BEFORE THE

PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY,	)))))	UM 1953
Investigation Into Proposed Green Tariff		CALPINE ENERGY SOLUTIONS, LLC'S CLOSING LEGAL BRIEF

INTRODUCTION AND SUMMARY

Calpine Energy Solutions, LLC ("Calpine Solutions") hereby submits its closing legal brief to the Public Utility Commission of Oregon ("OPUC" or "Commission") in this proceeding. For the reasons explained in Calpine Solutions' testimony and the opening legal brief, the Commission should only approve a green tariff for Portland General Electric Company ("PGE") if the following conditions are met:

- In the case of a fixed credit, negative pricing should be disallowed. In other words, the green tariff credit should not be permitted to exceed the all-in price of the power purchase agreement ("PPA") paid by green tariff subscribers unless the subscriber elects a variable or floating credit that is regularly updated during the subscriber's term on the green tariff.

  -And-

- If the green tariff credits include a capacity credit under a fixed credit or a variable credit, the Commission should acknowledge that direct access customers should also receive a capacity credit if the transition charges extend beyond five years.

The bases supporting these recommendations were fully briefed in Calpine Solutions' opening legal brief. To the extent other parties have taken a contrary position, Calpine Solutions' opening brief has already addressed most arguments made by other parties in their opening briefs related to these issues, and we refer the Commission to that opening brief for points not addressed below in response to other parties' opening briefs.

ARGUMENT

No party has refuted Calpine Solutions' recommendation that the Commission should: (i) ensure that the green tariff cannot offer negative pricing in the case where the credit is a long-term, fixed credit; and (ii) acknowledge that if PGE's green tariff includes a capacity credit, PGE would have to provide a similar capacity credit to direct access customers if the transition charges extend beyond five years.

A. The Commission Should Not Allow Guaranteed Negative Pricing with Long-Term, Fixed Credits

Most parties appear to agree that negative pricing should not be guaranteed in a green tariff program through long-term, fixed credits that are greater than the cost of subscription to the green tariff. The only party that appears to continue to suggest that guaranteed negative pricing may be appropriate is the Alliance for Western Energy Consumers ("AWEC"). Even AWEC does not propose a long-term, fixed credit as its preference and instead proposes as its first preference that the Commission adopt a variable credit that is updated in general rate cases. *AWEC's Op. Br.* at 1-2. In the case where a fixed credit is provided, however, AWEC makes arguments that overlook important points.

AWEC suggests that it is appropriate for a green tariff subscriber to have "potential" to benefit through negative pricing. *Id.* While this might be appropriate in theory if there is also potential that the subscriber will not benefit if market conditions differ from projections, in the case of a long-term, fixed credit the potential for benefit turns into a guarantee of negative pricing, as other parties have agreed. *See Calpine Solutions' Op. Br.* at 7-9. Where the credit is fixed and known, there is more than just "potential" for negative pricing. The negative pricing would be known from the outset and would result in a guaranteed rate discount unless the Commission bars the possibility for such guaranteed negative pricing.

AWEC also argues that Staff's opposition to guaranteed negative pricing contradicts Staff's position in PGE's recent request for proposals ("RFP") for a major renewable resource, but this critique of Staff's position is inapt. *AWEC's Op. Br.* at 3-4. This argument overlooks that the Commission's evaluation of the green tariff is bound by the provisions of H.B. 4126 and the nine conditions for any green tariff established in Order No. 15-405. PGE's RFPs are subject to an entirely different set of considerations, which do not include protecting the competitive retail market and non-participating customers. Staff's position in an RFP does not inform whether it is in the public interest to guarantee some customers receive a rate discount to enter into a premium green tariff program, and Staff has correctly applied the conditions for a green tariff to conclude that guaranteed negative pricing is not in the public interest.

Finally, the suggestion that guaranteed negative pricing should be permitted to maintain symmetrical treatment of green tariff subscribers' risks overlooks that H.B. 4126 does not entitle green tariff subscribers to symmetrical risk, especially where doing so allocates risks to non-participants that would not exist without the green tariff. *See AWEC Op. Br.* at 4. To the contrary, Condition 8 of Order No. 15-405 affirmatively bars allocation of *any* risk to non-participants – providing, "[a]ll direct and indirect costs *and risks* are borne by the VRET customers, shareholders of the utility, or third-party developers and suppliers." *In re Public Utility Commission of Oregon, Voluntary Renewable Energy Tariffs for Non-Residential Customers*, Docket No. UM 1690, Order No. 15-405 (Dec. 15, 2015). The law provides no basis to increase risks to non-participants, but guaranteed negative pricing would indeed increase risks to non-participating customers.

In short, no party has convincingly demonstrated the legality or the wisdom of guaranteeing negative pricing in the case of long-term, fixed credits, and such a possibility is against the public interest. However, Calpine Solutions continues not to oppose the possibility of negative pricing for a variable or floating credit where the subscriber takes on the risk of future performance and value of the green tariff resource.

B. The Commission Should Acknowledge the Need for Comparable Capacity Credits in Direct Access

If PGE's green tariff will include a capacity credit, the same type of credit should also be included for the avoided capacity costs associated with a loss of direct access load. *See Calpine Solutions Op. Br.* at 11-16. Calpine Solutions continues to request the Commission acknowledge that if PGE's green tariff includes a capacity credit, PGE would have to provide a similar capacity credit to direct access customers if the transition charges extend beyond five years.

PGE appears to concede that its green tariff proposal does not actually meet all nine conditions of Order No. 15-405, and it instead argues that several conditions do not apply, including Condition 6 that requires comparability between the green tariff and direct access. *See PGE Op. Br.* at 5-6. Based on the assumption that these conditions are inapplicable, PGE asks the Commission to "defer questions regarding long-term credit calculation, applicability of the conditions outlined in Orders 15-258, 15-405, and 16-251, and interactions with Oregon's Direct Access Program, to a second phase of the docket." *Id*. PGE is incorrect that the matter can simply be deferred until a utility-owned resource is proposed for the green tariff because, as we previously demonstrated, all nine conditions of Order No. 15-405 apply, even in the absence of utility ownership of the green tariff resource. *See Calpine Solutions Op. Br.* at 14-15.

Calpine Solutions acknowledges that since the time opening briefs were filed, the Commission has now approved the continuation of the five-year transition period in PGE's rate case stipulation in Docket No. UE 335, which reduces the immediate impact of the capacity credit issue on direct access programs. However, it would still be reasonable for the Commission to clarify the capacity credit issue at this time because PGE has proposed to withdraw its proposed use of a capacity credit in the green tariff if such credit would apply to direct access. PGE may ultimately choose not to include the capacity credit in the green tariff if it knows the Commission will require comparability in the direct access program in the future. Therefore, in this case, the Commission should still direct that if PGE includes a capacity credit in its green tariff, direct access customers should also receive a capacity credit if the transition charges extend beyond five years. At a minimum, the Commission should not foreclose the need to adopt a capacity credit as a requirement of Condition 6 in a future case where PGE's direct access programs are up for reevaluation.

In sum, there remains no rational basis in the record to provide a capacity credit to green tariff subscribers without also providing a similar credit to long-term direct access customers who provide capacity benefit to remaining customers.

CONCLUSION

The Commission should impose the conditions set forth in the Introduction and Summary of this brief on PGE's proposed green tariff.

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