

---

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

---

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Investigation into Proposed Green Tariff

Docket No. UM 1953

**CLOSING BRIEF OF WALMART INC.**

---

Pursuant to the Ruling issued by the Oregon Public Utilities Commission (“Commission”) in this case on November 30, 2018, Walmart Inc. (“Walmart”) hereby submits its Closing Brief.

**I. INTRODUCTION**

Pursuant to the Commission’s schedule, on December 11, 2018, Opening Briefs were filed in this matter by Walmart and the following parties: Calpine Energy Solutions, LLC (“Calpine”); Northwest and Intermountain Power Producers Coalition (“NIPPC”); Renewable Northwest (“RNW”); Staff of the Public Utility Commission of Oregon (“Staff”); Alliance of Western Energy Consumers (“AWEC”); Oregon Citizens’ Utility Board (“CUB”); and Portland General Electric Company (“PGE”). In this Closing Brief, Walmart addresses some of the arguments and comments that were made by Staff, AWEC, CUB and PGE in their opening briefs.

**II. ARGUMENT**

Walmart agrees with Staff that Guideline 8 makes clear the Commission’s intent that there be no cost-shifting from green tariff subscribers to PGE’s cost-of-service (“COS”) customers.<sup>1</sup> But, a green tariff should be designed so that there is no cross-subsidization at all, including no

---

<sup>1</sup> See Staff Op. Br. 12:2-3.

subsidizing of COS customers by green tariff subscribers. That is why the Commission should allow the option of a floating credit with no floor and no cap.

Walmart understands that there may be customers that do not want the risk of price uncertainty.<sup>2</sup> However, for those customers willing to take on that risk, they should be allowed the opportunity for savings. That is why in addition to a fixed credit, there should be the option of a floating credit with no floor and no cap. Walmart would support Staff's proposal that PGE use the same model to calculate the credit that it uses to calculate COS power costs.<sup>3</sup>

Walmart would also support AWEC's proposal that the marginal cost of energy and capacity be used to develop the value of the credits in the green tariff.<sup>4</sup> Because the credit would be updated based on changes to the long-run marginal costs in subsequent rate cases, it is essentially a floating credit, which Walmart supports. As AWEC notes, such a method protects against cost-shifting between the participating and non-participating customers.<sup>5</sup>

CUB makes the misleading allegation that Walmart would prefer a credit structure that enables it to continually pay less than COS rates.<sup>6</sup> CUB continues by falsely implying that Walmart has proposed that captive COS customers subsidize green tariff subscribers.<sup>7</sup> Walmart does not want any customers subsidizing other customers, which is what will happen if the only

---

<sup>2</sup> See, e.g., AWEC Op. Br. 3; Op. Br. 46:9-14.

<sup>3</sup> Staff Op. Br. 13.

<sup>4</sup> AWEC Op. Br. 2.

<sup>5</sup> *Id.* at 3.

<sup>6</sup> CUB Op. Br. 3.

<sup>7</sup> *Id.*

option is a fixed credit that can never go negative, as CUB and Staff propose. In that case, green tariff subscribers would be at risk of subsidizing COS customers.

Walmart's proposal of offering the option of a floating credit with no floor and no cap only provides an *opportunity* for a green tariff subscriber to pay less than COS rates. It would not be a guarantee and could work out such that it never happens.

Furthermore, contrary to CUB's insinuations, and as several other parties have admitted,<sup>8</sup> a floating credit as proposed by Walmart eliminates the risk that COS customers will subsidize green tariff subscribers. Therefore, the Commission should ignore CUB's unfounded assertions.

In addition, there is no basis for the contention made by Staff and CUB that it is unfair if residential customers pay a premium for optional utility green power programs and non-residential customers get the *opportunity* to pay less than COS rates.<sup>9</sup> When adopting House Bill 4126 for non-residential customers in 2014, the Oregon Legislature did not impose any type of equity provision between the different classes. The Legislature did impose five (5) factors to be considered, but equity between residential and non-residential customers is not one of them.<sup>10</sup> If that was important to the Legislators, that would have been one of the factors. The Commission should not read into the legislation a factor that does not exist.

