BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

UM 2143

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Investigation Into Resource Adequacy in Oregon	COMMENTS OF BROOKFIELD RENEWABLE TRADING AND MARKETING LP

BROOKFIELD RENEWABLE TRADING AND MARKETING LP

Stephen Greenleaf
Senior Director of Regulatory Affairs and Policy, Western U.S.
Brookfield Renewable Trading and Marketing LP
1568 Oglala Street
South Lake Tahoe, CA 96150
(916) 802-5420
Steve.Greenleaf@brookfieldrenewable.com

Dated: June 12, 2023

BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

UM 2143

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Investigation Into Resource Adequacy in Oregon	COMMENTS OF BROOKFIELD RENEWABLE TRADING AND MARKETING LP

I. INTRODUCTION & SUMMARY

Brookfield Renewable Trading and Marketing LP ("BRTM") hereby submits the following comments on the Oregon Public Utility Commission ("Commission") staff's ("Staff") Draft Resource Adequacy ("RA") Rules Proposal in Docket No. UM 2143.

BRTM recognizes the challenges in developing an Oregon-specific RA program and appreciates Staff's thoughtful work in considering stakeholder comments in developing Staff's proposed rules. BRTM generally supports the direction of the draft rules in that they attempt, in the first instance, to rely on developing regional RA rules. In these comments, however, BRTM responds to Staff's resource and transmission forward showing thresholds. As a general principle, both thresholds are too high and fail to recognize the flexibility required for market participants to prudently and efficiently procure and transmit electricity to end use consumers. At a maximum, reasonable resource forward showings for an Oregon-specific RA program are 90% one-year out and 80% two-years out. Reasonable transmission forward showings are perhaps 65% one year out and 55% two years out. Further, while the adoption of the Western Resource Adequacy Program ("WRAP") counterflow exception to the transmission forward showing is important, it should not be limited to only those entities subject to the Commission's RA requirements.

BRTM cautions that, while it appreciates Staff's desire to incent participation in the WRAP and thus make the state-specific RA requirements for non-WRAP participants more onerous, such disparate requirements have the potential to work against the statutory requirements to support competition. Toward that goal, it is important to recognize that existing load direct access ("DA") customers are obligated to pay transition charges to compensate the utility for stranded capacity costs. While transition charges are being levied, Electricity Service Suppliers ("ESS") should be able to rely on stranded capacity for which they are paying to satisfy any deficiencies in resource RA requirements. Following the conclusion of transition charges, BRTM supports a requirement that the utilities offer, through a negotiated rate, RA service to direct access customers, so that such customers have further choices, especially when their ESS is unable to participate in the WRAP.

Finally, BRTM responds to Staff's specific requests to parties regarding planning reserve margin ("PRM") and qualifying contribution methodology, an RA trial run, and penalties for noncompliance with RA requirements. As described in detail below, BRTM recommends that the Oregon-specific RA program rely, to the extent possible, on information developed by the WRAP. Similarly, RA requirements under an Oregon program should begin commensurate with the WRAP.

II. COMMENTS

a. Resource Forward Showing

Staff's proposed rules include the following resource forward showing requirements:

Year	Resource Forward Showing
1	95%
2	80%

BRTM recognizes and appreciates that these figures are based, at least in part, on BRTM's prior written comments in this proceeding.[1] Upon further review of similar state requirements, a more reasonable year ahead forward showing is 90 percent. Specifically, California's RA program requires load serving entities to demonstrate that they have acquired sufficient resources to satisfy 90 percent of their forward committed load plus a PRM for each of the five summer (*i.e.*, peak) months.[2] One of the reasons the California commission declined to increase or extend the forward showing requirements was the risk of over procurement of resources. Particularly, setting a resource forward showing too high or too far in advance may cause an ESS to procure resources even though it is operating in the competitive market where its customers may migrate their load to a different ESS, stranding procured resources without a customer to serve.[3] Further, providing sufficient flexibility a year in advance of any service obligations is important to ensure efficient procurement of resources, which are often available on a shorter-term basis. Setting a resource forward showing too high hinders or eliminates system optimization and efficient use of resources.

