

August 19, 2020

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-3398

Attn: Filing Center

RE: UM 2024—PacifiCorp's Comments

PacifiCorp d/b/a Pacific Power encloses for filing its comments in response to the Commission's Workshop Agenda issued on August 10, 2020.

If you have questions about this filing, please contact Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,



Etta Lockey
Vice President, Regulation

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2024

In the Matter of

ALLIANCE OF WESTERN ENERGY
CONSUMERS

Petition for Investigation into Long-Term
Direct Access Programs.

PACIFICORP'S COMMENTS

PacifiCorp appreciates the opportunity to file these comments in response to the Commission's Workshop Agenda issued on August 10, 2020.

I. PacifiCorp Comments on Morning Session Agenda Items

A. Commission Dockets in Which Direct Access Issues Are Presented

The Commission has asked for feedback on a list of dockets in which Direct Access issues are at issue. To date, PacifiCorp has not seen a list, but in addition to Commission dockets clearly addressing direct access issues, PacifiCorp would note that direct access issues are regularly implicated in PacifiCorp's annual Transition Adjustment Mechanism (TAM) dockets and its general rate cases, and that direct access issues may have implications for PacifiCorp's Inter-Jurisdictional Cost Allocation Protocols.

B. Comments on Investigation Objectives

The Commission invited parties to comment on whether the objectives identified in Part III of the Commission's agenda provide an adequate statement of the ultimate questions the Commission should answer in this docket.

In general, PacifiCorp supports the Commission's focus on cost-shifting, including methods of identifying and mitigating cost-shifting. Understanding cost-shifting, the *potential for cost shifting*, and mitigating customer impacts is critical to implementing direct access consistent with Oregon law. However, PacifiCorp would make a few observations about the way

the questions are posed to ensure the Commission's questions are viewed in the appropriate context.

First, the Commission's duty to implement direct access programs is bounded by some limitations, including the clearly expressed legal duty to protect customers who remain with the regulated utility. This is true even where potential risks and cost-shifts are not easily susceptible of direct proof. Specifically, SB 1149 states that:

The Public Utility Commission shall ensure that direct access programs offered by electric companies meet the following conditions: (1) The provision of direct access to some retail electricity consumers must not cause the unwarranted shifting of costs to other retail electricity consumers of the electric company.¹

In other words, if the Commission is uncertain about whether a direct access program will cause unwarranted cost shifting, that direct access program may not be adopted. A program may be adopted only when the evidence is such that the Commission can be *certain* that it *will not* cause unwarranted cost shifting.

The Commission appears to recognize this duty to protect customers from risk, even when that risk is not explicitly quantified. For example, in adopting its recent rules for its New Large Load Direct Access program, the Commission adopted a fixed generation charge as part of program implementation, recognizing that it was a program element that represents real costs and risks to the system even though it was not explicitly quantified.²

Second, addressing concerns about *existing* cost-shifting are insufficient to ameliorate concerns about cost-shifting in the future. In PacifiCorp's view, the careful design of PacifiCorp's current direct access programs has ameliorated a great deal of the risk posed by customer defection. As the industry changes, as capacity tightens in the region, as legislative mandates create new utility obligations, for example, the effectiveness of the Commission's program design may be tested or undermined. Consequently, while PacifiCorp agrees it is useful

¹ ORS 757.607 (*emphasis added*).

² *In re Rulemaking Related to a New Large Load Direct Access Program*, Docket No. AR 614, Order 18-341 at 3 (Sept. 14, 2018).

in this docket to look at direct evidence of concrete cost-shifting, it is equally important to recognize that no mechanism is likely to anticipate all risks caused by new program design, new market conditions, or new utility obligations.

Thus, PacifiCorp would observe that any program design adopted by the Commission should (1) err on the side of customer protection, consistent with the Commission’s mandate to ensure direct access programs do not cause unwarranted cost shifting; and (2) be subject to regular and periodic review to ensure programs are working as intended and that customers remain protected from any unintended consequences of the Commission’s policy implementation.

C. Investigation Process

In part IV of its agenda, the Commission asks whether its proposal for the investigation process presents an efficient and organized path for parties to create an adequate record for the Commission to answer the questions noted in its investigation objectives.

As a general matter, PacifiCorp believes the Commission’s proposed investigation process provides a useful path forward. That said, PacifiCorp would reiterate the caveats noted above regarding the Commission’s duty with respect to customer risk mitigation, the limitations of direct proof with respect to certain risks, and the need for periodic review of program elements to ensure utility customers remain protected.

In addition, PacifiCorp has the following comments on the Commission’s list of issues.

