

**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.

**CLOSING COMMENTS OF PORTLAND  
GENERAL ELECTRIC COMPANY**

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## I. Introduction

Portland General Electric Company (PGE or the Company) appreciates the opportunity to submit closing comments to the Public Utility Commission of Oregon (Commission or PUC) in response to stakeholders' Opening Comments in Phase I (non-contested case phase) of PUC Docket No. UM 2024, submitted March 16, 2020. As we described in our Opening Comments, PGE is dedicated to building Oregon's clean energy future and supporting our customers in meeting their energy needs and goals. We recognize that the energy sector is in the midst of a profound transformation. Clean electricity is fundamental to achieving Oregon's 2035 and 2050 economy-wide greenhouse gas reduction goals, and the fully-regulated, integrated grid is essential to ensuring electricity remains safe, affordable and reliable as we drive toward these goals. With that in mind, Oregon needs to modernize its direct access program to meet the state's objectives and the needs of a decarbonized, integrated energy system. This modernized direct access program must enable customer choice while requiring all participants to contribute, fairly and equitably, to the decarbonized energy system, including resource adequacy and the implementation of public policies through the programs, products and services provided by electric companies.

Oregon's current long-term direct access (LTDA) and new load direct access (NLDA) policy:

- Undermines Oregon's drive towards decarbonization, because Electricity Service Suppliers (ESSs) serving direct access customers do not have to invest in physical renewable resources and can bypass the full costs of resource adequacy necessary to ensure a reliable grid capable of supporting increasingly clean and variable generation; and
- Could negatively impact the reliability of the system, as ESSs are not required to contribute towards resource adequacy and have not definitely demonstrated that they support it; and
- Allows direct access participants to bypass the costs of public policy and legislative requirements, shifting costs to cost-of-service (COS) customers, potentially making the essential service we provide less affordable for our most vulnerable customers, especially in this time of crisis.

The Oregon Citizens' Utility Board (CUB) opening comments recognize the changing landscape: "[...] times have changed since the deregulation debate of the late 1990's. Today, decarbonization is the primary goal of energy regulation."<sup>1</sup> Oregon's energy policy has evolved since direct access was first implemented and there is an essential and ongoing role for the PUC to review its direct

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<sup>1</sup> Oregon Citizen Utilities Board. "Opening Comments". UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 2. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac151142.pdf>. Building on this urgency, on March 10, 2020, Governor Kate Brown issued Executive Order No. 20-004, directing state agencies to reduce and regulate greenhouse gas emissions. The order established an interim 2035 goal to reduce emissions by at least 45% of 1990 levels.

access policy in light of current times. The legislature recognizes and depends upon the PUC's unique expertise to understand and lead changes to help meet policy goals for the benefit of Oregon consumers<sup>2</sup>.

Our Closing Comments address parties' comments on resource adequacy and provide insights on direct access from other states. Our silence on other issues does not represent agreement; we reserve the right to address all issues at the appropriate time. Our key Closing Comment themes are:

- Resource Adequacy Requires Long-Term Planning and Procurement of Physical Assets. The central elements of resource adequacy are planning and acquiring resources over the one to four-year timeframe to maintain reliability. While planning and procuring for resource adequacy can and does facilitate resource sufficiency, resource sufficiency (e.g. actions for the next hour, next day, or next month) in isolation is not an indicator of resource adequacy. We also discuss the role of market purchases in terms of resource adequacy, specifically the distinction between those purchases tied to physical resources and other unspecified short-term wholesale market purchases not backed by physical resources. We conclude our comments on resource adequacy noting the importance of addressing resource adequacy at the state level while ensuring that any state standards or programs developed are in harmony with the Northwest Power Pool's regional efforts.
- The Costs to Customers from Long-Term Direct Access Presently Outweighs the Potential Benefits of Direct Access. A successful retail electricity market requires a regulatory framework that ensures customer protections, reliability, and supports important public policies such as decarbonization. It is also essential that DA customers are not able to bypass the associated costs of these policies. As PGE continues to bring new low-carbon resources onto the grid in furtherance of decarbonization and displacing traditional thermal generation, it is essential that we do so in a way that ensures resource adequacy. There are currently no requirements for the ESSs that serve direct access customers to make long-term investments in the power-system assets necessary to support reliability or meet Oregon's decarbonization goals. This deficiency undermines the Commission's long-term planning and procurement objectives and addressing it requires updating the direct access program.
- Examples from Other States Demonstrate the Need for Changes to Oregon Policy. Stakeholder comments review how California's rapidly growing customer choice framework has resulted in a fragmented retail electric market with fragmented decision-making and a lack of critical regulatory safeguards in place. This perfect storm has threatened California's reliability, affordability, and decarbonization goals. California's

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<sup>2</sup> Enrolled House Bill 3696 (2001 Regular Session). Retrieved from: [https://www.oregonlegislature.gov/bills\\_laws/archivebills/2001\\_EHB3696.pdf](https://www.oregonlegislature.gov/bills_laws/archivebills/2001_EHB3696.pdf)

efforts to move from a one-year forward looking resource adequacy framework to a multi-year requirement are a testament to the need for a critical long-term and integrated planning framework.

