

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

AR 614

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

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

I.

INTRODUCTION

Shell Energy North America (US), L.P. (“Shell Energy”) is an energy service supplier (“ESS”) serving Oregon direct access customers. Shell Energy welcomes the opportunity to submit written comments on the “Notice of Proposed Rulemaking” that was issued on May 25, 2018 in the above-referenced proceeding. Shell Energy appreciates the Commission Staff’s efforts in developing proposed rules to implement the new large load direct access program.

The Commission Staff provided additional detail concerning the proposed rules during the workshop that was held on June 14, 2018. The June 14 discussion informs Shell Energy’s comments herein. Shell Energy addresses three issues of concern in the proposed rules:

First, there is no justification for the fixed generation cost component (25 percent of the fixed generation costs for five years) of the proposed “New Large Load Direct Access Service Transition Rate” under Section 720(1)(a). At the June 14 workshop, the Commission Staff acknowledged that this proposed transition rate is not cost-based. Rather, it represents a “value” of the benefit that eligible new large load direct access customers receive through this program. Customers should not be required to pay a surcharge or a tax for the right to participate in a competitive market.

Second, the Commission should eliminate the proposed “Existing Load Shortage Transition Adjustment” in Section 720(2). This charge is intended to penalize a new large direct access customer if the load at the customer’s other locations in the utility’s service territory declines after the customer enrolls in the new large load direct access program. This punitive provision would discourage energy efficiency, demand response and solar PV at existing customer locations and would result in micromanagement of the customer’s operations at different facilities. Concerns regarding “load shifting” can be addressed through a customer verification form or affidavit.

Third, the proposed “rate adder” for new large load direct access program customers that return to cost-of-service rates should be eliminated. Rules are already in place for direct access customers that return to cost-of-service rates, including a three-year notice period during which a returning customer must pay “market rates” before the customer is eligible for cost-of-service rates. The proposed rate adder, which would apply if the new large load direct access customer’s return to cost-of-service rates results in an increase to existing cost-of-service rates or more than one tenth of one percent, is not justified. This proposal, if adopted, would be unduly discriminatory. Moreover, the provision is not “reciprocal;” the proposal does not provide for a rate reduction in the event that existing cost-of-service rates decline as a result of a customer returning to cost-of-service rates.

II.

COMMENTS ON PROPOSED RULES

Shell Energy’s specific comments on these proposals are as follows:

1. New Large Load Direct Access Service Transition Rate” under Section 720(1)(a):

The Commission should eliminate the fixed generation cost component of the proposed “New

Large Load Direct Access Service Transition Rate” under Section 720(1)(a). There is no legal justification for this transition rate. This proposed surcharge is not designed to recover a utility’s fixed generation costs that may be shifted to cost-of-service customers when a new customer enrolls in direct access. In fact, because eligibility for the new large load direct access program is extremely limited, no costs would be shifted to cost-of-service customers.

The Commission adopted a 10 MWa threshold for participation in the new large load direct access program because the utilities, in their procurement planning process, do not plan procurement for individual customer load growth at a level at or above 10 MWa. Therefore, an eligible new large load direct access customer has not caused the IOU to increase its procurement, and the new direct access customer will not cause the “stranding” of an electric utility’s generation or other procurement contracts, by selecting direct access service.

Because the proposed transition surcharge is not intended to recover an electric utility’s actual costs, the proposed transition charge is better characterized as a “competitive market tax.” There is no statutory or policy basis for the Commission to impose a “tax” on new large direct access load. Customers should have the opportunity to select a competitive service alternative without having to pay a surcharge (or a tax) for the privilege of participating in a competitive market.

The Commission Staff notes that this program “may attract electricity consumers to this state that would not otherwise locate in Oregon.” New large load direct access customers will contribute to the recovery of an electric utility’s fixed transmission and distribution costs, thereby reducing the transmission and distribution costs borne by existing (cost-of-service) customers. Rather than shift costs to cost-of-service rate customers, new large load direct access customers will benefit all customers (cost-of-service and direct access customers alike) by spreading the utilities’ fixed transmission and distribution costs across a broader group of

customers. New large load customers should not be penalized when they select direct access service rather than “bundled” utility sales service.