Therefore, BRTM recommends a slight modification to Staff's proposed resource forward showings to require a state RA participant to demonstrate that it has sufficient resources to meet 90 percent of its load obligations plus a PRM one year out. BRTM agrees that, at a maximum, an 80 percent forward showing two years out is reasonable and appropriate.

b. Transmission Forward Showing

Staff's updated straw proposal includes the following transmission forward showing requirements:

[1] BRTM Comments, p. 5 (Mar. 13, 2023).
[2] *Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning*, Rulemaking 04-04-003, Decision 05-10-042, p. 87 (Oct. 27, 2005).
[3] *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Reforms and Refinements, and Establish Forward Resource Adequacy Procurement Obligations*, Rulemaking 21-10-002, Decision 22-06-050, p. 105 (June 23, 2022).

Year	Transmission Forward Showing
1	75%
2	75%

A 75 percent binding transmission requirement one and two years out is too high for several reasons. First, setting the same 75 percent requirement for both compliance years suggests that load responsible entities have the same ability to procure transmission rights two years out as they do a year in advance. It further suggests that the remaining 25 percent is just as important two years out as it is one year out. However, both notions are not true. Transmission rights are often procured over time as transmission paths become available, and there is less risk associated with open transmission positions two years prior to a service obligation than one year out.

Second, Staff previously stated that its "intent is to align the binding transmission forward showing with the adequacy levels and exceptions in the WRAP."[4] While, BRTM cautions that the WRAP requirements are untested and remains concerned that the WRAP requirements are too restrictive and may not comport with the availability of regional transmission and regional transmission procurement practices, participants in the WRAP are required to have firm transmission rights sufficient to deliver 75 percent of the MW quantity of the participant's Forward Showing ("FS") Capacity Requirement *seven months in advance*.[5] According to the transmittal letter for the WRAP tariff, the 75 percent threshold:

> reflects a reasonable balance of the firm transmission deliverability metric for initial implementation of the WRAP given the seven-Month deadline for making the Forward Showing. A 100% standard that would require Participants to show full transmission service seven months ahead of the Binding Season could serve as a barrier to initial participation. And that standard is not essential for reliability, *given that most Participants' experience has been that a certain*

[4] *Id.* at p. 2.
[5] WRAP Tariff, Section 16.3.1.

amount of transmission service that is not available seven Months ahead of the Binding Season can be obtained on a shorter-term basis.[6]

Requiring 75 percent firm transmission rights any sooner than seven months in advance of the binding date is not in alignment with the WRAP. As the WRAP recognized, many transmission paths are not available seven months in advance. If certain amounts of transmission rights which will be eventually available are not typically available seven months in advance, then even fewer such transmission rights will be available one year out, and even less two years in advance. Accordingly, BRTM maintains that, notwithstanding its continuing concerns with the WRAP requirements themselves, a reasonable transmission forward showing for one and two years in advance would be 65 percent and 55 percent respectively and would establish both a reliable and commercially reasonable "glide path" that is more aligned with the WRAP requirements.

c. Transmission Forward Showing Exceptions

Staff's proposed rules include the following four exceptions to an Oregon RA participant's transmission forward showing:

1. The State Participant is experiencing enduring transmission constraints,
2. Future firm ATC is expected,
3. An applicable portion of the State Participant's existing transmission service rights is expected to be derated or out-of-service, or
4. Expected counterflow from another State Participant supports the State Participant's transmission of energy from generation source to load sink.[7]

A State Participant is an entity that does not participate in a Commission-approved regional resource adequacy program.[8]

[6] WRAP FERC filing, Charles Hendrix Aff., ¶ 42 (emphasis added).
[7] Staff Draft Resource Adequacy Rules Proposal, p. 5 (May 18, 2023).
[8] *Id.* at 3.