## II. Resource Adequacy Requires Long-Term Planning and Procurement of Physical Assets

While resource adequacy can be broadly defined to include reliability needs across a broad time horizon, PGE recommends this docket focus on the main element of resource adequacy: deliberate planning and procurement *one to four years ahead* to ensure there are enough resources to meet load. Resources – including generation, efficiency measures, and demand response or flexible loads – must be identified and procured to serve loads across a wide range of conditions, and with a sufficient degree of reliability, well ahead of the need.<sup>3</sup> Figure 1 outlines how planning for long-term resource adequacy system needs fits into the continuum of reliability, and shows how such advance actions are distinct from the short-term (next-hour and day-ahead) resource sufficiency actions of a market participant or the real-time (and current-hour) system balancing obligations of a Balancing Authority like PGE.



Figure 1- Reliability across different time horizons.

Insufficient resource adequacy planning can have disastrous consequences for the reliability of the system. The Western Electricity Crisis of 2001-2002 is widely believed to have had its roots

<sup>3</sup> Exploring a Resource Adequacy Program for the Pacific Northwest, E3 for the NWPP, October 2019, p.12 [www.nwpp.org/private-media/documents/2019.11.12\\_NWPP\\_RA\\_Assessment\\_Review\\_Final\\_10-23.2019.pdf](http://www.nwpp.org/private-media/documents/2019.11.12_NWPP_RA_Assessment_Review_Final_10-23.2019.pdf)

in resource inadequacy.<sup>4</sup> Resource adequacy is a critical aspect of reliability, and therefore we strongly disagree with the Alliance of Western Energy Consumers’ (AWEC) interpretation that, “[...] the relative importance of resource adequacy and the methods to ensure it should be at the customers choosing as long as the choices made by the customer do not negatively impact other customers [...]”<sup>5</sup> Rather, as PUC Staff (Staff) states, “[l]ong-term resource adequacy in Oregon is addressed through the PUC’s Integrated Resource Planning (IRP)” developed by regulated utilities like PGE through a “robust public process”.<sup>6</sup> Calpine shares a similar position, “[r]esource [a]dequacy regimes require mechanisms for load forecasting and resource and transmission planning and procurement to ensure that forecast requirements can be met.”<sup>7</sup> The majority of stakeholders in this docket acknowledge the need for rigorous planning, implementation, and system operation.

In its opening comments, PacifiCorp describes scenarios where shifting of resource adequacy related costs and risks to cost of service customers is likely due to differences in regulatory framework and requirements, such as planning and procuring:

[i]n the absence of strong regulatory controls, then, these [ESS] providers may “lean” on regulated utilities or other load-serving entities as a (potentially expensive) backstop, or they may simply rely on electricity markets to provide “extra” resources when contingencies occur. Both of these scenarios have the potential to increase utilities’ costs of serving customers and may even threaten reliability if the resources needed to meet contingencies simply do not materialize.<sup>8</sup>

These scenarios and others that may impact reliability are likely to be exacerbated by plant retirements, transmission constraints, and the expansion of large, unplanned loads desiring to participate in the NLDA program. This raises concerns of increasing needs for new capacity at the same time as more load falls outside regulated long-term planning processes. All customers (including direct access) are put at risk of being impacted by a reliability event, particularly in a framework where direct access customers or their ESS have no obligation to plan to avoid such a scenario through a resource adequacy standard. Broadly, PGE supports the Commission’s direction to use this docket to investigate and ensure that “[...] all system participants contribute tangibly to BA RA”,<sup>9</sup> and agrees with NIPPC that resource adequacy “[...] requirements must be

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<sup>4</sup> Northwest Power and Conservation Council, Report on the Energy Crisis of 2002/2001. Retrieved from <https://www.nwcouncil.org/reports/columbia-river-history/energycrisis>

<sup>5</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, Wellinghof-page 23. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>6</sup> PUC Staff. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 10. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac15326.pdf>

<sup>7</sup> Calpine. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 20. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac101614.pdf>

<sup>8</sup> PacifiCorp. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 16. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac151954.pdf>

<sup>9</sup> Public Utility Commission of Oregon. “Order 20-002.” UE 358. Public Utility Commission of Oregon. 7 Jan 2020. Retrieved from <https://apps.puc.state.or.us/orders/2020ords/20-002.pdf>

well-defined and apply equally to all load serving entities [...]”<sup>10</sup> to resolve these gaps in the current direct access framework.

