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Via Electronic Filing

Public Utility Commission of Oregon
Attention: Filing Center
P.O. Box 1088
Salem, OR 97308-1088

**Re: UM 1953 – PORTLAND GENERAL ELECTRIC COMPANY, Investigation into
Proposed Green Tariff**

Dear Filing Center:

Enclosed is Portland General Electric Company's Opening Brief for filing in the above-referenced docket.

Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Loretta Mabinton".

Loretta Mabinton
Associate General Counsel

LM: bp

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1953

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Investigation into Proposed Green Tariff.

**OPENING BRIEF OF PORTLAND
GENERAL ELECTRIC COMPANY**

Pursuant to the schedule contained in Administrative Law Judge Arlow’s memorandum and ruling issued on October 16, 2020, Portland General Electric Company (“PGE”) submits this opening brief in this proceeding. PGE requests that the Public Utility Commission of Oregon (“Commission” or “OPUC”) approve PGE’s request to increase the size of its Green Energy Affinity Rider (“GEAR”) Tariff from 300 megawatts (“MW”) to 500 MW, reaffirm the Commission’s flexible approach in applying the nine conditions to the GEAR, and revise the nine conditions for prospective utility offerings of voluntary renewable energy tariffs (“VRETs”) as provided below.

I. BACKGROUND

Since the conclusion of Phase 1 and issuance of OPUC Order 19-075, Governor Brown issued her Executive Order on March 10, 2020, directing state agencies to take actions to accelerate the reduction of greenhouse gas emissions in Oregon.¹ The offering of additional renewable energy resource products in the market, including those by utilities, for customers would further this objective and the Executive Order provides important contextual framing here.

¹ Or. Exec. Order No. 20-04 (Mar. 10, 2020), https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf

In Order No. 19-075, the Commission provided a detailed background of this proceeding.² The Commission then went on to direct that “As part of Phase 2 of this proceeding, [the Commission] will review and reconsider the nine conditions for VRET program development we identified in Order No. 16-251. [The Commission] see[s] a need to assess changes in Oregon's competitive electricity supply market and in the renewable energy development marketplace since 2016 as part of a reconsideration of the nine conditions.” In approving PGE's GEAR, the Commission called out its flexibility in applying the nine conditions and did not require exactly the same terms as the Direct Access (“DA”) program.³ The Commission opined that where there were significant differences in the ways a utility offering and the DA program affect cost-of-service (“COS”) customers, different terms and conditions of the programs may be warranted.⁴

It is important to remember that the nine conditions were originally adopted in OPUC Docket No. UM 1690 when there was no specific proposal for the Commission to consider. The record in that docket reflects concerns by the OPUC Staff (“Staff”) and other stakeholders regarding the potential for a utility to offer a VRET where a customer is removed from COS and enters into an agreement that is structured like a DA offering. In such instances, some stakeholders were concerned that the VRET would: 1) compete with and offer a lower price than DA; and 2) leverage the utility’s monopoly position and involve cost shifting. These concerns are not warranted under PGE’s current VRET program.

² UM 1953, Order No. 19-075 (Mar. 5, 2019) at 1-4.

³ *Id.* at 8: “As part of Phase 2 of this proceeding, we will review and reconsider the nine conditions for VRET program development we identified in Order No. 16-251. We see a need to assess changes in Oregon's competitive electricity supply market and in the renewable energy development marketplace since 2016 as part of a reconsideration of the nine conditions. In approving PGE's program, we apply flexibility in applying the nine conditions, because we do not require exactly the same terms and conditions as the Direct Access program.”

⁴ *Id.* at 8.

In Order No. 19-075, the Commission noted that: “A review of the nine conditions is appropriate in light of these differences and the clarity offered by a specific proposal from PGE.”⁵ The Commission approved tranche 1 of PGE’s GEAR as a 300 MW program and ordered the second phase of the proceeding to allow for Parties⁶ and the Commission to examine the following issues, among others: credit calculation, reassessment of previously adopted conditions, and the participation limitations, if any. Given how quickly customers filled the first tranche, PGE is requesting in this Phase 2 an increase in program size and for the underlying resource to serve tranche 2 subscriptions to be either via a power purchase agreement(s) (“PPAs”), utility-owned resource(s), or a combination thereof. Although the Parties participated in several workshops and settlement discussions regarding the Phase 2 issues, no agreements were reached.⁷

II. DISCUSSION

In this Section II, PGE articulates why its requests regarding the GEAR are reasonable and in the public interest, and addresses other issues that are included in the Commission’s scope for Phase 2:

(A) The GEAR Program

- Program size
- Customer Supply Option (“CSO”) participation limitations
- Program costs

⁵ *Id.* at 8.

