

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 335

In the Matter of
PORTLAND GENERAL ELECTRIC
COMPANY
Request for a General Rate Revision

STAFF'S RESPONSE TO THE ALLIANCE OF
WESTERN ENERGY CONSUMERS'
APPLICATION FOR RECONSIDERATION
AND REHEARING

On February 12, 2019, the Alliance of Western Energy Consumers (AWEC) filed an Application for Reconsideration and Rehearing of Commission Order 18-464 (Application), in which the Commission adopted the Partial Stipulation Regarding Direct Access Issues (Direct Access Stipulation) in the above-referenced docket. Staff of the Public Utility Commission of Oregon (Staff) requests the Commission deny AWEC's Application, and uphold its order adopting the Direct Access Stipulation.

In support of its Application, AWEC asserts that the Commission's Order 18-464 contains at least four errors of law—(1) that the final order failed to enter findings of fact supporting its decision to adopt the Direct Access Stipulation; (2) that the Commission authorized unjust discrimination; (3) the final Order unlawfully absolved PGE of its burden of proof; and (4) the Commission failed to find that the Direct Access Stipulation does not cause unwarranted cost-shifting. Further, AWEC argues that there is good cause to grant rehearing if the Commission believes the record contains insufficient evidence of whether cost-shifting is occurring.

Rehearing and reconsideration are unnecessary in this case for several reasons. First, the Commission made sufficient findings in Order 18-464, which were based on the joint testimony of the stipulating parties. Second, AWEC's framing of discrimination issues and cost-shifting issues, allegedly in violation of ORS 757.325 and ORS 757.607(1), respectively, are overly narrow, and assume that the record contains facts in support of its position that the participation

1 cap should be removed. Regarding unjust or undue discrimination, the record includes testimony
2 from PGE that the participation limit is necessary in order to balance the interests of all
3 customers and to mitigate the potential for unwarranted cost shifts; in other words, the existence
4 of a participation cap does not automatically result in *undue* or *unreasonable* prejudice or
5 disadvantage. Regarding unwarranted cost-shifting, as Staff argued in its Reply Brief, AWEC's
6 argument that participation caps are the lone basis for determining whether there is unwarranted
7 cost-shifting is overly simplistic and misplaced. Rather, the Commission must determine
8 whether PGE's long-term direct access program causes unwarranted cost-shifting as a whole,
9 which necessitates a holistic look at the design of the program, rather than review of one aspect
10 in isolation. In short, the record in this proceeding does not contain facts upon which the
11 Commission could conclude that participation caps alone cause or do not cause unwarranted
12 cost-shifting. For this reason, Staff found that the settlement was reasonable for the two-year
13 period, which would allow further investigation and exploration of these issues. Finally, Staff
14 disagrees that the Commission inappropriately shifted the burden of proof in this proceeding.
15 Rather, the plain language of the order states that the Commission relied on the stipulating
16 parties' supporting testimony as the basis for its decision to adopt the Direct Access Stipulation.
17 In its decision to do so, the Commission considered the merits of AWEC's objections, but did
18 not find them compelling. Dismissing a parties' theory of the case is not the equivalent of
19 shifting the burden of proof.

20 In sum, the record in this case supports adoption of the Direct Access Stipulation in its
21 entirety, which largely continues Portland General Electric's (PGE) current long-term direct
22 access program for an additional two years. During this time, the parties will continue to
23 investigate Direct Access issues on a holistic basis, given the interrelation with PGE's current
24 long-term direct access program and other dockets, such as the yet-to-be implemented New
25 Large Load Direct Access program, and PGE's pending Voluntary Renewable Energy Tariff
26

1 program. For the reasons stated above, the Commission should deny AWEC's Application for
2 Reconsideration and Rehearing, and uphold its Order 18-464.

3

4 DATED this 27th day of February, 2019.

5

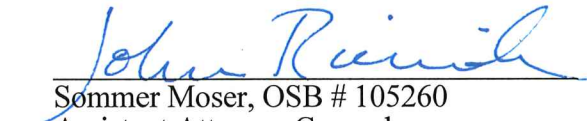
Respectfully submitted,

6

ELLEN F. ROSENBLUM
Attorney General

7

8


Sommer Moser, OSB # 105260
Assistant Attorney General
Of Attorneys for Staff of the Public Utility
Commission of Oregon

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26