

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1837**

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	REPLY OF THE OREGON
OREGON,)	CITIZENS' UTILITY BOARD
)	
Investigation into the Treatment of New)	
Facility Direct Access Load.)	
)	
_____)	

CUB submits this reply to the Northwest and Intermountain Power Producers Coalition’s (NIPPC) response to CUB’s motion to amend the procedural schedule in this docket. The Commission should determine, as soon as possible, whether it is permissible to treat new customers differently than existing customers under the state’s non-discriminatory and preferential statutes. Contrary to NIPPC’s claim, the Commission does not need additional facts before making a determination on this narrow and discrete legal issue. Either the Commission is foreclosed from treating new customers differently from current customers under Oregon law, or it is not. Indeed, NIPPC admits that, whatever program variants are presented to the Commission, all will require the Commission to approve new customers receiving differential treatment from current customers.¹

¹ NIPPC’s Response, p. 3.

Moreover, CUB's motion creates a more efficient process without adding delay. CUB's motion does not seek to postpone the second stage of the process.² If the Commission should find that it does have the legal authority to treat new customers more favorably than current customers, parties will not be harmed or hindered from meeting the current deadline. If, on the other hand, the Commission finds CUB's legal argument is correct, parties could stop expending time and resources debating the parameters of an action the Commission does not have the legal authority to take.

Accordingly, CUB requests the Commission make a legal determination as soon as possible to provide parties clarity on the Commission's authority.

Dated this 9th day of November, 2017.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Elizabeth Jones", with a long, sweeping flourish extending to the right.

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² CUB's motion asked the Commission to make a legal determination while the second stage developed concurrently. CUB attended the Stakeholder Workshop held on November 6 and continues to participate in stage two of the process.