⁶ The Parties to this proceeding are the Public Utility Commission of Oregon (OPUC or Commission), Staff (OPUC Staff or Staff), the Alliance of Western Energy Consumers (AWEC), Calpine Energy Solutions, NW Energy Coalition, Renewable Northwest (RNW), the Oregon Citizens’ Utility Board (CUB), the Northwest and Intermountain Power Producers Coalition (NIPPC), PacifiCorp (PAC), Avangrid Renewables, Walmart Stores, Inc., and Sam’s West, Inc.

⁷ While no settlements were reached, there appear to be several issues that Parties, with the exception of NIPPC, appear to agree on. See PGE 800/Wenzel-Faist/3-5 for discussion of those issues that include Condition 2 addressing Renewable Energy Certificate (“REC”) retirement; Condition 3 noting how new a renewable generating resource would be to be eligible to serve a VRET resource; and Condition 4 stating VRET program size for PGE and stating program size based on the nameplate of the generation rather than customer load. There was no mention in Parties’ testimony of maintaining Condition 9 to ensure Commission review and public availability of a VRET offering, thus suggesting agreement among the Parties. Similarly, Staff is the only Party testifying on our proposal that the interim transmission solution outlined in PGE’s 2019 Integrated Resource Plan (“IRP”) Addendum be applied to GEAR procurement and supports PGE’s proposal.

- Credit calculation
- (B) Reassessment of the Commission’s Original Nine Conditions to be Applied Prospectively
- Condition 4 - Program Cap
 - Condition 6 - The Mirroring Condition
 - Condition 7 - Utility Ownership
- (C) Other Requests
- Post Phase 2 Process
 - Transmission
 - Integrated Resource Plan
 - Competitive Bidding Rules (CBRs)

A. The GEAR Program

1. *Program Size*

PGE’s GEAR is a COS rider and currently authorized by the Commission as a 300 MW program. Given some confusion in this docket about the size of the program, PGE clarified in testimony that the 300 MW tranche 1 cap is based on the nameplate capacity of the renewable resource generation facility and not on customer load.⁸ Similarly, the 200 MW increase PGE is requesting would be based on nameplate capacity of the renewable generation. PGE notes that the total of 500 MW is less than the 300 aMW program size limit provided for in Condition 4.⁹ Importantly, should the Commission allow greater customer participation to a new 500 MW cap, this will still be lower than PGE’s significantly larger Long-Term Direct Access Program cap of 300 aMW and New Load Direct Access Program of an additional 119 aMW. Translated, PGE’s combined DA program is approximately 1,000 MW, which is more than three times the size of the currently authorized GEAR and double the size of the requested 500 MW.

⁸ PGE/800, Wenzel-Faist/32 and 35.

⁹ PGE 800/Wenzel-Faist/16.

The record in this proceeding shows clear customer demand for a second tranche of the GEAR. As stated in PGE’s testimony, there is ample customer demand for the GEAR as the 300 MW has been fully subscribed and there are customers waiting for the next tranche of available GEAR product.¹⁰ As NIPPC’s witness, Mr. Spencer Gray, testified at the October 8, 2020 hearing in this proceeding, “NIPPC is comfortable with the Commission increasing the program cap for the VRET for the first phase of it in Oregon, because of the interest in customers in receiving that kind of service.”¹¹

Therefore, PGE requests that the Commission approve the GEAR as a total of 500 MW and approve that PGE can procure the least cost, least risk resource(s) to support tranche 2 under a PPA(s), utility-owned resource(s) or a combination thereof. In addition, PGE requests that the Commission approve a streamlined 90-day regulatory process, as articulated in PGE’s testimony, that will permit PGE to respond to customers’ future demands for the GEAR product under the CSO once tranche 2 is full.¹²

