**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

**AR 614**

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| In the Matter of | ) |
| | ) |
| Rulemaking related to a New Load Direct | ) |
| Access Program. | ) |
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COMMENTS OF THE

OREGON CITIZENS' UTILITY BOARD

August 1, 2018

CUB

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## I. INTRODUCTION

Pursuant to Administrative Law Judge (ALJ) Moser's July 17, 2018 Memorandum, the Oregon Citizens' Utility Board (CUB) hereby submits its comments on the revised draft proposed rules in the above-captioned proceeding. CUB appreciates the opportunity to provide comments in in this important rulemaking proceeding. CUB would like to thank other stakeholders, Oregon Public Utility Commission Staff (Staff), and the Administrative Hearings Division (AHD) for their hard work in helping to develop rules that contain significant customer safeguards while working to roll out a program that increases optionality for Oregon's non-residential customers. While a New Load Direct Access (NLDA) program arguably has the potential to provide benefit cost-of-service customers,[1] it will only do so if the promulgated rules are sufficiently tailored to protect existing cost-of service customers. The Commission has a statutory obligation to ensure that direct access programs do not result in unwarranted cost

[1] *See, e.g.,* AWEC Comments at 1-3 (Aug. 1, 2018).

shifting to cost-of-service customers.[2] To CUB, this is the lens through which the Commission must review the rules in this proceeding.

## II. Proposed OAR 860-038-0720 – Transition Rates

In the revised draft proposed rules circulated by ALJ Moser on July 17, 2018, the service transition rate for NLDA consumers was lowered from 25 percent of the fixed generation costs for five years to 20 percent. CUB believes establishing this threshold for fixed generation cost recovery is reasonable. While it remains difficult to ascertain whether this level of transition rate will be sufficient to adequately protect existing cost of service customers, CUB believes it is reasonable as a starting point. Whether 20 percent is the correct amount, or whether the amount will need to be revisited and increased remains to be seen. It is very likely the transition rate will need to be increased in the future. CUB views the overall program cap as a key component that protects existing cost of service customers in the event the transition rate is effectively a subsidy for NLDA participants.

What is certain is there are costs associated with a NLDA program that will require transition charges to prevent unwarranted cost shifting customers not eligible for NLDA participation. The extent of the costs depends on the level of planning a utility is undertaking for new load in its short and long-term planning horizons. For example, PGE's latest IRP's renewable glide path assumes significant new large customer growth during and beyond its five-year action plan. New renewable energy credits (RECs) are being banked for RPS compliance, and costs are being incurred to serve this load. CUB looks forward to seeing new utility analysis surrounding the level of planning needed for anticipated new load.

[2] ORS 757.607(1).

Regarding the Existing Load Shortage Transition Adjustment delineated in proposed OAR 860-038-0720(2), CUB is supportive of AHD's revisions to the initial draft rules. Creating a rebuttable presumption carve out for this payment protects NLDA customers from having to pay charges that are not associated with load shifting while giving the draft rules sufficient teeth to protect cost-of-service customers from NLDA customers gaming the system. To CUB, the draft rules as written strike a sound balance.

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

In draft rule OAR 860-038-0740(3), an electric company must request Commission approval of a forward-looking rate adder applicable to NLDA customers returning to cost-of-service when a significant increase to existing cost-of-service rates may occur. 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 supportive this change from the one tenth of one percent threshold delineated in the prior iteration of the NLDA draft rules. Enabling the utilities to request Commission approval of a forward-looking rate adder ensures sufficient process for a wide range of stakeholders to become involved to vet the accuracy of the proposed rate adder. Since it is speculative at this point whether a prospective NLDA customer will at some point return to cost-of-service, it is important for the rules to leave sufficient wiggle room to address the merits of a rate adder when that circumstance arises. Here, AHD's proposed rules again strike a sound balance and enable thorough stakeholder review at a later date.

CUB views this as a safety valve to ensure the cost shifting protections in ORS 757.607(1) are met. CUB believes existing customers should not have to bear the risk of any rate increase due to the NLDA program. These are costs existing cost-of-service customers would not incur but for the NLDA program.

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

CUB remains supportive of a cap on NLDA program participation. CUB is supportive of AHD's modifications in the revised draft rules to decrease the NLDA program cap to 6 percent of the electric Company's weather normalized annual load in 2017. Since this is an entirely new program, CUB believes it is important to be conservative in its roll out to protect existing cost-of-service customers. Decreasing the cap size from 12 percent to 6 percent helps achieve this.

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. A cap provides the ability to re-examine the NLDA program at a later date.

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. However, as Staff noted at the rulemaking hearing, the cap can be revisited and potentially extended after the five-year window. CUB supports this approach.

Signed this 1st of August, 2018.

*<u>/s/ Michael P. Goetz</u>*
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