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November 22, 2017

Public Utility Commission of Oregon
201 High St. SE, Ste. 100
P.O. Box 1088
Salem, OR 97308-1088

Attn: OPUC Filing Center

Re: UM 1837 – PGE's Comments

Enclosed for filing is Portland General Electric Company's opening comments to the Investigation into the Treatment of New Facility Direct Access Load.

If you have any questions, please call Teresa Griffels at (503) 464-7802. Please direct all formal correspondence, questions, or requests to the following email address: pge.opuc.filings@pgn.com.

Sincerely,

Jay Tinker

Jay Tinker
Director, Rates and Regulatory Affairs

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1837

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation into the Treatment of New Facility Direct Access Load.	**PORTLAND GENERAL ELECTRIC COMPANY'S COMMENTS**

Portland General Electric Company (PGE) appreciates the opportunity to provide these comments to the Public Utility Commission of Oregon (Commission), in accordance with Administrative Law Judge (ALJ) Patrick Power's prehearing conference memorandum issued on July 11, 2017.

Direct Access History

It's important to understand the history of direct access in Oregon as the Commission begins to "investigate questions related to the appropriate treatment of direct access transition adjustments for new customer load at a new site."[1] PGE first offered a one-year direct access/market price option effective March 1, 2002, consistent with the provisions of Senate Bill 1149 (SB 1149, Chapter 865, Oregon Laws 1999) and House Bill 3633 (Chapter 819, Oregon Laws 2001). Beginning with the 2003 service year, PGE added the option for eligible customers to opt out of Cost-of-Service (COS) energy supply for a minimum five-year period with a pre-specified transition adjustment. Eligibility for this option was and continues to be an enrollment

[1] *In the Matter of Pub. Util. Comm'n of Or. Investigation into the treatment of New Facility Direct Access Load*, Docket No. UM 1837, Order No. 17-171 at 1 (May 16, 2017).

of at least one average megawatt (aMW) with each Point of Delivery (PODID) having a Facility Capacity of at least 250 kW. This eligibility requirement was put into place to limit the number of accounts that must be separately tracked, thereby helping to mitigate the administrative burden to PGE. The minimum five-year option allowed customers to permanently opt out of COS with the option to return to COS, but only with a two-year notice. Commencing with the 2005 service period, PGE added a three-year COS opt-out provision, again with a pre-specified transition adjustment, but with an automatic return to COS pricing after the three-year period.

PGE has offered a permanent opt-out of COS pricing on sixteen different occasions and the three-year option fourteen times. Commencing with the 2008 service year, PGE added quarterly balance-of-year direct access windows and a new schedule that allowed very large customers to receive direct access service for a percentage of their usage, with the remainder served by PGE at COS prices. However, due to lack of participation, the Stipulation filed with the Commission as Appendix A in Docket No. UE 236, Order No. 12-057 issued on February 23, 2012, removed two of the three quarterly enrollment windows and removed the option for customers to split their load between direct access and COS. The participation cap remained at 300 MWa. The Commission stated "We find the terms of the stipulation to be reasonable...The stipulation improves PGE's direct access program, while maintaining protections for non-participating customers."[2] As a result of Docket No. UE 262, Order No. 13-459 (Dec 9, 2013) a number of changes were made to the Direct Access program. Beginning with service year 2015, streetlight customers with more than 30,000 lights and customers with traffic lights at more than 500 intersections became eligible to opt-out for a minimum five-year period. Additionally, PGE

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[2] Docket No. UE 236, Order No. 12-057 (Feb. 23, 2012) p. 4.

was allowed to update the transition adjustments for Commission-approved[3] updated fixed generation costs during the five-year period in which transition adjustments are applicable, beginning with service year 2015. Customers enrolling prior to the 2015 service year were exempted from this change and continued to pay fixed transition adjustments in effect at the time they elected long-term direct access (LTDA). Finally, the notice provision for customers on the 5-year opt-out to return to PGE's COS was lengthened from two years to three years in order to help mitigate the cost shifts to non-participating customers. Parties agreed that they would not propose or support changes to PGE's LTDA program during the four service years 2015 through 2018. The Commission Resolution stated "...we find that the changes to the direct access program provide a reasonable and just means of balancing the interests of direct access and cost - of-service customers. We adopt this portion of the stipulation and find it to be in the public interest."[4]