2. *Customer Supply Option (“CSO”) Participation Limitations*

The Commission should uphold the Phase 1 approved participation limits for the CSO with the option for a smaller size customer to seek a waiver.¹³ Pursuant to enabling legislation, the GEAR is designed to serve nonresidential customers only, and the CSO of the program is available to customers larger than 10 aMW.¹⁴ PGE testified that this size limitation was necessary to manage the number of CSO applications it has to deal with and limit the administrative costs of

¹⁰ PGE/700, Wenzel-Halley/6 and 13.

¹¹ UM 1953 - Corrected Hearing Transcript at 13. In addition, RNW and Walmart support the increase in program size.

¹² PGE/800, Wenzel-Faist/48-49.

¹³ Order 19-075 (Mar. 5, 2019) at 8. Commission approved PGE’s proposal to set the CSO participation limit at 10 aMW and take up Walmart’s argument to allow participation on a 5aMW basis in the second phase.

¹⁴ Oregon House Bill (HB) 4126 (2014).

<https://olis.leg.state.or.us/liz/2014R1/Downloads/MeasureDocument/HB4126>.

the program.¹⁵ During the course of this proceeding, Staff suggested that customers below 10 aMW be allowed to petition the Commission for approval in the CSO on a case-by-case basis.¹⁶ PGE supports Staff’s proposal as it strikes a balance between PGE’s control of administrative costs and its understanding, based on tranche 1 experience, of the needs of the majority of customers. In addition, it provides an opportunity for unique customers with loads below 10 aMW, who may have the experience, ability, opportunity, and specific interest in finding their own resource to participate in the CSO.¹⁷ PGE respectfully requests that the Commission reaffirm the customer participation size in the GEAR and allow for PGE to modify its tariff to provide customers the option to file for a Commission waiver to participate in the CSO with a load below the 10 aMW threshold.

3. *Program Costs*

In compliance with the legislative directive in House Bill (“HB”) 4126 that all costs and benefits associated with a VRET be borne by the nonresidential customer receiving service under that tariff, PGE designed the GEAR to account for all costs associated with delivering the program.¹⁸ Participating customers in the GEAR remain on COS, meaning that they pay all costs of receiving service from PGE including costs under supplemental tariffs and riders. The intent of the program design, given the COS rider structure and added administrative fee, is to ensure that there is no cost shift to nonparticipants. Some examples of how the GEAR prevents cost shifting are:

¹⁵ PGE/800, Wenzel-Faist/36.

¹⁶ Staff/400, Gibbens/46.

¹⁷ See PGE/800, Wenzel-Faist/36.

¹⁸ Oregon House Bill (HB) 4126 (2014), <https://olis.leg.state.or.us/liz/2014R1/Downloads/MeasureDocument/HB4126>.

- **Administrative Fee:** The GEAR’s administrative fee is designed to capture the direct and indirect costs associated with the GEAR not already captured in the resource price and have those borne by participating customers. The direct costs of the program are tracked and reflected in the cost of implementation and operation of the GEAR program. The indirect costs are captured through the use of an overhead allocation. Both costs are discussed in PGE’s Supplemental Response to NIPPC Data Request No. 007 and at the hearing, identified as Calpine Exhibit 202¹⁹ in the record. The administrative fee is based on a forecast of the direct costs to support the GEAR. For example, the customers that subscribed to the first tranche will begin to receive service after the renewable generation facility is built and operational, currently estimated to be late 2021. This forecasting method is consistent with and informed by PGE’s successful administration of its existing voluntary portfolio renewable product options, dating back to 2003, which was also designed to separate the costs so that subscribers paid them and they were not shifted to non-subscribing customers.²⁰ The indirect costs are, by definition, more difficult to forecast and so loadings and allocations were applied to each dollar of forecasted direct labor costs over the life of the program.²¹ Loadings and allocations are standard business practices across industries for capturing indirect costs.²² As PGE described in Calpine Exhibit 202, labor loadings were applied to reflect labor-related costs such as employee benefits and payroll taxes.²³ Next, a

¹⁹ UM 1953 - Corrected Hearing Transcript at 125.

