ITEM NO. 3

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 21, 2019

REGULAR X **CONSENT** ____ **EFFECTIVE DATE** **April 1, 2019**

DATE: March 11, 2019

TO: Public Utility Commission

SS SG

FROM: Sabrinna Soldavini and Scott Gibbens

JE JC

THROUGH: Jason Eisdorfer and John Crider

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. ADV 919/Advice No. 19-02) Proposes Schedule 689, New Load Direct Access Program.

STAFF RECOMMENDATION:

Deny Portland General Electric's (PGE) Advice No. 19-02 as filed and direct PGE to file tariffs in compliance with the Commission's order to implement an interim New Large Load Direct Access (NLDA) program.

Open an investigation into the validity of two new proposed fees not currently contemplated by the current New Load Direct Access rules.

Alternatively, if the Commission declines to direct the Company to file an interim NLDA program, the Commission should simply suspend the tariff and investigate PGE's Advice No. 19-02.

DISCUSSION:

Issue

Whether the Oregon Public Utility Commission (Commission) should approve, suspend, or deny PGE's tariffs implementing Schedule 689, a New Load Direct Access program, and updating applicable Schedules and Rules, on less than statutory notice (LSN).

Applicable Rule

ORS 757.205(1) states that a public utility must file schedules showing all rates, tolls, and charges for service that have been established and are in force at the time. Pursuant to ORS 757.210, the Commission may approve tariff changes if they are deemed to be fair, just and reasonable. Filings that make any change in rates, tolls, charges, rules or regulations must be filed with the Commission at least 30 days before the effective date of the changes. ORS 757.220. The Commission may approve tariff changes on less than statutory notice upon a finding of good cause shown. *Id.*

ORS 757.215 provides the Commission with authority to suspend and investigate new rates or schedules of rates for an initial period of up to six months, and permits investigation for an additional three months if necessary.

OAR 860-022-0025 requires that new tariff filings include statements showing the new rates, the number of customers affected, the impact on annual revenue, and the reasons supporting the proposed tariff.

OAR 860-038-0700 through OAR 860-038-0760, specify the requirements an electric company must adhere to in implementing a New Large Load Direct Access Program.

Analysis

Background
On October 9, 2018, the Commission issued Order No. 18-341, adopting rules governing a New Large Load Direct Access (NLDA) program. As a result of Order No. 18-341, and the AR 614 rulemaking process, OAR 860-038-0700 through OAR 860-038-0760 were adopted, outlining the rules for NLDA programs. Additionally, the Order required each electric company to make six percent of its 2017 weather normalized annual load available to the NLDA programs.

On February 5, 2019, PGE filed its NLDA program tariff sheets with the Commission, requesting implementation of a NLDA program. On March 7, 2019, PGE filed replacement sheets which corrected two errors found in the originally filed tariff sheets. The first removed a checkmark on Schedule 100 which erroneously indicated that Schedule 132, Federal Tax Refund applied to Schedule 689, NLDA. The second changed the minimum monthly on-peak demand for Schedule 289 from 100 kW to the intended 200 kW for primary voltage service. Due to the timing of the filing, a LSN was also included with the replacement sheets.

Schedule 689 – New Large Cost of Service Opt-Out
Schedule 689 is the main tariff that outlines the NLDA program. The other new tariff, Schedule 139, describes the fixed generation transition adjustment.

In compliance with the rules adopted in Order No. 18-341, Schedule 689 requires that New Large Load must be separately metered, or have its usage measurement based on a determination that has comparable accuracy and is mutually agreeable between the company and consumer. Additionally, a consumer's load must exceed 10 aMW for at least one period of 12 consecutive months within the first 36 months of service. The Company includes a 119 aMW cap (six percent of 2017 normalized load) for its NLDA program or at an amount subject to the long-term transmission planning constraints of the Company.

PGE provides the customer with three different energy supply options as part of the program. Direct Access Service allows the customer to purchase energy from an Electricity Service Supplier (ESS). Company Supplied Energy prices energy at the Intercontinental Exchange Mid-Columbia Daily on- and off-peak Electricity Firm Price Index. Standard Offer service is based on energy and capacity supply procured and managed by the company on behalf of the Customer. Prices for this option are negotiated between the Customer and the Company.

An Existing Load Shortage Transition Adjustment will be applied to the Existing Load Shortage of the Consumer and for the Existing Load Shortage for all of the Consumer's affiliated Consumers[1]. This charge is intended to prevent gaming by a customer who shifts load among sites to game the eligibility rules for new load. Staff finds these charges meet the requirements of OAR 860-038-0740(4), which directs the utilities to implement such a charge.

PGE's Schedule 689 includes four charges whose values or methodology are not expressly dictated in the NLDA program rules adopted in Order No.18-0341. Two of the fees, Administrative fee, and Energy Supply Return Charge, are discussed in the OAR's implemented through AR 614, and PGE has chosen to generally mirror the methodologies of PacifiCorp's recently approved NLDA program. The other two fees are not contemplated in the rules outside of the general guidance to avoid cost shifting and risk to the Company's system.