It is not uncommon for non-residential customers to be treated differently from residential customers. In the case of a green tariff, non-residential customers are much more sophisticated

---

8 See, e.g., AWEC Op. Br. 3; Hr'ing Tr. 87:9-14

9 See CUB Op. Br. 4, Staff Op. Br. 14.

10 H.B. 4196.3(4), 77th Leg., Reg. Sess. (OR 2014).

than residential customers and can manage their power supplies in ways residential customers cannot. The equity argument is a red herring and the Commission should disregard it.

Finally, as set forth in its Opening Brief, Walmart disagrees with the false limitation of 10 MWa for subscribers that want to bring their own Power Purchase Agreement (“PPA”) to the transaction. As explained in Walmart’s Opening Brief and adopted herein, this limitation is arbitrary and goes beyond its stated purpose of limiting this option to sufficiently sophisticated customers.<sup>11</sup> At the very least, the Commission should include language that makes the 10 MWa a rebuttable presumption at most.

### **III. CONCLUSION**

Walmart requests, therefore, that the Commission approve a green tariff for PGE that (a) provides the ability to participate up to 100 percent annual energy usage; (b) offers the choice of 5, 10, 15, and 20-year contract terms; (c) adopts PGE’s proposed REC treatment; (d) allows only for an administrative charge that recovers actual related administrative costs; (e) rejects a risk adjustment; (f) allows a “bring your own resource” option with no customer load limitation or at most make it a rebuttable presumption; and (g) offers a floating credit option with no cap or floor.

---

<sup>11</sup> See Walmart Op. Br. 2-3.

DATED this 21st day of December, 2018.

/s/ Vicki M. Baldwin

---

Vicki M. Baldwin  
PARSONS BEHLE & LATIMER  
201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
vbaldwin@parsonsbehle.com  
*Attorneys for Walmart Inc.*

**CERTIFICATE OF SERVICE**

Docket No. UM 1953

I hereby certify that on this 21st day of December 2018, I caused to be served, a true and correct copy of the foregoing **CLOSING BRIEF OF WALMART INC.**, via electronic mail, to:

**ALBERTSONS**

BRIAN BETHKE  
11555 DUBLIN CANYON  
ROAD  
250 PARKCENTER BLVD  
BOISE ID 83706  
brian.bethke@albertsons.com

CHRIS ISHIZU  
ALBERTSONS COMPANIES,  
INC.  
250 PARKCENTER BLVD  
BOISE ID 83706  
chris.ishizu@albertsons.com

GEORGE WAIDELICH  
ALBERTSONS COMPANIES'  
INC.  
11555 DUBLIN CANYON ROAD  
PLEASANTON OR 94588  
george.waidelich@albertsons.com

**AWEC UE 335**

BRADLEY MULLINS (C)  
MOUNTAIN WEST ANALYTICS  
1750 SW HARBOR WAY STE 450  
PORTLAND OR 97201  
brmullins@mwanalytics.com

TYLER C PEPPLER (C)  
DAVISON VAN CLEVE, PC  
1750 SW HARBOR WAY STE 450  
PORTLAND OR 97201  
tcp@dvclaw.com

ROBERT SWEETIN (C)  
DAVISON VAN CLEVE, P.C.  
185 E. RENO AVE, SUITE B8C  
LAS VEGAS NV 89119  
rds@dvclaw.com

**CALPINE SOLUTIONS**

GREGORY M. ADAMS (C)  
RICHARDSON ADAMS, PLLC  
PO BOX 7218  
BOISE ID 83702  
greg@richardsonadams.com

GREG BASS  
CALPINE ENERGY  
SOLUTIONS, LLC  
401 WEST A ST, STE 500  
SAN DIEGO CA 92101  
greg.bass@calpinesolutions.com

KEVIN HIGGINS (C)  
ENERGY STRATEGIES LLC  
215 STATE ST - STE 200  
SALT LAKE CITY UT 84111-2322  
khiggins@energystrat.com