²⁰ UM 1953 - Corrected Hearing Transcript at 96.

²¹ UM 1953 - Corrected Hearing Transcript at 97.

²² UM 1953 - Corrected Hearing Transcript at 64.

²³ See Calpine Exhibit 202 and UM 1953 Corrected Hearing Transcript at 100-101.

corporate governance allocation was applied to capture the indirect support costs. This represents a fair and reasonable approach to capture the indirect costs because:

- (i) Although the structure of the corporate governance allocation does not include the legal and regulatory departments, it includes many other PGE administrative activities which will not be supporting the GEAR.²⁴ Consequently, it adequately serves as a reasonable and conservative proxy for the two departments.²⁵
 - (ii) The indirect support costs and, in particular, the legal and regulatory costs are primarily incurred during the setup and implementation of a specific tranche; whereas, the corporate governance allocation is applied to all direct labor costs over the entire life of the program.²⁶ This, in effect, levelizes those front-loaded costs while ensuring that subscribing customers pay all of the costs of the program.
- **Risk Adjustment Fee:** The Risk Adjustment Fee is designed to ensure that the risks associated with the program are borne by participating customers. As PGE's witnesses testified, the breadth of risk, beyond those explicitly acknowledged by the Commission in Phase 1, brought to PGE by the GEAR, should be borne by

²⁴ UM 1953 - Corrected Hearing Transcript at 98. At the hearing, PGE's witness provided some examples of these administrative activities which include: supply chain support, disbursements and receivables, asset accounting, controllers, corporate planning, financial planning and forecasting, financial operations, recovery claims, corporate planning operations, internal audit, power cost forecasting and analytics, mid-office operations, insurance and claims risk management, corporate finance, records and information management, financial and resource forecast, HR, and consulting services.

²⁵ UM 1953 - Corrected Hearing Transcript at 98.

²⁶ UM 1953 - Corrected Hearing Transcript at 97 and 102.

subscribers via the risk adjustment fee.²⁷ PGE has offered two approaches for how to calculate the risk adjustment fee:²⁸

1. Use a flexible calculation that considers the specific risks introduced at the time of an offering but with a cap of 10% of the PPA price; or
2. Use the lower of the cost of debt or cost of equity, but again capped at 10% of the PPA price.

Either approach will provide PGE shareholders compensation for the additional risk that the program introduces and will insulate non-participating customers from possible changes to the utility's cost of capital that could result if compensation for the additional risk is not established.

4. *Credit Calculation*

For all of the reasons detailed in PGE's testimony,²⁹ PGE requests the Commission approve the continued application of the method from tranche 1 to tranche 2 (and any subsequent tranches) that fixes the energy and capacity credit values at the time of subscriber commitment.³⁰ During the October 8, 2020 hearing in this proceeding, Chair Decker asked questions regarding the calculation of these credits.³¹ PGE appreciates Chair Decker's questions at the hearing and reiterates that the fixed credit methodology is an important product design feature providing certainty for GEAR subscribers in program attributes and costs. The desire for certainty came from customers, especially those without professional energy managers, who would view price

²⁷ UM 1953 - Corrected Hearing Transcript at 35.

²⁸ See PGE/800, Wenzel-Faist/38-40 and PGE/802, Wenzel-Faist/1-4.

²⁹ See PGE/800, Wenzel-Faist/40-41.

³⁰ The Commission in Order 19-075 found the approach reasonable after discussing credit forecast uncertainty and the potential for credit values to fall below COS rates. The Commission would allow a case by case determination of a floating credit methodology for CSO customers and noted that would provide the opportunity to gain experience with allocating risks and benefits that then could inform future program design. *See* Order 19-075, (Mar. 5, 2019), at 5-6.

³¹ UM 1953 - Corrected Hearing Transcript at 119-121.

uncertainty or fluctuation as too great a risk to assess.³² In addition, not fixing the credits could result in a cost savings from COS and PGE views this as a premium product that is in addition to COS prices.³³ Should the Commission be inclined, rather than change the credit to a floating credit now, PGE supports the Commission’s outcome in Order 19-075 to allow a case-by-case floating credit request from CSO customers and gain experience there before changing the program design.