SB 979 Background and Introduction

In 2017, the Oregon Legislature contemplated Senate Bill 979 (SB 979), which was to establish the ability of commercial and industrial customers to purchase electricity generated from renewable energy sources directly. SB 979 proposed a number of changes to Direct Access, one of which was to exclude new commercial and industrial load from transition adjustments. The Senate Committee on Business and Transportation held a hearing on April 3, 2017 on SB 979 to receive public input. While the legislature did not pass SB 979, Senator Lee Beyer noted that the Commission may be better suited to consider the issues of transition adjustments for new load and renewable offerings. In May of 2017 the Commission opened

[3] Renewable Resource Automatic Adjustment Clause proceedings and general rate cases.
[4] Docket No. UE 262, Order 13-459 (Dec. 09, 2013), p. 10.

Docket No. UM 1837; "…an investigation pursuant to ORS 756.515 to investigate questions related to the appropriate treatment of direct access transition adjustments for new customer load at a new site."[5]

Parties were asked to brief the issue of Commission authority, specifically whether the Commission had authority to allow direct access for new customer load with different or no transition charges; said another way, whether the Commission has the legal authority to treat new non-residential direct access load differently than current practice and if so, what legal parameters exist. On September 8, 2017, PGE and PacifiCorp filed a joint brief noting that while the law did not prohibit the Commission from considering different transition adjustments for new load, there were a number of policy considerations including: (1) treatment of new customer load at a new site must consider the statutory prohibitions against unwarranted cost-shifting; (2) treatment of new customer load at a new site must not violate the Commission's non-discrimination statutes; and (3) treatment of new customer load at a new site must account for the burden and risk to the utility's customers when the utility is the provider of last resort.[6]

Other parties filing opening briefs on September 8, 2017 included Staff, Calpine Energy Solutions, LLC (Calpine), the Oregon Citizens' Utility Board (CUB), the Industrial Customers of Northwest Utilities (ICNU), Northwest and Intermountain Power Producers Coalition (NIPPC), and Vitesse, LLC. The general consensus among the parties is that the Commission has the authority to treat new load differently in terms of transition adjustments. Only CUB argues that

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[5] *In the Matter of Pub. Util.Comm'n of Or. Investigation into the Treatment of New Facility Direct Access Load,* Docket No. UM 1837, Order No. 17-171, (May 16, 2017).
[6] Joint Utilities' Opening Brief at 2-3.

the Commission lacks the authority to treat new load differently in terms of transition adjustments.[7]

Parties held a workshop at PacifiCorp's Portland office on November 6, 2017, where PGE and PacifiCorp discussed their load forecasting process and answered questions from the parties. Subsequent to the workshop, Staff provided a list of policy questions. PGE addresses those questions below.

PGE's Responses to Staff's Policy Questions

Q. Should the Commission exercise its discretion and consider reduced or eliminated transition charges for new load?

A. PGE and PacifiCorp concluded in their Joint Opening Brief in this docket that, subject to appropriate program parameters, the Commission could approve a different level of transition charges for new customer load.[8] However, PGE believes the Commission should only consider a different level of transition charges for large new customer load at a new site that purchases green energy. Allowing new customer load different or no transition adjustments if they choose a green energy option is consistent with the intent of SB 979.

Q. What constitutes new customer load, and what actions can invalidate new customer status?

A. Many issues would need to be well defined: new customer load, new site, size, amount (cap) etc. It is important to develop a very clear definition in order to reduce the likelihood of gaming.

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[7] CUB's Opening Brief at 2.
[8] Joint Utilities' Opening Brief at 6.

As PGE previously stated in Docket No. UM 1587, for customers with small loads, a permanent opt-out is inconsistent with the nature of their businesses. Buildings are frequently repurposed, businesses are frequently sold, and customers can change locations to accommodate changes in their prospects for growth. In short, small businesses are more likely to be transitory, which can lead to disputes concerning succession of multi-year contracts when a business moves or is sold. Even larger customers such as "big box" stores are being repurposed.[9] It is important to have a clear definition of "new customer load at a new site." As discussed in Docket No. UM 1587, "new" could be construed as prior to the customer being energized, or it could be construed as a new legal entity. PGE recently had a large customer emerge from bankruptcy as a new legal entity. Such load, having been served by PGE for decades, should not be considered "new" load. Without a clear definition of new load, customers may receive a free option at the expense of other COS customers. If market electricity prices are less than utility embedded costs, the "new" customer has a strong incentive to choose direct access service and achieve immediate savings relative to utility COS pricing. If the converse situation applies, therefore market electricity prices exceed utility embedded costs, the "new" customer has a strong incentive to choose utility COS pricing. The existence of this free option has the potential to negatively impact existing customers because it allows for "new" customers to have a choice of increasing average system costs when market prices exceed embedded costs and it allows the "new" customer the option of not helping to reduce average system costs when market prices are below embedded costs.[10]

[9] Docket No. UM 1587, PGE Reply Comments, p. 5.
[10] Docket No. UM 1587, PGE Reply Comments, p.8.