BRTM supports the inclusion of these transmission forward showing exceptions, which appear to be based on the exceptions included in the WRAP tariff. However, the counterflow exception should not be limited to State Participants. To the extent that another transmission user—regardless of participation in Oregon or regional RA programs—is expected to transmit electricity over a transmission line in a manner that acts as a counterflow to the State Participant's transmission of electricity, the State Participant should be permitted to employ the exception. Accordingly, BRTM recommends that the counterflow exception be revised as follows:

> Expected counterflow from another ~~State Participant~~ transmission user supports the State Participant's transmission of energy from generation source to load sink.

d. RA Requirements and Transition Charges

Transition charges are designed to protect against "the shifting of costs to pay for investments made by the utility before the customer opted out to those customers that do not opt out."[9] For example, PacifiCorp has a "five-year opt-out program that allows a qualified customer to go to direct access and pay fixed transition charges for the next five years."[10] Following the five years of transition charges, the DA customer is "no longer subject to transition adjustments--for so long as that customer remains a direct access customer (on the Pacific Power system)."[11]

The costs DA customers pay through transition charges includes the costs of capacity once used to serve them but is no longer used for that purpose. Put differently, even though a DA customer is being served by an ESS for their energy and capacity needs, they are still compensating the utility for energy and capacity investments made to serve them. Accordingly, during the period in which a DA customer is paying transition charges, the DA customer and their ESS should be

[9] *Calpine Energy Sols. LLC v. PUC of Or.*, 298 Ore. App. 143, 147 (2019).
[10] *In the Matter of PacifiCorp, dba Pacific Power, Transition Adjustment, Five-Year Cost of Service Opt-out*, Docket No. UE 267, Order No. 15-060, p. 2 (Feb. 24, 2015).
[11] *Id.*

permitted to utilize the capacity previously used to serve the now-DA customer for Oregon RA requirements over and above the ESS's P50 load for that customer. The ESS would be precluded from using any portion of the previous capacity to show resource adequacy up to P50 load for the DA customer; but, while transition charges are being paid, the ESS should be allowed to show compliance with any PRM via capacity the utility procured to serve the DA customer and for which the DA customer is paying transition charges.

Following the conclusion of transition charges, a DA customer should be allowed to continue to purchase RA from their respective utility. Adequate notice to the utility is reasonable, with a viable proxy coming from the Commission's rulemaking in AR 651. Specifically, the Commission is developing a framework in which a DA customer can transition between curtailable and non-curtailable. Staff initially proposed an ability to switch on a yearly basis.[12] BRTM proposed a two-year notice requirement to alleviate Commissioner and utility concern. Whatever timeframe the Commission selects in that context would be a reasonable proxy to use for a DA customer's notice to a utility that it will seek RA service from the utility.

Following sufficient notice, the Commission's rules should require the utility within a certain period of time to: (1) propose a just and reasonable cost-based rate for RA service; (2) present a detailed basis for the proposed rate that allows the DA customer and their ESS to evaluate the utility's methodology; and (3) a proposed contract for RA service. The rules should then permit the parties and opportunity to negotiate the rate within a certain period of time, after which, if no agreement is reached, either party can petition the Commission to set a just and reasonable rate for the service. The ability for a DA customer to purchase RA from the utility is important because it

[12] AR 651, NOPR (proposed rule language for OAR 860-38-0290(6)).

provides optionality, which is consistent with state law,[13] and an additional avenue for ESS compliance with Oregon RA requirements.

e. Staff Questions

Staff requests comment on the following four topics:

1) Including further detail about establishing a PRM;
2) Including further detail about establishing qualifying contribution methods;
3) Including further detail about establishing penalties for non-compliance with Oregon-specific RA requirements; and
4) Ability to begin a "trial run" compliance program for those entities not participating in the WRAP in 2024.