*A. Resource Adequacy and Resource Sufficiency should be considered distinct aspects of Reliability*

PGE believes it is essential for all parties to reach a common definition of resource adequacy and understanding regarding the distinction between resource adequacy and resource sufficiency in order to meaningfully “consider reliability and resource adequacy contributions from all direct access customers” in this docket as the Commission intends.<sup>11</sup> Resource adequacy requires intentional planning one to four years out. Planning is used to inform what resources need to be acquired to ensure there is enough capacity to keep power reliable in a wide array of conditions. Opening Comments suggest there may be confusion on this distinction. For example, Staff states that resource adequacy “[...] can be measured in any time horizon [...]”<sup>12</sup> and Calpine adds that “[r]esource [a]dequacy can be broken down into distinct components, depending on the operations, scheduling or planning time horizons under consideration, which include long-term planning, day-ahead operations, and real-time operations.”<sup>13</sup> While PGE agrees that reliability has many components that respond to needs across different time horizons, it is important to delineate regionally recognized short-term (e.g. next-hour and day-ahead) resource sufficiency obligations or the industry standard real-time (e.g. current-hour) system balancing obligations of a Balancing Authority like PGE, as compared to commonly accepted practices used for long term resource adequacy planning and procurement needs in the one to four-year horizon.

*B. Resource Adequacy Cannot be Provided by Wholesale Market Purchases*

The wholesale market is a short-term energy market designed to facilitate the sale and purchase of surplus energy; it does not provide capacity and it is not a substitute for resource adequacy. PGE recognizes that capacity can be procured from other entities over short durations (e.g. five years); however, in our region, short-term capacity purchases require bilateral procurements from specified resources and systems of physical resources which are materially different from standardized wholesale products that are not backed by identified physical resources. Wholesale energy purchases represent expected (but not guaranteed) surplus energy from the power system under forecasted conditions. The purchases do not guarantee delivery from any specified physical resource. For this reason, it is not appropriate to rely on standardized wholesale energy purchases

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<sup>10</sup> Northwest and Intermountain Power Producers Coalition. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 2. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac145711.pdf>

<sup>11</sup> Public Utility Commission of Oregon. “Order 20-002.” UE 358. Public Utility Commission of Oregon. 7 Jan 2020. Retrieved from <https://apps.puc.state.or.us/orders/2020ords/20-002.pdf>

<sup>12</sup> PUC Staff. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 10. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac15326.pdf>

<sup>13</sup> Calpine. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 21. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac101614.pdf>



as a source of capacity or resource adequacy. They cannot ensure that real physical supply is secured in advance, which should be the purpose of a resource adequacy program.

Resource adequacy cannot be provided through “firm” unspecified source contracts backed by liquidated damage (LD) contracts as suggested by AWEC and Calpine.<sup>14,15</sup> NIPPC echoes this point in its opening comments, “[...] reliance on financial contracts and risk-hedging instruments that do not involve an identified physical asset or Balancing Authority system commitment, can jeopardize reliable electric service, expose customers to high costs, or both.”<sup>16</sup> Calpine goes on to assert that, “[...] while at least one Oregon utility has recently suggested that Firm LD resources cannot support [r]esource [a]dequacy, the long-standing practice in the region is to rely on such resources [...]”<sup>17</sup> PGE does not rely on resources such as Firm LD contracts to provide resource adequacy, and ceased such practice following lessons learned in the Energy Crisis. As they are not backed by a physical resource, it is impossible for such contracts to contribute tangibly to resource adequacy, which is the result of long-term planning and physical resource procurement in the one to four-year time frame.

PGE recognizes that opportunities within the bilateral market exist to procure capacity based on the diversity of various entities loads and resource portfolios. For example, within its IRP process, PGE has accounted for the potential for surplus bilateral capacity in the region to, in part, offset our capacity needs, but as was described in the 2019 IRP and highlighted in other forums, the regional capacity position has shifted and is expected to continue to shift from surplus to deficit in the 2020s due largely to coal plant closures.<sup>18</sup> However, as noted in the IRP<sup>19</sup>, PGE does plan to continue to make use of the short-term wholesale market for energy purchases and sales, noting that “[t]he[se] potential market purchases [for energy] described would not mean that PGE would rely on the market for resource adequacy; rather, the energy available is anticipated to be lower cost than energy from a portion of PGE’s existing and contracted resource portfolio during some parts of the year.”<sup>20</sup>

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<sup>14</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, Wellinghof - page 16. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>15</sup> Calpine. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 21. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac101614.pdf>

<sup>16</sup> Northwest and Intermountain Power Producers Coalition. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, Statement on Resource Adequacy in the Northwest Region - page 1. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac145711.pdf>

<sup>17</sup> Calpine. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 29. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac101614.pdf>

<sup>18</sup> Portland General Electric Company. “PGE’s 2019 IRP.” Portland General Electric. 2019, pages 64-65.

