energy commented on the proposed “cap” for participation in the new large load direct access program under Section 750(1). Although Shell Energy does not support a cap on any direct access participation, a cap on participation in the new large load direct access program should be distinct from a cap that applies to the “existing customer” direct access program. The new large load customer direct access program applies to new load that was not anticipated by the utility. A cap on this incremental load would not serve to prevent a cost shift to COS customers. A limit on existing customer participation in direct access already is in place. Any cap on the new load direct access program should not be linked to the cap on the existing customer direct access program.

## II.

### SUPPLEMENTAL ISSUES

Shell Energy's supplemental comments briefly respond to four issues raised in comments by PacifiCorp and PG&E. The issues are as follows:

1. **100 Percent Renewable Procurement Requirement**: PacifiCorp and PGE take the position that the new large load direct access program should be limited to customers that purchase 100 percent renewable supplies. This proposed requirement should be rejected. The utilities' proposed renewable energy requirement is not an element of the program that the Commission adopted in Order No. 18-175.

In accordance with ORS 469.052 and 469.065, an ESS must meet the applicable renewable procurement percentage for all of its customer load. This renewable procurement requirement applies equally to "existing" direct access customer load and to any "new" large direct access customer load. There is no statutory or policy justification for imposing an incremental renewable procurement obligation on an ESS or its new large load direct access customers. The statutory renewable portfolio requirement must apply the same to all direct access customer load.

It is possible, even likely, that a new large load customer (with a new or expanded facility) will seek a portfolio of supplies in which renewable products exceed the ESS' minimum renewable procurement obligation. This is the customer's choice, and the details of such an arrangement can be negotiated between the customer and its ESS. The Commission should not impose a heightened renewable procurement requirement on an ESS or its new large load customers, however. Applying a higher renewable requirement to new large load customers would be unduly discriminatory.

**2. Utility Participation as a Competitor for New Large Load Customers:**

PacifiCorp and PGE argue that the incumbent utilities should be allowed to compete with ESSs to provide procurement service to new large load customers. This request should be rejected. If new large load customers wish to purchase their power supplies from the utilities, they may do so under existing tariffs and rules. If these same customers seek an alternative supply arrangement, however, the direct access program exists to enable such an arrangement.

If a utility (or its holding company) wishes to compete with ESSs to serve new and unanticipated load, an unregulated affiliate should be established that is separate, legally and financially, from the utility. The Commission has rules in place to ensure separation between a utility and its unregulated affiliates. The utilities should not be allowed to take advantage of their monopoly position by competing with ESSs for this new load.

**3. Advance Notice of Procurement Option:** PGE asks the Commission to determine that a new large load customer must provide notice of its procurement decision (direct access or utility procurement service) at the same time it provides load planning information to the utility for distribution/planning purposes. In other words, PGE proposes that a customer must advise the utility of its procurement choice at the same time it notifies the utility that it is expanding/constructing a new facility. PGE's proposal is unduly restrictive and should be rejected.

A customer should have a window of time, after it notifies the utility of its new facility (or facility expansion project), to consider whether to elect direct access or utility procurement service. The Commission should allow a new customer at least six months to make its procurement election (direct access or bundled utility procurement) after the customer formally notifies the utility of its intent to expand/construct a new facility.

**4. “Reliability Charge” for Provider of Last Resort:** PGE proposes to develop a surcharge to compensate the utilities for costs incurred to maintain the provider of last resort (“POLR”) role. PGE characterizes this charge as a “reliability charge” that should be imposed on all new load and long term DA customers.

The Commission should reject any so-called “reliability charge” for long-term or new load direct access customers. A direct access customer and its ESS are responsible for the procurement and transmission resources necessary to ensure service reliability. When and if a direct access customer returns to utility service, the returning customer will be responsible for paying the market price for procurement and transmission obtained by the utility during a three-year transition period. Direct access customers should not be subject to additional utility charges that are designed to make direct access a less desirable option.

### **III.**

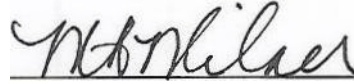
### **CONCLUSION**

The Commission’s proposed new large load direct access program is a straightforward response to the utilities’ acknowledgement that they do not plan procurement for new load of 10 MWa or greater. Because these new load customers do not, by the utilities’ admission, create “stranded” utility procurement costs, the safeguards associated with other departing load programs should not apply. The rules for this new load program can and should be simple, and should promote competitive choice.

Shell Energy requests that the Commission modify the proposed rules to eliminate unwarranted charges for new large load direct access customers. The Commission should also reject proposals by the utilities that are outside the scope of issues to be considered in conjunction with the rules to be adopted in accordance with Order No. 18-175.

Thank you for the opportunity to provide these supplemental comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marcie A. Milner", written over a horizontal line.

Marcie A. Milner  
Vice President, Regulatory Affairs  
Shell Energy North America (US), L.P.  
4445 Eastgate Mall, Suite 100  
San Diego, California 92121  
Phone: (858) 526-2106  
E-Mail: [marcie.milner@shell.com](mailto:marcie.milner@shell.com)

Date: July 6, 2018

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