The Commission can help protect COS customers from cost shifting by allowing only customers seeking and enrolling in a green energy option to enroll new load with a different level of transition adjustments. A customer that chooses LTDA with a green option is making its decision based on reasons other than simple economics. Customers choosing LTDA for purely economic reasons, receiving conventional energy, are more likely to return to COS pricing under unfavorable market conditions.

Q. What types of new customer direct access loads can utilities accurately plan for?

A. Utilities plan for new customer loads based on a number of planning processes to meet customers' distribution and energy needs. This may include customer information provided in the context of request for service and service area load forecasts. PGE's load forecast is developed with regression models that are estimated at a sector level, based on the customer's primary function, i.e. metals, high tech, healthcare, etc. in the case of non-residential customer classes. These models capture trends specific to energy deliveries to these different sectors. Embedded in these trends are both increasing load from new and/or existing customers and decreasing load from customers who have reduced operations or have closed.

New loads of a sizable magnitude could be considered incremental to the regression-based forecast if they deviate significantly from the sector level historical trends. Such loads could be incorporated into PGE's load forecast if not adequately captured in the sector-specific regression models in the near term (i.e.1-5 years).

PGE assumes all customers receive service on COS schedules until a customer opts out of COS during a direct access service election window. PGE assumes customers that choose LTDA remain on direct access in perpetuity and customers choosing short-term direct access (annual) return at the end of the election period, mimicking the optionality available under those schedules which require advance notice to return to COS pricing for a long-term election and little notice for an annual election.

Q. Can utilities plan in a manner that allows new customer direct access without adverse impacts on cost-of-service customers?

A. Allowing new customers to choose direct access introduces additional uncertainty in the utility planning process and increases the potential cost shifting from a new customer to COS customers. Limiting LTDA participation to a 300 MWa cap has mitigated the potential adverse impacts in current planning processes, however, as the average load and potential for direct access increase, the challenges in planning also increase. "New customer load at a new site" must be well-defined to provide for proper incentives for customers to participate in the planning process in a transparent manner. If not included within a predefined cap, we are concerned that customers would be incented to "game" the system by not providing clear and complete information on possible load increases in order to count it as "new load" or existing load depending upon prevailing market conditions at the time. This would create considerable forecast uncertainty, resulting in negative impacts on our system planning, threatening reliability.

PGE is concerned that customers could delay notification of new load for distribution purposes in order to preserve the option to choose LTDA or COS. Rather than allowing the customer to wait until energization to determine whether to receive energy at COS prices or opt-out of COS for LTDA, the customer should be required to declare their intent at the time the customer provides load planning information for distribution purposes. This would allow PGE to either include or exclude the load from the planning process as appropriate. Currently, as a condition of choosing LTDA, the customer waives the right, granted under state law, to receive electricity at COS pricing. Since the Commission allows these customers to waive their right to COS pricing, it follows that new customer load at a new site should be required to waive that same right at the time the customer notifies PGE that they will opt for LTDA. Then, if the customer determines they want to choose COS pricing, they would be subject to the same provisions of any other LTDA customer and provide three years' notice before returning to COS.

Q. Can utilities treat new customers differently from existing customers without discriminating?

A. New customers may be treated differently only to the extent the customers are not similarly situated[11]. See the legal comments in the Joint Opening Brief of PGE and PacifiCorp in this docket.

Q. Do transition adjustment charges mitigate risk to utilities and cost-of-service customers associated with the Provider of Last Resort requirements?

A. There is a lot of infrastructure that goes into moving electricity that is generated to the customer itself – including poles, wires, and substations. All customers pay for this necessary infrastructure through their rates. The transition charge that customers pay when they go to direct access is to make sure that remaining customers aren't disproportionately paying for fixed generation to serve customers on direct access. If an Energy Service Supplier fails to perform for its customers then the utility is responsible to serve those customers. Since the utility didn't plan to serve those customers, the utility may be short on the necessary generation, raising prices for existing COS customers.