<sup>19</sup> *Id.* at Section 4.4.

<sup>20</sup> *Id.* at page 112.



### *C. Resource Adequacy Requires Intentional Planning and Procurement*

Resource adequacy is an issue that needs to be addressed in advance, not after it becomes a problem. In our Opening Comments, we provided a brief overview of the primary means PGE uses to plan and procure for resource adequacy beginning with our IRP identified need and ending with a request for proposals (RFP) following Commission acknowledgement. While PGE has other tools to ensure resource adequacy, the common elements are intentional planning and procurement; and, many other stakeholders agreed that resource adequacy requires intentional planning and procurement. Both Calpine and AWEC’s comments recognize these critical tools for maintaining resource adequacy.<sup>21, 22</sup>

Based on parties’ opening comments, PGE is optimistic that Staff and stakeholders share a common understanding of essential features of resource adequacy. This alignment should advantage efforts in Phase 3 of this docket allowing collaboration in designing a robust resource adequacy framework for all customers regardless of their supplier.

### *D. Near-term State Solutions for Resource Adequacy Can Protect Customers While Coordinated Regional Programs Develop*

PGE continues to take a leadership role in regional efforts to establish a resource adequacy standard and program through the Northwest Power Pool (NWPP); however, waiting for regional solutions to arise is not in the best interest of customers. Given the importance of maintaining reliable operations of the grid and near-term resource adequacy challenges, we continue to caution against waiting for the regional resource adequacy effort to conclude. The Commission is the appropriate venue to create near-term, necessary resource adequacy compliance requirements identified by the parties and the Commission. In its comments, CUB echoes the caution not to wait for the NWPP, noting the speculative target date to launch a regional RA program, and the lack of regulatory authority.<sup>23</sup>

The NWPP effort spans multiple independent entities across the west who are collaborating to develop a common standard and voluntary program. At this early stage, there exists ambiguity as to whether and how such a standard and program could apply to all load serving entities such as ESSs. While there is still much work to be done in the NWPP effort and PGE is committed to remaining actively engaged to support a regional solution, it is premature to assume that the outcome(s) of the effort will address all resource adequacy related issues such as the equitable apportionment of resource adequacy obligations and costs across and within Balancing Authorities. PGE therefore agrees with Calpine’s assessment that “[...] because Oregon is not

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<sup>21</sup> Calpine. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 25. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac101614.pdf>

<sup>22</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, Wellinghof - page 16-17. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>23</sup> Oregon Citizen Utilities Board. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 10. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac151142.pdf>

[currently] located in an organized market [...] it is appropriate for the Commission to oversee reliability and resource adequacy issues.”<sup>24</sup> And as AWEC notes, “[a]s the Oregon Commission recently found, it is fully empowered to adopt rules defining what an ESS must do to demonstrate that it is able to comply with capacity requirements as a necessary part of a resource adequacy standard.”<sup>25</sup>

Resource adequacy concerns are urgent and must be addressed at the state level now. These efforts should further be harmonized with regional efforts as those progress. Based on the opening comments in this phase of this docket, it appears that there is an level of agreement among the parties on this point.<sup>26,27</sup> Like the Northwest Power and Conservation Council (NWPCC), we look forward to working together with the Commission and other stakeholders toward solutions for the direct access programs that help address the region’s adequacy issues.<sup>28</sup>

### **III. The Customer Costs Associated with Direct Access Are Substantial and Poised to Grow**

There is a long-list of cost-shifts experienced by COS customers following a customer’s decision to participate in direct access. It is important to enumerate those cost drivers and also establish a framework that captures the expanding set of future cost-shifts related to the State of Oregon’s decarbonization and electrification objectives. For example, while the integrated utility framework has promoted new renewable energy generation development since the inception of the renewable portfolio standard (RPS), ESSs have been permitted by Oregon law to meet their RPS compliance for over a decade with cheaper unbundled renewable energy certificates (RECs). The legislature remedied this policy deficiency, requiring ESSs to meet their RPS targets with bundled RECs effective beginning 2021. While this inequity and cost shift has been remedied on a forward looking basis, for the last ten years, PGE’s COS customers have paid higher rates to further the state’s decarbonization policy through supporting the costs for steel-in-the-ground renewables while ESS direct access customers received the benefit of lower rates associated with the cost of unbundled RECs.