1. *Administrative Fee*

OAR 860-038-0740(3)(b) requires the Company to charge NLDA customers all reasonable costs of administering the NLDA program. PGE has set the

[1] A consumer for which a controlling interest is held by another Consumer who is engaged in the same line of business as the holder of the controlling interest

administrative fee to $0 until the commencement of the program at which point they can better evaluate the incremental costs.

This is a slightly different approach than PacifiCorp, which estimated the fee to be $400 per month. However, Staff noted in its report on PacifiCorp's program that the Company, parties, and Staff intend to review the realized costs following program implementation in order to ensure the estimate is valid. Staff continues to find that "As this is a new program, with no customers currently enrolled, the actual costs of implementing and monitoring an NLDA program are currently unknown."[2] As such, Staff finds PGE's approach reasonable.

2. Energy Supply Return Charge (ERSC)
Schedule 689 also includes a forward-looking rate adder, the ERSC, to be charged for four years, for customers switching from NLDA to standard offer or cost-based service, whose switch results in an increase to the rates of existing cost-of-service customers of more than 0.5 percent.

OAR 860-038-0720(3) requires an electric company to request approval of a forward-looking rate adder to mitigate the rate impact to existing cost-of-service customers, when the electric company forecasts that the return to cost-of-service will result in a significant increase to the existing cost-of-service rate. The Company has used its discretion to determine that a 0.5 percent increase is the appropriate level to trigger the ESRC. This is the same level of protection approved by the Commission for PacifiCorp's NLDA program. Staff finds this to be a reasonable, material threshold for triggering the forward-looking rate adder. The 0.5 percent threshold is high enough to warrant protection to cost-of-service customers, while ensuring that the charge is only triggered when a Consumer's move out of the NLDA program to cost-of-service represents a material rate increase to existing ratepayers.

The Company is proposing an initial ESRC of 0.000 cents per kWh. In its filing, the Company notes that this charge will be updated annually prior to its September enrollment window when Schedule 129 prices are updated. PGE requires three years of notification prior to returning to COS or Daily Market Energy rates, as such the ERSC will be charged for three years.

The proposed methodology for calculating the Company Supply Service Access Charge is to calculate the charge as the incremental difference between the four-year levelized cost of capacity that is calculated for avoided cost and fixed generation rates included in the calculation of the Fixed Generation Transition Adjustment.

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[2] ADV 900 Staff Memo dated February 21, 2019

Staff finds this methodology reasonable and notes that the methodology will be subject to review during the Company's annual AUT filing, and that per the tariff, any customer wishing to switch back to cost-based service must provide the Company with three years' notice allowing sufficient time for such review to take place.

3. *Resource Adequacy Capacity Charge (RAD)*
The RAD charge is meant to protect COS customers from alleged compromised reliability by ensuring PGE can secure capacity to adequately meet all load. PGE argues that in the event an ESS fails, PGE is required to be the Provider of Last Resort (POLR), and that the current POLR process does not contemplate the cost of capacity. PGE notes in its application that the Commission would first have to reverse its earlier guidance regarding utility planning for long-term direct access load in order to implement the RAD.

The charge is currently set at $0, but PGE estimates the cost of the RAD would amount to approximately $9.00 per kW of on-peak demand. PGE plans to allocate capacity costs to NLDA customers in its next general rate case in order to solidify the value of the RAD.

The charge would be applied during all years of service on Schedule 689. In the first five years, while the customer is paying 20 percent of the fixed generation costs of energy supply, the RAD would be lowered to account for this transition charge.

4. *Resource Intermittence Capacity Charge (RIC)*
The RIC is intended to recover the costs of capacity to PGE and its customers when there are differences in an ESS's scheduled supply and a customer's actual load. Schedule 4R recovers the costs associated with securing energy to balance DA load in PGE's balancing authority area, but does not account for the capacity that PGE must have available to serve load.

The RIC would be applied during billing periods when the ESS's schedule is different from the actual amount of energy delivered to meet the customer's load. The charge is set at $0.58 per kW of on-peak demand. The charge does not distinguish between differing scheduling practices of a Customer's specific ESS, but applies to all regardless.

Staff has reviewed PGE's Schedule 689, New Large Load Cost of Service Opt-Out, and has concerns regarding the inclusion of the RIC and RAD. The RAD runs counter to a previous Commission order in IRP Guideline #9.[3] Both the RIC and RAD present costs and risk to the system, which are not unique to new load, but would apply to any Long-term Direct Access (LTDA) program. As PGE's current LTDA program does not include these fees, Staff questions whether they are warranted. Due to the relative short time available in a standard advice filing to gather information, obtain feedback from interested parties, and develop a record by which the Commission can come to an informed decision, Staff recommends that the Commission delay a decision on these two fees. Apart from RIC and RAD, Staff finds that the rest of the proposed Schedule 689 is reasonable and comports to the rules adopted by the Commission for NLDA programs.