For all the reasons discussed in this Section II. A, PGE requests that the Commission (1) reaffirm that PGE’s GEAR program design is reasonable and in customer’s interest, and (2) acknowledge, consistent with Condition 8, the costs of the GEAR program be borne by GEAR participants and approve a risk adjustment fee that incorporates all program risks to fully insulate non-participating COS customers from the risk associated with the GEAR.

B. Reassessment of the Commission’s Original Nine Conditions to be Applied Prospectively.

In Order No. 15-405, the Commission adopted the nine conditions to “...address the threshold question in the statute: ‘whether, and under what conditions, it is reasonable and in the public interest to allow electric companies to provide [VRETs] to nonresidential customers.’”³⁴ In Order No. 19-075, the Commission determined that it is in the public interest for PGE to provide the GEAR and outlined its desire to “review and reconsider the nine conditions” in this Phase 2 proceeding.³⁵ Since 2015, when the Commission adopted the original nine conditions, much has happened in the renewable resource development market, opportunities for the competitive retail market, and PGE offering a VRET (i.e. the GEAR).³⁶ These show the existence of robust market

³² UM 1953 - Corrected Hearing Transcript at 119-121.

³³ UM 1953 - Corrected Hearing Transcript at 119.

³⁴ *In the Matter of Public Utility Commission of Oregon, Voluntary Renewable Energy Tariffs for NonResidential Customers*, Docket UM 1690, Order No. 16-251 (Jul. 5, 2016) at 10.

³⁵ UM 1953, Order No. 19-075 (Mar. 5, 2019) at 8.

³⁶ PGE/800, Wenzel-Faist/9-10.

opportunities, no significant impact of a VRET offering on the competitive market, and clarity that there can be significant differences between a VRET and the DA program. The current context merits updating the nine conditions.

In fact, the Commission has recognized the need to change and has changed/modified one of the original nine conditions for the first tranche of the GEAR. Condition 3 originally provided that “[t]he year that a voluntary renewable energy program eligible resource became operational should be no earlier than 2015.”³⁷ In Order No. 19-213, the Commission agreed that GEAR resources should be “new”³⁸ to meet customers’ desire for additionality of new renewable resources in the region.³⁹

Similarly, stakeholders have recognized that certain changes to the original nine conditions are warranted to be fully compliant with enabling legislation. As Staff stated, “HB [4126](6) clearly states that [Renewable Energy Certificates or RECs] generated from a VRET resource ‘may not be used by the electric company to comply with the requirements of the [Renewable Portfolio Standard or RPS].’⁴⁰ To ensure that those RECs are not applied towards RPS compliance, nor sold as unbundled RECs in the market, a necessary condition of the VRET should be that bundled RECs generated by the project are retired on behalf of the customer.”⁴¹

³⁷ UM 1953, Order No. 19-075 (Mar. 5, 2019) at 2.

³⁸ UM 1953, Order No. 19-213 (Jun. 20, 2019) at 10.

³⁹ For example, in its public comment in this docket, the City of Beaverton stated that “It’s important to participate and help bring a new clean energy resource online in Oregon, while providing a tangible tie to both a green energy facility and the accompanying Renewable Energy Credits.” See UM 1953, City of Beaverton, (Oct. 18, 2019), Compliance Filing Comments.

⁴⁰ HB 4126 (2014), Section 6 states: “Any qualifying electricity, as defined in ORS 469A.005, procured by an electric company to provide electricity pursuant to a voluntary renewable energy tariff described in this section may not be used by the electric company to comply with the requirements of the renewable portfolio standard described under ORS 469A.052 or 469A.055.”

⁴¹ UM 1690, Staff Report (Nov. 20, 2015) at 8.