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<sup>24</sup> Calpine. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 18. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac101614.pdf>

<sup>25</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, Wellinghof - page 21. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>26</sup> Calpine. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 18. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac101614.pdf>

<sup>27</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, Wellinghof - page 21. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>28</sup> Northwest Power and Conservation Council. “Opening Comments” UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 5. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac151419.pdf>

NIPPC argues that there are “[...] just two categories of issues that could lead to an “undue” level of cost-shifting: (1) costs of generation assets [...] and (2) issues related to resource adequacy.”<sup>29</sup> While we appreciate the acknowledgment of those two categories, the purpose of this docket is to assess the broad impacts of direct access in Oregon. Leaving out costs associated with legislative mandates or policy directives that are bypassed under the current direct access framework would result in an incomplete investigation and record in this docket.

The ensuing discussion of stakeholders’ comments on the potential costs of LTDA and NLDA begins with an assessment of the costs shifted as a result of direct access participants bypassing the costs associated with Oregon’s legislative decarbonization mandates, followed by an exploration of direct access participants’ lack of contributions to the costs of demand response programs and Public Utility Regulatory Policies Act (PURPA) implementation.

*A. Direct Access Participation Imposes Costs by Bypassing Decarbonization Policy*

On March 10, 2020, Governor Kate Brown issued Executive Order No. 20-004, directing state agencies to take actions to reduce and regulate greenhouse gas emissions, setting an interim 2035 goal to reduce emissions by at least 45% of 1990 levels.<sup>30</sup> As CUB rightly states, “[d]ecarbonization is a major policy driver in Oregon utility regulation. The Executive Order makes that clear. But it is a responsibility of all customers, not just cost-of-service customers”.<sup>31</sup> As the system is decarbonized, with firm fossil fuel capacity replaced by variable renewable generation, it is also critical that all electricity providers and customers tangibly contribute to resource adequacy to enable a decarbonized future while maintaining the same level of reliability customers demand for their daily lives. There are currently no requirements for the ESSs serving direct access customer load to do the long-term planning and procurement necessary for resource adequacy; without this requirement they are not necessarily contributing sufficiently to the grid needs necessary to support long-term decarbonization.

Section VIII. D of our Opening Comments described how LTDA and NLDA customers are also able to bypass the costs of other public policies, such as net-metering and Oregon’s community

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<sup>29</sup> Northwest and Intermountain Power Producers Coalition. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 5. Retrieved from <https://edocs.puc.state.or.us/efdocus/HAC/um2024hac145711.pdf>

<sup>30</sup> Office of the Governor. “Executive Order No. 20-04”. State of Oregon. 10 Mar 2020. Retrieved from [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_20-04.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf)

<sup>31</sup> Oregon Citizen Utilities Board. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 7. Retrieved from <https://edocs.puc.state.or.us/efdocus/HAC/um2024hac151142.pdf>

solar program, both legislatively mandated public policies.<sup>32</sup> PGE agrees with CUB’s observation that:

[a]sking residential and small commercial customers to pay for state-mandated programs that are part of Oregon’s efforts to reduce carbon emissions while allowing other customers to avoid paying for these programs is unfair and shifts the burden of decarbonization onto small customers.<sup>33</sup>

PGE also believes that bringing new clean resources onto the grid supports the intent of Oregon’s Clean Electricity and Coal Transition Plan<sup>34</sup>, displacing thermal generation and leading to earlier coal plant retirements. The earlier retirement of coal leads to accelerated depreciation of the asset, and as CUB articulates, “[i]f direct access had not been implemented, the customers currently on direct access would pay their share of the accelerated depreciation. Because of direct access, this cost is shifted to other customers.”<sup>35</sup> This aligns with the findings we presented in Section VII.B.1 of our Opening Comments: LTDA customers only pay the Boardman Power Plant Decommissioning Adjustment for the five years they are paying the transition cost (NLDA customers do not contribute at all). And, as CUB points out that “[...] it is not clear whether sufficient funds have been collected historically [for Boardman decommissioning] and, if they have [not], whether current customers may be on the hook for the additional costs.”<sup>36</sup>

LTDA and NLDA customers are able to bypass the costs of legislative mandates including net-metering, Oregon’s community solar program, and the costs of accelerated coal retirement resulting from the Clean Electricity and Coal Transition Plan. This unfairly shifts the costs of Oregon’s decarbonization policies onto cost-of-service customers.