2. Existing Load Shortage Transition Adjustment” in Section 720(2): The Commission should eliminate the proposed “Existing Load Shortage Transition Adjustment” in Section 720(2). This proposed charge is intended to penalize a new large load direct access customer if the load at the customer’s other (existing) locations in the utility’s service territory declines at any time after the customer enrolls in the new large load direct access program. The objective of this proposed transition adjustment appears to be to ensure that an eligible new large load direct access customer does not shift load from existing facilities to the new facility in order to achieve or maintain eligibility for the new large load direct access program. This objective can be satisfied, however, through the customer’s submission of an affidavit or statement providing that the customer has not (and will not) shift load from existing facilities to the new location or facility to satisfy the eligibility requirements of Section 730.

Moreover, the proposed load shortage transition adjustment, if adopted, would create a perverse incentive for a customer to forego energy efficiency, demand response and/or solar PV investments at existing locations. The proposed “shortage adjustment” also would place the utility, or the Commission, in the position of micro-managing a customer’s operations. A customer should not be penalized for introducing energy efficiency measures at existing facilities. A customer also should not be penalized if, for economic reasons, it must reduce production at an existing facility or consolidate operations at separate facilities. The proposed Existing Load Shortage Transition Adjustment should be stricken.

3. Rate Adder for Returning New Large Load Direct Access Customers under Section 740(3): The Commission should eliminate the proposed “rate adder” for new large load direct access program customers that return to cost-of-service rates. Rules are already in place

for direct access customers that return to cost-of-service rates. A three-year notice period provides the utility with ample time to undertake the incremental procurement that is necessary to serve the returning load. Customers that return to “bundled” utility sales service before the end of the three-year notice window must pay “market rates” for the duration of the three-year period. A customer shifting to cost-of-service rates from the new large load direct access program should be treated the same as any other returning direct access customer.

It is impossible to determine whether a single customer’s return to cost-of-service rates “results in an increase to existing cost-of-service rates.” Cost-of-service rates will rise or fall for a number of reasons, including weather, portfolio management, and general economic conditions. It is not possible to isolate the cost-of-service rate impact of one returning customer.

The rate adder proposal is also unduly discriminatory. Assume that two direct access customers (one a “new” large load direct access customer, and the other, an existing load direct access customer) return to bundled utility sales service in the same month (and after one year’s notice to the utility). Under existing rules, both of these customers will pay “market rates” for two years. Under the Staff proposal, if the cost-of-service rate increases when these direct access customers return to cost-of-service rates, one of the returning direct access customers would be subject to the “rate adder,” while the other returning direct access customer would not. This approach cannot be justified. A customer that returns to cost-of-service rates from the new large load direct access program will not have any greater impact on cost-of-service rates than a customer that returns to cost-of-service from the existing direct access program.

The purpose of the three-year notice period is to insulate existing cost-of-service rate customers from the impact of all customers returning from direct access service. Customers participating in the new large load direct access program should not be singled out for an additional surcharge.

Finally, the proposed “rate adder” is not reciprocal. The rate adder would only apply if a new large load direct access customer’s return to cost-of-service rates increases cost-of-service rates. The proposal does not include a “rate decrement” if a customer’s return to cost-of-service rates reduces cost-of-service rates. The unequal application of the proposed rate adder is one more reason why the proposed surcharge should be rejected.

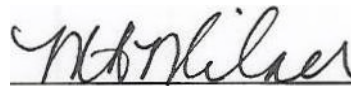
III.

CONCLUSION

Shell Energy supports the Commission’s efforts to attract new load to Oregon and expand the state’s economy. New customer load should have the ability to select a competitive power supply option. The Commission should modify the proposed rules to eliminate unnecessary charges for new large load direct access customers in order to encourage the success of the program.

Thank you for the opportunity to provide these comments.

Respectfully submitted,



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