**FRED MEYER**

KURT J BOEHM (C)  
BOEHM KURTZ & LOWRY

36 E SEVENTH ST - STE 1510  
CINCINNATI OH 45202  
kboehm@bklawfirm.com

JODY KYLER COHN (C)  
BOEHM, KURTZ & LOWRY

36 E SEVENTH ST STE 1510  
CINCINNATI OH 45202  
jkylerecohn@bklawfirm.com

**NIPPC**

ROBERT D KAHN  
NORTHWEST &  
INTERMOUNTAIN POWER  
PRODUCERS COALITION

PO BOX 504  
MERCER ISLAND WA 98040  
rkahn@nippc.org

IRION A SANGER (C)  
SANGER LAW PC

1117 SE 53RD AVE  
PORTLAND OR 97215  
irion@sanger-law.com

MARK R THOMPSON (C)  
SANGER LAW PC

1117 SE 53RD AVE  
PORTLAND OR 97215  
mark@sanger-law.com

**OREGON CITIZENS UTILITY  
BOARD**

OREGON CITIZENS' UTILITY  
BOARD

610 SW BROADWAY, STE 400  
PORTLAND OR 97205  
dockets@oregoncub.org

MICHAEL GOETZ (C)  
OREGON CITIZENS' UTILITY  
BOARD

610 SW BROADWAY STE 400  
PORTLAND OR 97205  
mike@oregoncub.org

ROBERT JENKS (C)  
OREGON CITIZENS' UTILITY  
BOARD

610 SW BROADWAY, STE 400  
PORTLAND OR 97205  
bob@oregoncub.org

**PACIFICORP**

PACIFICORP, DBA PACIFIC  
POWER

825 NE MULTNOMAH ST, STE  
2000  
PORTLAND OR 97232  
oregondockets@pacificorp.com

MATTHEW MCVEE  
PACIFICORP

825 NE MULTNOMAH  
PORTLAND OR 97232  
matthew.mcvee@pacificorp.com

**PORTLAND GENERAL  
ELECTRIC**

PGE RATES & REGULATORY  
AFFAIRS

PORTLAND GENERAL ELECTRIC  
COMPANY  
121 SW SALMON STREET,  
1WTC0306  
PORTLAND OR 97204  
pge.opuc.filings@pgn.com

STEFAN BROWN (C) PORTLAND GENERAL ELECTRIC	121 SW SALMON ST, 1WTC0306 PORTLAND OR 97204 stefan.brown@pgn.com; pge.opuc.filings@pgn.com
DOUGLAS C TINGEY (C) PORTLAND GENERAL ELECTRIC	121 SW SALMON 1WTC1301 PORTLAND OR 97204 doug.tingey@pgn.com
<b>SBUA</b>	
JAMES BIRKELUND SMALL BUSINESS UTILITY ADVOCATES	548 MARKET ST STE 11200 SAN FRANCISCO CA 94104 james@utilityadvocates.org
DIANE HENKELS (C) CLEANTECH LAW PARTNERS PC	420 SW WASHINGTON ST STE 400 PORTLAND OR 97204 dhenkels@cleantechlaw.com
<b>STAFF</b>	
STEPHANIE S ANDRUS (C) PUC STAFF--DEPARTMENT OF JUSTICE	BUSINESS ACTIVITIES SECTION 1162 COURT ST NE SALEM OR 97301-4096 stephanie.andrus@state.or.us
MARIANNE GARDNER (C) PUBLIC UTILITY COMMISSION OF OREGON	PO BOX 1088 SALEM OR 97308-1088 marianne.gardner@state.or.us
SOMMER MOSER (C) PUC STAFF - DEPARTMENT OF JUSTICE	1162 COURT ST NE SALEM OR 97301 sommer.moser@doj.state.or.us
<b>WALMART</b>	
VICKI M BALDWIN (C) PARSONS BEHLE & LATIMER	201 S MAIN ST STE 1800 SALT LAKE CITY UT 84111 vbaldwin@parsonsbehle.com
STEVE W CHRISS (C) WALMART INC.	2001 SE 10TH ST BENTONVILLE AR 72716-0550 stephen.chriss@wal-mart.com

/s/ Hailey Arvidson