### *B. LTDA and NLDA Customers are able to Bypass Legislative Public Benefit Mandates*

Our Opening Comments noted that neither NLDA customers nor LTDA customers are subject to costs associated with PGE’s demand response programs (Schedule 135), which the legislature has stated benefits public health, safety, and the environment.<sup>37</sup> CUB adds that the NWPCC “[...] has identified demand response as a critical resource to meet the reliability needs of the region [...]”, while direct access customers can “[...] escape from paying for a share of these costs, even though

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<sup>32</sup> Since submitting Opening Comments, on April 23, 2020 PGE filed Advice 20-09, updating tariff Schedule 136, with the OPUC. The update requests that long term and new load direct access customers contribute to the costs of Oregon’s Community Solar Program.

<sup>33</sup> Oregon Citizen Utilities Board. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 7. Retrieved from <https://edocs.puc.state.or.us/efdcs/HAC/um2024hac151142.pdf>

<sup>34</sup> 78th Oregon Legislative Assembly. “Enrolled Senate Bill 1547.” Oregon State Legislature. 2016. Retrieved from <https://olis.leg.state.or.us/liz/2016R1/Downloads/MeasureDocument/SB1547>

<sup>35</sup> Oregon Citizen Utilities Board. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 7. Retrieved from <https://edocs.puc.state.or.us/efdcs/HAC/um2024hac151142.pdf>

<sup>36</sup> *Id.* at page 8.

<sup>37</sup> Portland General Electric. “Opening Comments” UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 28. Retrieved from: <https://edocs.puc.state.or.us/efdcs/HAC/um2024hac154125.pdf>

they will realize a system benefit.”<sup>38</sup> This further emphasizes the extent to which LTDA and NLDA customers are able to bypass the costs associated with public policies that realize a system-wide benefit.

Section VIII.D of PGE’s Opening Comments also described how LTDA and NLDA customers can bypass the costs of the Company’s obligations under PURPA, concluding that “[a]fter the five-year transition adjustment period, LTDA customers can bypass the risks associated with PURPA policies implemented while they were on COS, while NLDA customers are completely insulated from PURPA’s costs [...]”<sup>39</sup> In addition, CUB observed that Oregon expects utilities to use competitive bidding before they build or buy new resources, with QFs being the exception, priced at avoided cost. Given the more vigorous process of competitive bidding, CUB observes that QFs are regularly more expensive than other power supply. Without direct access the above market costs of QFs would be spread across the entire load in the service territory. With direct access, those costs are shifted to be the sole responsibility of cost-of-service customers.<sup>40</sup>

LTDA and NLDA customers are able to bypass the costs of PGE’s demand response programs, even though such programs realize a system benefit. In addition, these direct access participants are able to avoid the costs of PURPA implementation, among other mandated public purpose programs.

#### **IV. Examples from Other States Demonstrate the Need for Changes to Oregon Policy**

Taken together, stakeholders provided a valuable survey of how other states are managing customer choice and access to wholesale markets for different customer classes, highlighting what has worked well, and suggesting how these findings could be applied to Oregon. PGE’s survey aimed to show the full timeline of changes in other states, illustrating how programs have evolved to include increasingly prescriptive regulations, especially with regard to resource adequacy. PacifiCorp summarizes the situation well:

[i]n short, the complex, multi-level regulatory schemes of partially deregulated markets can create vexing issues in partially deregulated states like Oregon, California, and Nevada, where, instead of tackling the issues of cost shifting in a holistic and dispositive manner, state commissions are tasked with continually addressing the transitional issues related to

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<sup>38</sup> Oregon Citizen Utilities Board. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 8. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac151142.pdf>

<sup>39</sup> Portland General Electric. “Opening Comments” UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 32. Retrieved from: <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac154125.pdf>

<sup>40</sup> Oregon Citizen Utilities Board. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 8. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac151142.pdf>

the partial and potentially temporary migration of customers, while still maintaining a fair and functional regulated market.<sup>41</sup>

AWEC also concludes that lessons from California have shown that “[...] the deeper the CPUC [California Public Utility Commission] has gone into the weeds of direct access issues, the more controversial its decisions and these programs have become.”<sup>42</sup> Our Closing Comments in this section focus on the relevance of California’s perpetual Power Cost Indifference Adjustment (PCIA) charge for Oregon, and the role of market purchases in California’s resource adequacy program. Finally, we clarify the role of market purchases in Nevada’s direct access program and conclude it is too early in Nevada’s process to identify any lessons for Oregon.