PGE and most stakeholders agree that there should be no “gifting” of RECs to the regulated utility or developer. This example presents a clear case of why some of the nine conditions should be revised. In addition to these specific changes to the original nine conditions, other condition changes are also warranted. For all the reasons set forth in PGE’s testimony,⁴² and for the reasons stated above, PGE requests that the Commission update the proposed conditions as summarized in Section II.E. of PGE’s testimony and repeated below:

1. Renewable Portfolio Standard (RPS) definitions that must apply to voluntary renewable energy tariffs (VRETs) are for resource type, location, and bundled renewable energy certificates (RECs).
2. VRET options only include bundled REC products. Any RECs associated with serving participants must be retired by or on behalf of the participants.
3. The year that a VRET-eligible resource becomes operational should be no earlier than one year prior to program enrollment. Program enrollment means the date when a customer signs a binding agreement to participate in the program.
4. The VRET program size is limited to 500 MW for PGE and 175 aMW for PAC.
5. VRET design should be sufficiently differentiated from existing direct access programs.
6. Delete.
7. The regulated utility may own a VRET resource, and when it does, it must continue to ensure there is no cost shifting to non-participants.

⁴² PGE/800, Wenzel-Faist/30.

8. All direct and indirect costs and risks are borne by the participating VRET customers, shareholders of the utility, or third-party developers and suppliers with provisions allowing independent review and verification by Commission Staff of all utility costs.

9. All VRETs must be made publicly available and subject to review by the Commission to ensure they are fair, just, and reasonable.

In the alternative, PGE urges the Commission to, at a minimum, revise Conditions 4, 6, and 7, as described in more detail below.

1. *Condition 4⁴³ - Program Cap*

As noted above, PGE proposes that the total GEAR be 500 MW and that this amount be reflected in Condition 4. As the record demonstrates, customer demand supports an increase and the proposed 500 MW cap is far less than the existing 300 aMW Condition 4 program cap.

2. *Condition 6⁴⁴ - The Mirroring Condition*

The Commission adopted the original nine conditions at a time when there was no example of how regulated utilities may design VRET programs. The concern was that utilities would offer VRETs outside of COS and at a price competitive with or that undercuts direct access. Since the adoption of the nine conditions, the Commission has determined that there could be significant differences in the way a utility offering and DA program affect COS customers which may warrant different terms and conditions for the programs.⁴⁵ Given the design of PGE's GEAR, the mirroring condition is not appropriate or necessary as customers must first choose to be on PGE's COS

⁴³ "The voluntary renewable energy program size is limited to 300 aMW for PGE".

⁴⁴ Voluntary renewable energy product offering terms and conditions (including the timing and frequency of offerings), as well as transition costs, must mirror those for direct access. The regulated utility may propose terms and conditions that differ from current direct access provisions but must propose changes to their direct access programs to match those changes.

⁴⁵ UM 1953, Order No. 19-075 (Mar. 5, 2019) at 8. The Commission noted that "A review of the nine conditions is appropriate in light of these differences and the clarity offered by a specific proposal from PGE."

energy supply and then opt for the GEAR, provided there is room under the cap. The GEAR does not require transition adjustments since customers continuously contribute to PGE portfolio generation costs, which includes contributions to resource adequacy,⁴⁶ nor is there a promise of a price reduction after year five akin to DA when transition adjustments cease.

As Condition 5 requires that VRET product design be sufficiently differentiated from DA programs, PGE submits that the mirroring requirement of Condition 6 conflicts with Condition 5 and should be eliminated; by mirroring the terms and conditions of VRET design to DA, the programs inherently would no longer be “sufficiently differentiated”.⁴⁷ Secondly, the UM 1690 record does not support the contention that the Commission originally intended for every DA program term to mirror the VRET program. Consider, for example, that as a result of Condition 6, given the 500 MW proposed VRET, PGE could lower the cap of its DA program to match its VRET program. That would be a surprising outcome for electricity service suppliers. Even the strongest proponent of the mirroring condition recognizes that mirroring is not always appropriate. The following question was posed to the NIPPC witness, Mr. Gray, at the October 8, 2020 hearing in this docket: “[I]n connection with the mirroring of the condition, the GEAR program right now is 300 megawatts, and PGE is asking for it to be increased to 500 megawatts, would you then agree that we will be required to mirror our Direct Access to cap it at 500 megawatts as well as opposed to the current of 1,000 megawatts of Direct Access that we have?” Mr. Gray responded, “I don’t agree with that ...”⁴⁸

⁴⁶ See also PGE/700, Wenzel-Halley/9 discussing the issue raised in UE 358 and UM 2024 regarding whether direct access customers contribute to resource adequacy when their transitions adjustments are complete.