In discussions with interested parties, a proposal to have PGE implement an interim program, which does not include the RIC or RAD, but strictly adheres to the Commission's NLDA rules was made. Some parties felt that suspending the entire program to investigate the validity of the fees would be unfair to interested customers who have already waited through multiple investigations to get to this point. Staff generally supports the proposal to implement an interim program absent the RIC and the RAD. While the investigation may take some time, Staff weighed this against the risk to PGE's system in the interim, and finds that cost to the Company will be minimal as potential customers will have to go through the process of identifying a potential new load, enrolling in the program, and getting everything set up with the utility. The RAD only presents a potential cost in the event of a return to cost of service, which is unlikely to happen in the short interim. Further both charges are not included in PGE's currently open LTDA program, but would equally apply to LTDA as NLDA. Staff does not find that a NLDA program implementation tariff is the venue to make changes to PGE's LTDA program, particularly in light of the settlement in its most recent general rate case on these issues.

Staff also finds, however, that customers subscribing to any interim program would need to be aware that the RIC and RAD are potential charges to consider in their enrollment decisions. Staff could not support an interim program that would allow customers to be exempt from the potential charges if they enrolled prior to a Commission decision on the investigation; rather, all NLDA customers should pay rates in accordance with tariffs in effect.

As a result of these considerations, Staff recommends that the Commission direct the Company to file tariffs that have a $0 charge for the RIC and the RAC, but leave the language in the tariff which describes them. Further the Company should provide a

[3] Commission Order 07-047 provides IRP Guidelines. IRP Guideline #9 states: "An electric utility's load-resource balance should exclude customer loads that are effectively committed to service by an alternative electricity supplier."

footnote to the fees that they are subject to an investigation and may change as a result. Then the Commission should open an investigation into the validity of the RIC and RAD.

Should the Commission come to the conclusion that an interim program could create confusion for interested parties, and lead to risks to PGE and its ratepayers while the investigation occurs, an alternative approach would be to simply suspend the docket and investigate PGE's Advice No. 19-02. This would result in no program going into effect until the end of the suspension period. Staff supports this approach; however, it is not its recommended course of action.

Schedule 139 – New Large Load Transition Adjustment Cost
This Schedule sets the transition adjustment charge for the NLDA customer in accordance with OAR 860-038-0740(3). As prescribed in the rule, this charge is based on 20 percent of the Company's current fixed generation costs and will apply for the first 60 months of service on Schedule 689. Updates to this Schedule will occur concurrently with updates to Schedule 129, the Long Term Transition Adjustment.

Staff has reviewed this schedule and finds the proposed tariffs to be in accordance with Commission orders. Staff recommends adoption of the schedule as filed.

Modifications to Other Schedules and Rules
Staff also analyzed the modifications to other schedules, which resulted from the proposed NLDA program. Staff finds that the changes are reasonable and only apply when necessary to avoid unwarranted cost shifting between COS and direct access customers. Staff finds these changes to be in accordance with Commission Order No. 18-341 and the rules adopted therein.

Effects of Filing
As this is a new program, it is unknown how many consumers will elect to participate in the NLDA program, and the effect on the Company's revenue.

Neither the proposed tariffs nor the modifications to existing tariffs adjust the rates of the Company's current ratepayers. Staff finds that its proposed interim program and investigation meet the applicable Commission rules and will not subject the Company or its customers to any unwarranted risk. Staff further finds that there is good cause to approve tariff changes on less than statutory notice, as the changes corrected minor errors and result in a reasonable, just, and fair program. Therefore, Staff finds that its recommended Commission decision will not harm customers.

Conclusion

Based on the review of this filing, Staff concludes the following:

1. PGE's proposed NLDA program, implemented through Advice 19-02, may not be consistent with Order No. 18-341 and the rules adopted by the Commission in OAR 860-038-0700 through OAR 860-038-0760. The Commission should open an investigation into the RIC and RAD.
2. The Commission should direct the Company to update their tariffs in order to implement an interim program which does not include charges related to the RIC and the RAC while the investigation takes place.

3. Apart from the RIC and the RAD, the proposed tariffs and associated modifications to existing tariffs related to the Company's NLDA program result in rates that are fair, just and reasonable.

4. Good cause exists for Advice No. 19-02 to become effective on less than statutory notice.

PROPOSED COMMISSION MOTION:

Deny Portland General Electric's (PGE) Advice No. 19-02 as filed and direct PGE to file tariffs in compliance with the Commission's order to implement an interim New Large Load Direct Access (NLDA) program.

Open an investigation into the validity of two new proposed fees not currently contemplated by the current New Load Direct Access rules.

ALTERNATIVE COMMISSION MOTION:

Suspend and investigate PGE's Advice No. 19-02 for a period not to exceed nine months.