*A. Before a Robust Resource Adequacy Program, Reliability in California was Threatened by the Rapid Expansion of Customer Choice Options and Lack of Regulatory Oversight*

Our Opening Comments discussed California as an example of an evolving partially deregulated market that has established a resource adequacy program to ensure all load serving entities (LSEs) contribute to capacity costs.<sup>43</sup> California’s resource adequacy program was established in 2004, but since then the state has experienced a rapid expansion in the number of LSEs, largely driven by community choice aggregators (CCAs).<sup>44</sup> CCAs became part of the resource adequacy program in 2018, but the increasing fragmentation of the system and lack of any long-term procurement requirement for both CCAs and ESSs led to many of them failing to meet critical resource adequacy requirements and consequently needing waivers from their resource adequacy obligations.<sup>45</sup> After multiple years of mostly CCAs and ESSs failing to fulfill critical one-year forward looking resource adequacy requirements, the CPUC has now required all LSEs to adopt a minimum three-year forward resource adequacy requirement beginning in 2020.<sup>46</sup>

Additionally, California’s annually updated (but perpetual) Power Cost Indifference Adjustment (PCIA) charge is a further example of efforts to ensure all customers pay their fair share of costs to maintain the system irrespective of their service provider.<sup>47</sup> The PCIA charge is paid by ESS and CCA customers departing from their incumbent IOU to account for long-term investments, such as building power plants and entering into long-term power purchase agreements, made by

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<sup>41</sup> PacifiCorp. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 3. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac151954.pdf>

<sup>42</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 11. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>43</sup> Portland General Electric. “Opening Comments” UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 35. Retrieved from: <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac154125.pdf>

<sup>44</sup> *Id.* at page 36.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at page 38.



the IOU on behalf of customers.<sup>48</sup> The PCIA charge ensures that remaining IOU customers are not straddled with high costs incurred by the utility when it planned for a much larger customer pool. As illustrated in California, loss of load is justification for a perpetual PCIA-like charge. Approximately 36% of eligible PGE load has left cost-of-service for LTDA, and absent a mechanism to address cost shifts to COS customers and caps, the additional effects on COS customers in Oregon could be staggering.

Further, AWEC states that California’s resource adequacy program may be instructive for Oregon, “[...] particularly as it investigates the ability of market products, like firm liquidated damages contracts, to provide resource adequacy.”<sup>49</sup> AWEC adds that CAISO is working on an initiative that aims to “[...] ensure that RA imports are backed by physical capacity and reserves with firm transmission delivery”.<sup>50</sup> As we discussed in our Opening Comments, short-term transactions in the wholesale energy markets are primarily “hub-delivered” with no specified resource and with “only liquidated financial damages as remedy for failure to perform”.<sup>51</sup> Without such assurances, a seller could commit to providing physical delivery of power without identifying any source of supply at the time the transaction is executed.

Resource adequacy, and as a result, reliability in California has been threatened due to fragmented decision-making and the rapid expansion of LSEs and CCAs without a clear regulatory framework in place. Oregon, in contrast, has the opportunity in this docket to learn from the mistakes of other states and develop such a robust framework that will both support customer choice while protecting COS customers. With regard to the specifics of a resource adequacy program, California’s strict requirements for market purchases and multi-year forward looking resource adequacy could inform a standard for Oregon.

*It is too soon to Determine if Nevada’s Inclusion of Market Purchases as a “new electric resource” has Impacted Resource Adequacy*

As both PGE’s and AWEC’s Opening Comments discuss, Nevada’s direct access program (Nevada Revised Statutes 704B) has evolved significantly since it was designed in the 1990s to bring new resources to the system in response to volatile energy markets.<sup>52</sup> Responding to an influx of applications from large electricity users to exit utility cost-of-service, Nevada legislators

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<sup>48</sup> California Public Utilities Commission. “Power Charge Indifference Adjustment.” Jan 2017. Retrieved from: [www.cpuc.ca.gov/uploadedfiles/cpuc\\_public\\_website/content/news\\_room/fact\\_sheets/english/pciafactsheet010917.pdf](http://www.cpuc.ca.gov/uploadedfiles/cpuc_public_website/content/news_room/fact_sheets/english/pciafactsheet010917.pdf)

<sup>49</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 13. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>50</sup> *Id.* at page 9.

