

BEFORE THE OREGON PUBLIC UTILITY COMMISSION

IN THE MATTER OF RULEMAKING REGARDING)
DIRECT ACCESS INCLUDING 2021 HB 2021) DOCKET NO. AR 651
REQUIREMENTS.)

COMMENTS OF WALMART INC.

On October 1, 2021, the Oregon Public Utility Commission (“Commission”) opened this Rulemaking to consider requirements stemming from House Bill 2021. On January 12, 2022, the Commission Staff issued a straw proposal. Walmart Inc. (“Walmart”) hereby submits these comments in response to Staff’s straw proposal.

COMMENTS ON PUBLICLY AVAILABLE PRICING

Walmart supports publicly available pricing that supports decision making, including the publication of transition costs. Indicative transition costs¹ should be provided as soon as possible, at least one month before the Direct Access (“DA”) decision deadline. In addition, if there are any material changes to those costs before the deadline, they should be published as soon as possible before the deadline. For example, PacifiCorp only posted transition adjustment data on November 15th, 2021, while the deadline for opting into DA was November 22nd, 2021.² The window between receiving updated pricing and the decision deadline may not align with customer approval processes for opting into DA.

¹ Staff has not proposed in this straw proposal how transaction costs should be calculated. Walmart is interested in having input on this subject and looks forward to this topic being addressed in the future in this proceeding.

² https://www.pacificpower.net/content/dam/pcorp/documents/en/pacificpower/savings-energy-choices/oregon-direct-access/PP_OR_DirectAccess_Booklet_2022.pdf

COMMENTS ON CAPS AND BEHIND THE METER (BTM) LOAD GROWTH

Staff takes the position in the straw proposal that they are amendable to accommodating behind the meter (“BTM”) load growth, subject to all risks being addressed through transition charges, Resource Adequacy, or other mechanisms. Walmart agrees in principle, subject to examination of specific proposals put forth in the future. Accommodating BTM load growth is an important consideration for the Commission, as there could be significant organic BTM load growth attributable to electrification, including EV charging and electric heat, and that load growth should not count against the DA cap. Electrification is consistent with Oregon’s public policy and carbon reduction goals³ and should not impede DA switching or load growth. Additionally, Walmart does not dispute the value of reassessing DA caps annually.

COMMENTS ON NON-BYPASSABILITY

Staff proposes to define non-bypassable charges as “costs that the legislature directs to be recovered by all customers as well as costs determined by the Commission to be associated with implementing public policy goals related to reliability, equity, decarbonization, resiliency, or other public interests.” Additionally, Staff states openness to including a list of conditions in the rule that makes costs associated with a policy non-bypassable, and notes that the contested case phase of UM 2024 is their preferred venue for determination of what charges will be non-bypassable, including charges associated with HB 2021 Section 14.

³ <https://www.oregon.gov/deq/aq/programs/Pages/GHG-Oregon-Emissions.aspx#:~:text=Oregon%20has%20goals%20to%20reduce,strategies%20for%20meeting%20these%20goals.>

Walmart agrees with the first clause of Staff's proposal under which non-bypassable charges include costs directed by the legislature to be non-bypassable. However, Walmart is concerned that the second clause of Staff's proposal appears to give the Commission broad discretion to designate a cost as "associated with public policy" beyond what has been authorized by the legislature. As an example, while HB 2021 Section 14 does not delineate specific costs, it does draw the box around the costs incurred by the utilities for obligations not similarly imposed on Electric Service Suppliers. The rules approved in this docket should not seek to reach beyond the discretion afforded to the Commission by the legislature.

From a customer perspective, these boundaries are needed to ensure that DA customers are not double-charged for costs incurred by both the utilities and Electric Service Suppliers and that benefits incurred from costs incurred by the utilities are matched to the customers paying for those costs. A hypothetical example of a mismatch of costs and benefits would be requiring DA customers to pay for the utility acquisition of or contracting for a renewable resource under the guise of public policy, but not allocating any fuel savings or environmental attribute value to those DA customers.

COMMENTS ON PROVIDER OF LAST RESORT

Staff proposes that utilities may choose to preferentially curtail customers on emergency default service, but only if all other options have been pursued. Walmart opposes this provision for two reasons. First, it essentially positions a customer that has to take emergency default service as an interruptible customer, which, for a retail customer with large refrigeration loads, introduces a significant amount of business risk. Second, it is Walmart's understanding that emergency default service typically lasts five

days,⁴ so on its face this provision appears unnecessary given the short term upon which a customer may be on the service.

COMMENTS ON 2021 ESS REPORTING AND DISCLOSURE REQUIREMENTS

Walmart takes no position on Staff's proposed reporting requirements.

Respectfully submitted this 14th day of February, 2022.

/s/ Vicki M. Baldwin

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