As a general matter, BRTM believes that the WRAP is an appropriate starting point to address each of these issues. Specifically, with regard to a PRM, WRAP employs an LOLE analysis to develop planning reserve margins on a regional or sub-regional basis. PRMs are developed based on season, months within the season, and subregion within the WRAP.[14] This more refined and detailed approach recognizes changing market conditions (load and resource balance and mix). Leveraging the applicable WRAP PRM, to the extent available,[15] will provide well-sourced values and reduce the burden on the Commission and entities complying with state requirements.

[13] Or. Rev. Stat. § 757.646(1).
[14] WRAP FERC filing, Charles Hendrix Aff., ¶ 20.
[15] While BRTM is not aware of whether WRAP will publish PRM values, PRMs applicable to individual WRAP participants will likely not be confidential given that those entities will still be subject to Commission jurisdiction and resource planning requirements. Accordingly, to the extent WRAP's PRMs are not made available, the Commission could simply take the PRMs applicable to all Oregon entities participating in the WRAP and average those values to reach an Oregon RA PRM.

Similarly, qualifying capacity contributions should be based on WRAP values. Indeed, Staff has previously expressed a preference to leverage WRAP capacity contributions.[16] Capacity accreditation is a data and analysis intensive process, and there is good reason to leverage WRAP accreditations. Specifically, the WRAP region includes Oregon, and many Oregon load responsible entities ("LRE") have expressed interest in joining the WRAP. It is highly likely that the resources LREs use to serve load in Oregon will be within WRAP's region, such that WRAP's capacity accreditation would provide accurate regional capacity values.

Regarding the appropriate penalty structure, WRAP utilizes the cost of new entry ("CONE"). BRTM believes that the same penalty structure could be applied in the Oregon RA program. Particularly, the WRAP CONE pricing proposal is based on the annual revenue requirement (capital and fixed operating costs) for a new peaking gas plant. Failure to come into the operational period with sufficient resources may cause reliability issues and leaning on other entities. Accordingly, there is justification to impose penalties based on the estimated cost of generation necessary to fill the deficiency. It is appropriate to establish comparable penalties for non-compliance between the Oregon RA program and WRAP so as to not establish inappropriate incentives with respect to participation in the voluntary WRAP program. Consistent with the WRAP, and as is typical in other jurisdictions, compliance penalty revenues should be distributed to compliant entities.[17]

Last, BRTM recommends that the RA rules take effect in 2025, concurrent with the start of WRAP's binding phase. Following the effective date of these rules, entities subject to Oregon-

[16] Staff's paper entitled "UM 2143 Investigation into Resource Adequacy in the State Process: Updated Process proposal for continuation of UM 2143," p. 7 (Oct. 5, 2022).

[17] WRAP Tariff §§ 17.2.10 ("revenues from the payment of Deficiency Charges as to a Binding Season shall be allocated among those Participants with no Deficiency Charges for that Binding Season, pro rata based on each Participant's share of all such Participants' Median Monthly P50 Peak Loads for such Binding Season.").

specific RA requirements would demonstrate compliance through a filing submitted by April 1, 2025. This is necessary to provide entities sufficient time to investigate WRAP participation and gather the resources and information necessary for either WRAP or Oregon-specific RA requirements.

III. CONCLUSION

BRTM appreciates the thought and time Staff put into developing its updated straw proposal and looks forward to engaging with Staff and other parties as the informal rulemaking process continues.

DATED this 12th day of June, 2023.

/s/ Stephen Greenleaf

Stephen Greenleaf
Senior Director of Regulatory Affairs and Policy, Western U.S.
Brookfield Renewable Trading and Marketing LP
(916) 802-5420
Steve.Greenleaf@brookfieldrenewable.com

/s/ Austin W. Jensen

Austin W. Jensen (OSB #220547)
Laura K. Granier
Holland & Hart LLP
555 17th Street, Suite 3200
Denver, CO 80202
Telephone: (303) 295-8000
awjensen@hollandhart.com
lkgranier@hollandhart.com

ATTORNEYS FOR BRTM

21535091_v3