<sup>51</sup> Portland General Electric. “Opening Comments” UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 19. Retrieved from: <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac154125.pdf>

<sup>52</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 13-21. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>



enacted significant policy changes with the passage of SB 547 in 2019.<sup>53</sup> AWEC notes that while the requirement for direct access suppliers to be “providers of specific new electric resources” previously excluded market purchases that came from the utility,<sup>54</sup> the decision was reversed in 2016 to allow market purchases to count as a new electric resource so long as they were “[...] not directly sourced from a Nevada Power generation asset [...]”,<sup>55</sup> and the 2019 amendments “[...] clarif[ied] that market purchases qualify as a “new electric resource””.<sup>56</sup> Given the nascency of the Nevada change, it is not surprising that as AWEC notes, “[...] there have been no ongoing resource adequacy charges imposed to date” on exiting load customers in Nevada.<sup>57</sup> In June 2019, Nevada’s SB 547 updated the requirements for providers of new electric resources,<sup>58</sup> with the proposed draft regulations only recently submitted,<sup>59</sup> with a workshops held just last week.<sup>60</sup> Insufficient time has passed in Nevada to determine if recent changes in legislation and regulation allowing market purchases to count toward resource adequacy will result in problems.

## V. Conclusion

PGE appreciates the opportunity to submit Closing Comments in this proceeding and looks forward to the Commission workshop to identify areas for collaboration in the next phases of this docket. We offer the following concluding thoughts:

- A broad investigation into the 1999 era direct access program, necessarily must consider the different energy landscape that exists now with its focus on decarbonization and an equitable and affordable transformation to clean energy. The landscape includes retirement of coal generation replaced with increasing variable renewable generation, which brings reliability and resource adequacy into renewed focus. This investigation is right to include whether ESSs or their direct access customers, meaningfully contribute to resource adequacy, and if not, how they should contribute. PGE agrees and supports the Commission’s expectation that all system participants should contribute to RA. The updated direct access choice should have all customers contributing to the decarbonized energy system and resource adequacy.

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<sup>53</sup> Portland General Electric. “Opening Comments” UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 38. Retrieved from: <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac154125.pdf>

<sup>54</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 13-21. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>55</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, page 19. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>56</sup> *Id.* at page 20.

<sup>57</sup> Alliance of Western Energy Consumers. “Opening Comments”. UM 2024. Public Utility Commission of Oregon. 16 Mar 2020, Wellinghof-page 23. Retrieved from <https://edocs.puc.state.or.us/efdocs/HAC/um2024hac161028.pdf>

<sup>58</sup> 80<sup>th</sup> Nevada Session. Senate Bill 547, Passed June 2019. Retrieved from <https://legiscan.com/NV/bill/SB547/2019>

<sup>59</sup> Public Utilities Commission of Nevada. “Proposed Regulation – LCB File No. R029-20I”. Docket No. 19-06029. Submitted 4 Mar 2020. Retrieved from <https://www.leg.state.nv.us/Register/2020Register/R029-20I.pdf>

<sup>60</sup> Public Utilities Commission of Nevada. Letter to Confirm Court Reporter will be present at Workshop on April 29, 2020. Docket No. 19-06029. 27 Mar 2020. Retrieved from: [http://pucweb1.state.nv.us/PDF/AxImages/DOCKETS\\_2015\\_THRU\\_PRESENT/2019-6/44791.pdf](http://pucweb1.state.nv.us/PDF/AxImages/DOCKETS_2015_THRU_PRESENT/2019-6/44791.pdf)

- In answering the contribution question, we must collectively come to an understanding of what resource adequacy is, and what it is not. As noted, resource adequacy takes place over the longer-term, one to four years, and requires intentional planning and procurement. Whereas, hourly and next-day resource actions are in support of resource sufficiency, which may complement resource adequacy, they are not a substitute.
- There is urgency in having the Commission address resource adequacy at the state level in this docket, and not wait for the NWPP process. PGE is confident that can occur while ensuring that Oregon standards and programs are kept in harmony with regional efforts.
- With regard to other costs and benefits of direct access, and the need to modernize the direct access program in Oregon, PGE encourages the Commission to examine policy mandates that further important energy policy goals, with an eye toward fairness and equity for the customers who pay for them. As noted in both rounds of comments, cost shifting is occurring, and costs are avoided when large nonresidential customers choose an ESS supplier. When costs are avoided, they still exist and the number of customers who bear the costs, i.e. cost of service customers, becomes smaller thereby increasing the burden of these costs. This is unfair. As all customers share in system and other benefits of these policies, so should they share in the costs.
- The experience in California provides several lessons for Oregon and we should both honor and learn from their lessons: the importance of developing a resource adequacy framework for all load serving entities to ensure reliability and customer protections; customer choice fragments the existing energy system and without regulatory safeguards in place, customers can be placed at risk; the importance of strict requirements around market purchases and resource adequacy, and the PCIA approach for fair contributions to the system.

Thank you again for the opportunity to comment.

Dated this 6th day of May 2020.

Respectfully Submitted,

*/s/ Karla Wenzel*

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