

**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.

MEMORANDUM

On September 1, 2021, the Public Utility Commission of Oregon held a prehearing conference in this docket. Representatives appeared on behalf of the Alliance of Western Energy Consumers (AWEC), Commission Staff, the Oregon Citizens' Utility Board (CUB), PacifiCorp, dba Pacific Power, PGE, NewSun Energy, LLC, Walmart, Inc., Calpine Energy Solutions, Northwest and Intermountain Power Producers Coalition (NIPPC) and QTS Investment Properties Hillsboro, LLCs. At the pre-hearing conference, the parties proposed a procedural schedule.

Upon review, the Commission believes that the parties' recommendation may not provide an appropriate process or sufficient time to address the various issues under discussion in the parties' straw proposals, or result in an appropriate record that would allow the Commission to render meaningful decisions on all of the different issues raised, given the scale of the straw proposals. The Commission is also concerned that the proposed schedule and process does not provide for a needed review and implementation of new requirements coming from the legislature, which bear upon the Direct Access program. Therefore, the Commission has determined that a phased approach, with a non-contested case portion of the investigation occurring first is appropriate. These phases are intended to allow a more effective definition, narrowing, and processing of the issues in this proceeding, described below.

Phase I: Rulemaking

The first phase of this docket will be in the form of a rulemaking. This phase will eventually result in a set of proposed rules by Staff and AHD to define and clarify discrete, contextual issues that are appropriately able to be addressed in a rulemaking proceeding, and which may be useful to have in place before the Commission decides other elements of the Direct Access (DA) issues raised by the parties. The rulemaking will provide clarity on certain elements of the DA program, which may later form the basis for a second phase, utilizing contested case procedures.

Included in this rulemaking phase will be consideration of requirements stemming from HB 2021 that are relevant to and require development and resolution prior to turning to

certain of the issues raised by the parties. The rulemaking may also consider elements of the parties' straw proposals. The Phase I rulemaking is anticipated to address at least the following issues:

A. Reporting and regulatory issues, including but not limited to:

1. HB 2021 Section 5, which requires ESS filings to include greenhouse gas emissions, projected reductions and progress actions toward clean energy goals. Review of this requirement would also determine when these initial filing requirements will commence.
2. HB 2021, Section 25 introduces a new and required, aggregated supply mix disclosure summary, along with associated emissions of the power sources that serve the direct access retail electricity consumers of electricity service suppliers, and other similar aggregated information as determined by the Commission.
3. Utility indicative pricing displays on websites regarding transition costs for potential DA customers.
4. Firmness of caps (i.e. given issues such as behind the meter load growth).

B. Non-bypassability: public policy & other programs that parties have suggested may be non-bypassable, including but not limited to:

1. Community solar and net metering;
2. Coal or fossil fuel resource decommissioning;
3. Low-income rates & weatherization (and pilot and other non-cost-effective energy efficiency programs);
4. Commission fees;
5. Demand response programs;
6. PURPA generation resources;
7. Tariffs required by HB 2021, HB 2475, HB 3141, HB 2165, and HB 2739.

C. Provider of last resort preliminary issues:

1. Provider of last resort obligations of utilities.
2. Fees and return notice for customers choosing to return to standard service.
3. Issues around planning for capacity to provide service for returning customers.
4. The potential for preferential curtailment to be operationalized.

The rulemaking could take up other issues that are deemed appropriate for rulemaking, as proposed by Staff and informed by parties during the process. The target date for completion of the rulemaking phase would be no later than Q3 2022, depending on scope and development of the issues in the rulemaking process. The Commission notes that its expectation is that resource adequacy will be addressed during this Phase I time frame in UM 2143, a separate Staff investigation.

Upon completion of the rulemaking, a workshop will be scheduled to present and discuss straw proposals for the next phase, as required. Phase II would be expected to consist of a contested case with a procedural schedule with potentially similar elements to those proposed by the parties above.

Phase II: Contested Case Proceeding

The second phase would provide for discovery and development of issues, testimony, hearing and briefs by intervening parties.

The second phase may be likely to include consideration, or further consideration of the following issues:

Issues for decision in Phase II:

- A. Evidence of cost-shifting, and proposals for mitigation and limitations.
- B. Level of and applicability of caps on program size.
- C. Eligibility thresholds for program participation.
- D. Transition cost calculations and structure.

Dated this 1st day of October, 2021, at Salem, Oregon.



Christopher J. Allwein
Administrative Law Judge