Q. What parameters can be placed on the type of new load receiving altered transition adjustment treatment to minimize cost shifting?

A. In order to mitigate against cost shifting, the customer size must be large enough that it would not be embedded within the utility planning process.

[11] ORS 757.310(2), a "public utility may not charge a customer a rate or an amount for a service that is different from the rate or amount the public utility charges any other customer for a like an contemporaneous service under substantially similar circumstances."

Q. What are the consequences of modifying transition adjustments for new customer on cost-of-service customers?

A. PGE is required to provide both COS and market price options for our large customers. With no, or low, transition adjustment costs, the customer is incented to purchase from the market when market prices are below our embedded costs, so they do not contribute to reducing average system costs. Likewise, customers are incented to purchase at COS prices when our embedded costs are lower than market prices. Since PGE would need to go to the market to purchase energy to serve this load, due to minimal or no notice, the result is increasing average system costs, thereby increasing costs to other customers. Providing this free option to new customers negatively impacts other customers as they bear the cost of system reliability for all customers.

Q. What provider of last resort obligations should be imposed on the utility for new direct access load?

A. There is an inherent conflict in the law between requiring that utilities provide COS options and emergency provider of last resort service on the one hand, and provide regular access to Direct Access programs, in particular the permanent opt-out program, on the other hand. The combination of PGE's provider of last resort obligations and the failure to plan for the capacity needs of LTDA customers means that PGE is effectively short capacity and ancillary services if such customers return to PGE. Unless an appropriate system reliability charge is established, to compensate non-participating customers for increased risk of curtailment, a customer with no transition adjustments would pay nothing for the system upon which they are relying. Since COS customers are not preferred over Direct Access customers in the event that their energy provider fails to provide service, COS customers have a higher risk of curtailment if there is no energy or capacity on the market to purchase. This provides LTDA customers a benefit without paying for it. While customers desire optionality to leave PGE's system with minimal transition adjustments, such a program is inconsistent with the costs incurred to meet customer requirements and overall system reliability and it would be unreasonable to ask the remaining COS customers (or shareholders) to absorb these costs.

Q. In the event that new direct access load wants to return to cost of service rates, how should that be structured?

A. As mentioned above, these customers should fall under the same return notification provisions as other customers on our permanent LTDA opt-out; currently with three year notification.

Q. **Are there benefits to Cost of Service customers from Direct Access customers paying distribution charges?**

A. Direct Access customers appropriately pay distribution charges because they use the distribution system.

Q. Should the source of energy (green energy vs thermal/market) be considered in a potential new program for new load and Direct Access?

A. Yes. It should be noted that SB 979 tied the change in transition adjustments for new customer load at a new site with green energy options. Although SB 979 didn't pass the legislature and this docket doesn't restrict the question around changes in transition adjustment to renewable power options, a different level of transition adjustments should only be available to large customers with new load that choose a green energy option. PGE believes if the issue expands beyond just renewable power options, it is more appropriate to consider the transition adjustment question through the SB 978 process rather than this docket. Additionally, PGE should be allowed to provide a renewable tariff, which PGE's customers desire, for this new customer load at a new site in order to provide a cost-based alternative for customers and to ensure a more level playing field with Electricity Service Suppliers. The Commission's order in

UM 1690 Voluntary Renewable Energy Tariffs (VRET) for Non-Residential Customers states: "VRET terms and conditions (including the timing and frequency of VRET offerings), as well as transition costs, must mirror those for direct access."

Q. Should a new program for new direct access load be included in the current program caps for existing direct access programs?

A. Yes. PGE has offered the option for eligible customers to leave PGE's COS 16 times and there continues to be room under the 300 MWa cap. Many of PGE's large sophisticated customers who are interested in participating in LTDA have already opted out of COS. SB 1149 directs the Commission to balance the development of a competitive market while avoiding undue cost shifts to COS customers. The Commission's historical decisions, including the current cap on LTDA, should be interpreted as balancing these competing objectives.

PGE notes that it annually reviews usage for participating customers to determine the amount of room remaining under the 300 MWa cap. If a customer goes out of business or reduces operations it frees up more room under the cap for other customer participation. PGE considers limiting transition adjustments for new customer load at a new site for a renewable product as an untested new program and, as such, should be included under the cap to allow PGE that certainty as a way to mitigate unforeseen challenges in planning and negative impacts on remaining customers.

DATED this 22nd day of November, 2017.

Respectfully submitted,

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