- Items 1.b.i. and 1.b.ii identify the “fixed costs of supply” and the “fixed costs of flexibility” as subjects of testimony in this docket. PacifiCorp would seek clarification on the Commission’s understanding and use of the term “fixed costs of flexibility.”³
- In the legal briefing section,⁴ PacifiCorp believes the scope of the Commission’s authority to regulate electricity service suppliers (ESSs) is a key legal issue in this docket.

This issue may be implicit in the Commission’s list of issues.

³ Commission Workshop and Agenda at 4 (Aug. 7, 2020).

⁴ Commission Workshop and Agenda at 4-5.

II. Afternoon Session (Resource Adequacy)

The Commission has invited brief written comments on the Commission's questions identified for Resource Adequacy (RA).

1. **Given the potential for duplication of efforts and inconsistency of conclusions with NWPP's development of an RA program, how should the Commission approach development of a framework to ensure Oregon direct access customers fairly contribute to resource adequacy?**

A number of the Commission's questions focus on the Northwest Power Pool's (NWPP) Regional RA Program, which is currently under development. PacifiCorp understands that the NWPP is currently working with the Southwest Power Pool on a set of preliminary design elements with the goal of turning them into a more comprehensive regional RA program that, if successful, will begin in late 2023 or early 2024.

Many of the Commission's questions focus on potential program elements that appear too granular or specific for the answers to be known today. At this stage for regional program development, it is difficult to know with specificity what precise requirements the program will impose on participants or precisely how participation will be structured. Consequently, PacifiCorp will address the Commission's questions more generally.

PacifiCorp agrees with the Commission that it has two possible paths for ensuring that ESSs carry their weight in the region with respect to RA obligations. The first is for the Commission to require ESSs to participate in a Regional RA Program when such a program is developed. The second is for the Commission to develop its own, Commission-specific RA compliance program for ESSs. In theory, the second option could allow an ESS the option of participating in a voluntary Regional RA Program as one method of compliance with the PUC-specific program.

Importantly, Commission action is important for either of these paths. The NWPP's Regional RA Program will be necessarily designed as a *voluntary* program. The parties tasked with designing the program, administering the program, and/or participating in the program may

lack authority to force others into the program. Thus, to the extent the Commission would like all Oregon load-serving entities (LSEs) to be held to standards ultimately developed through a regional RA planning process, the Commission should exercise its authority over Oregon LSEs to make program participation mandatory.

Voluntary participation in a Regional RA Program will be driven by two key incentives: interest in (1) enhanced system reliability and (2) lower costs for meeting reliability obligations. These goals, system reliability and cost savings, create strong incentives for regulated utilities to participate in a regional RA program given utilities' preexisting obligations to work toward both goals. There is no reason to believe load-serving entities like ESSs would have a strong incentive to voluntarily join such a program, or have an interest in RA program goals, *unless they, like regulated utilities, are required to comply with robust resource adequacy obligations.*

At this point, while the precise program details of a Regional RA Program are still to be determined, PacifiCorp believes it would be helpful for the Commission to take the following steps:

- Make clear at an early stage in this docket that ESSs will ultimately be required to meet robust resource adequacy requirements.⁵
- Develop a reporting process in the short-term that requires ESSs to begin providing the Commission with the details of how ESSs are *currently* planning to meet their load obligations. This will provide the Commission with information on planning deficiencies that may currently exist and that may require short-term attention.
- Continue to monitor the NWPP's Regional RA Program development as the details of that program emerge, with the goal of allowing or requiring ESSs to meet their RA requirements through participation in the program should it prove feasible.
- If the Commission moves forward with a stand-alone RA program, ensure development

⁵ *In the Matter of Portland Gen. Elec. Co. Advice No. 19-02 New Load Direct Access Program*, Docket UE 358, Order 20-002 at 9 (Jan. 7, 2020) (“We expect development of [a resource adequacy] solution or requirement for direct access to be a top priority in the UM 2024 investigation.”).

of the program takes into consideration the unique cost and benefit allocation issues associated with a multi-jurisdictional entity.

2. Can and should a RA framework phase be accelerated, with detailed development occurring during or simultaneously with the evidentiary stage proposed above?

As PacifiCorp noted above, the NWPP's Regional RA Program holds great promise as a comprehensive regional RA program that will enhance reliability and create cost savings for entities in the region that carry robust RA obligations. PacifiCorp suggests that the steps noted above for ongoing monitoring, coupled with a concrete commitment from the Commission to ensure ESSs carry robust RA obligation, would be a useful place to start as the NWPP's program development moves forward.

Respectfully submitted this 19th day of August, 2020.

By:



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