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October 21, 2019

Via Electronic Filing

Commission Chair Megan Decker
Commissioner Stephen Bloom
Commissioner Letha Tawney
Public Utility Commission of Oregon
201 High St. SE, Suite 100
Salem OR 97301

Re: Docket No. UM 1953 – Calpine Energy Solutions, LLC’s Comments Regarding PGE’s
Schedule 55 Compliance Filing

Dear Commissioners:

Calpine Energy Solutions, LLC (“Calpine Solutions”) respectfully submits these comments supporting the Staff recommendation that the Public Utility Commission of Oregon find Portland General Electric Company’s (“PGE”) implementation of its Green Energy Affinity Rider program, as described in its September 13, 2019, Compliance Filing, to be non-compliant with Commission Order No. 19-075. As explained below, Calpine Solutions recommends that the Commission reaffirm its participation limits in the PGE-procured power purchase agreement (“PPA”) option at 100 MWs and reestablish the customer queue positions in the first-come, first-served order in which the customer requests were received in order to preserve the 200-MW Customer-supplied option. However, Calpine Solutions is sympathetic to the customer demand demonstrated for the PGE-procured option and therefore if the Commission were to decide to expand the 100 MWs of PGE-procured PPA to accommodate the 160-MWs of customer demand, the Commission should require PGE to refile and apply to the Commission to expand the 100-MWs PGE-procured option to 160 MWs and *concurrently* require expansion of the Customer-supplied PPA option in proportion to the expansion of the PGE-procured option, e.g., 160-MW PGE-procured and 320-MW Customer-supplied PPA.

Like Staff, Calpine Solutions was surprised to learn –well after the fact – the manner in which PGE implemented Commission’s Order No. 19-075. Calpine Solutions understood the order to allow PGE to offer a Company-supplied PPA for up to 100 MWs of a renewable energy facility. In contrast, the order specifically reserved an additional 200 MWs of renewable capacity in the program for large customers who would bring their own Customer-supplied PPA. The order plainly stated: “For PGE’s largest customers, those with an average load greater than

10 aMW, PGE proposes to implement a bring-your-own PPA option. This option is limited to 200 MW of nameplate capacity *and is separate from the PGE-procured option.*” Order No. 19-075 at 4 (emphasis added). Calpine Solutions agrees with Staff that this limitation on the Company-supplied option served to protect the competitive market. Had the program been offered as a 300-MW program for a Company-supplied PPA, there likely would have been different objections to the program than were lodged in the underlying proceeding.

It also appears from Staff’s comments that at least one customer, under PGE’s direction, changed their program election from the PGE procured option to the Customer-supplied option in order for PGE to accommodate customers further back in the PGE-procured option queue. This alleged activity appears to have resulted in the participation benefit to the PGE-procured program at the detriment of the Customer-supplied program limits. If true, this is a concerning behavior in which PGE apparently made an effort to reshuffle the results of a first-come, first-served program by giving the appearance of having treated certain customers with a preference or an advantage. Allowing for this type of conduct could have real consequences to other customers. For example, if another customer had planned on using the full 200-MW of the Customer-supplied option and had been pursuing that option, that customer would be harmed by a reshuffling of the queue that served to deprive that customer of the otherwise available capacity in the Customer-supplied option. Even though there is no evidence yet presented of such harm, the precedent that would set by allowing PGE to reshuffle the queue is unacceptable.

Another issue of concern not discussed in Staff’s memorandum is that PGE offered a contract for subscribers that appears to be different from the contract that was submitted into the record in Phase I of UM 1953. The form contract supplied to customers was supplied by PGE in response to Calpine Solutions’ Data Request No. 003 in this docket, and it appears to be a different document from the contract supplied into the record in Phase I for the Commission’s review (UM 1953 Exhibit PGE/303). Such contracts for utility offerings to retail customers should be treated as tariffs, with substantive provisions reviewed and approved by the Commission before being offered to customers to reduce the risks inherent with special contracts and preferential rate offerings that could harm the competitive market. Without careful scrutiny, such contracts for these types of utility offerings could provide preferential terms that allow the participating customers to lean on the system and other customers – such as minimal credit support requirements and termination damages provisions. As a general practice, such contracts should be available for review by the Commission and interested stakeholders before they are offered to any customers. In this case, it appears PGE made changes to the customer contract that were not available for review by stakeholders.

It is important to note that these kinds of issues – which have already been identified even before this program has begun – highlight the reasons why allowing rate-of-return monopoly utilities to expand their product offerings beyond their traditional regulatory construct can do harm to competitive markets. In this instance, Calpine Solutions believes the competitive market will be harmed if the Commission were to endorse PGE’s actions, and the market opportunity to supply the 200-MW Customer-supplied option would be reduced or perhaps completely eliminated in the near term if left unaddressed. As it stands, PGE proposes to use almost 100

MWs of the 200-MWs Customer-supplied option, leaving only roughly 100 MWs remaining for truly Customer-supplied PPAs, which could presumably be further reduced if the Commission approves of PGE's actions. The Commission should consider the impact on the competitive market in resolving the matter before it in this compliance filing.

For the reasons explained above, Calpine Solutions recommends that the Commission reaffirm its participation limits in the PGE-procured option at 100 MWs and reestablish the customer queue positions in the first-come, first-served order in which the customer requests were received by PGE in order to preserve the 200-MWs Customer-supplied PPA option. In the alternative, if the Commission were to decide to expand the 100 MWs of PGE-procured PPA in order to accommodate the 160-MWs of customer demand, the Commission should require PGE to refile and apply to the Commission to expand the 100-MWs PGE-procured PPA option to 160 MWs and *concurrently* require expansion of the Customer-supplied PPA option in proportion to the expansion of the PGE-procured option.

Sincerely,

/s/ Gregory M. Adams

Gregory M. Adams
Attorney for Calpine Energy Solutions, LLC