

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 358

In the Matter of)
)
PORTLAND GENERAL ELECTRIC) RESPONSE TO BENCH REQUEST OF
COMPANY,) THE ALLIANCE OF WESTERN
) ENERGY CONSUMERS
)
Advice No. 19-02 (ADV 919) New Load Direct)
Access Program.)
_____)

The Alliance of Western Energy Consumers (“AWEC”) intends to address many of the Commission’s bench requests, issued in the above-referenced docket on September 20, 2019, through cross-examination and briefing and, therefore, will keep this response short. The most important thing for the Commission to keep in mind as it weighs the significant and broad policy issues PGE and CUB raise in their bench responses is the scope of this docket. This docket is only about approving a tariff to implement the NLDA program the Commission mandated in Docket No. AR 614. Therefore, if approved, the RAD would only apply to NLDA customers. The Commission must determine whether that construct is just and reasonable and lawful.

In fulfilling these obligations, it is striking to note how obviously both PGE’s and CUB’s bench responses implicate customers in PGE’s long-term direct access program – a program that is not under consideration in this docket. CUB, for instance, complains of “the subsidy that is built into our current direct access system,” an alleged subsidy that “current[ly]” only applies to LTDA customers as no NLDA customers exist yet. CUB also asserts that

“implementing the RAD is necessary to eliminate the subsidy.” If the Commission agrees with CUB’s analysis, though, then implementing the RAD will clearly not eliminate this so-called subsidy because it will not apply to the very customers CUB alleges are benefitting from it – LTDA customers.

For its part, PGE claims that “the purpose of the RAD is to ensure resource adequacy for *all* customers at *all* times.” “All” customers would presumably include LTDA customers. Moreover, PGE complains in the same response that “[a]llowing one class of customers to benefit from free-ridership while all other customers bear the associated costs is unfair and undermines the reliability of the electric system.” This is a strange statement, since PGE is clearly grouping LTDA and NLDA customers into the same “class of customers” that is allegedly benefitting from free-ridership, even though it has insisted in testimony that “NLDA customers are a distinct class of customers” that “are unlike LTDA customers”^{1/}

PGE’s and CUB’s bench responses lay bare what has been clear from the beginning, that the RIC and RAD charges unlawfully discriminate against NLDA customers because they are both founded on concerns with the LTDA program.

AWEC also recommends that the Commission give CUB’s testimony and its bench responses no weight in its decision on the contested issues in this docket. CUB identifies what it views to be a problem with the current wholesale market and then simply asserts without any evidence that “the RAD is necessary to eliminate the subsidy.” CUB offers no analysis of the RAD itself or alternatives the Commission could adopt. In short, it undertakes no examination of PGE’s proposals in this docket. Oregon courts have been clear that “[b]are

^{1/} PGE/200 at 4:16-18.

conclusions by ... experts cannot be used as a substitute for evidence presented at a contested case hearing.”^{2/} The issues CUB identifies are important and deserve to be fully considered, but in the appropriate docket, such as UM 2024. The Commission should look to the actual evidence submitted in this docket, keeping in mind the docket’s purpose and scope, in ruling on the contested issues.

Dated this 11th day of October, 2019.

Respectfully submitted,

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^{2/} WaterWatch of Oregon, Inc. v. Water Resources Dept., 268 Or. App. 187, 218 (2014).