⁴⁷ PGE/500, Sims-Tinker/27-28; PGE/600, Sims-Tinker/15-16; PGE/703, Wenzel-Halley/2; PGE/800, Wenzel-Faist/13-21.

⁴⁸ UM 1953 - Corrected Hearing transcript at 15-16.

Additionally, Condition 6 adversely limits VRETs and will potentially thwart the Commission's objective to limit the impact to the competitive market if the regulated utility, through strict application of Condition 6, can significantly lower the cap of its DA program to match the VRET program cap. Notwithstanding the foregoing, PGE appreciates Staff's concern that the conditions are intended to apply to all utility programs and given that a utility may propose a design other than a COS rider, the condition may still serve a purpose in certain circumstances. If the Commission should determine that some form of Condition 6 should be maintained, then PGE recommends modifying the condition to apply if a utility offers a design other than one that is a COS rider as a basis to participate in the VRET. Along this line, PGE could support the adoption of the alternative proposal from PGE Exhibit 600, which was based on Staff's original language (italicized to show changes to Staff's language):⁴⁹

If a utility seeks to offer a VRET outside of or in lieu of cost-of-service, the following guideline applies: Such VRET terms and conditions must fairly account for differences from Direct Access programs. The Utility may propose terms and conditions that differ from current Direct Access provisions, but must provide evidentiary support for those differences and must consider changes to their direct access programs to match such VRET terms and conditions, as appropriate.

5. Condition 7⁵⁰ - Utility Ownership

For the reasons stated in PGE's testimonies⁵¹ and in this section, the Commission should revise Condition 7 as follows: "The regulated utility may own a VRET resource, and when it does, it must continue to ensure there is no cost shifting to non-participants." This revised Condition satisfies the requirement of HB 4126 that non-participating customers do not bear the cost of the

⁴⁹ PGE/600, Sims-Tinker/22.

⁵⁰ The regulated utility may own a voluntary renewable energy resource but may not include any voluntary renewable energy resource in its general rate base. It may recover a return on and return of its investment in the voluntary renewable energy resource from the subscriber; however, the utility must share some of the return on with the other utility customers for ratepayer-funded assets used to assist the voluntary renewable offering.

⁵¹ PGE/500, Sims-Tinker/25-26; PGE/600, Sims-Tinker/22-24; and PGE/800, Wenzel-Faist/21-27.

VRET programs. This ensures that the focus of the Condition, that already allows for utility ownership, is in compliance with the statute to avoid cost shifting as opposed to focusing on a narrow set of requirements as originally drafted that were imposed to protect against cost shifting. This change to a broader prohibition against cost shifting is supported by Staff.⁵² Although Staff goes on to question the ability of utility-owned assets to impact the competitive retail market, that is a concern addressed directly in Condition 5 and not necessary as a part of Condition 7.⁵³ Moreover, the Commission retains oversight and review authority as stated in Condition 9, which reserves to the Commission the ultimate judgment on whether PGE's product offering meets the statutory requirements and is in the public interest.

As revised, the Condition will preserve the no-cost shifting requirements, meaning that participating customers would bear all of the costs of the program.⁵⁴ Therefore, there should be no ratepayer funded assets that are used to support the renewable project which CUB recognizes removes the need for the original requirement that requires a sharing of the return on investment with COS customers.⁵⁵

C. Other Requests

1. Post Phase 2 Process

PGE requests that the Commission approve a streamlined process for future tranche increases beyond the 500 MW, to facilitate meeting the time requirements of interested customers. Initially in testimony, PGE laid a process that starts with a tariff filing proposing an increase in the cap and proposed a 60-day review process.⁵⁶ Staff prefers a 90-day timeframe and the opportunity for PGE to request a simple 'approve or deny' Commission decision.⁵⁷ Staff's process will create

⁵² Staff/300, Gibbens/20.

⁵³ Staff/400, Gibbens/23.

⁵⁴ PGE/600, Sims-Tinker/22-24; PGE/800, Wenzel-Halley/21-22 and 25-26.

⁵⁵ CUB/200, Jenks/16.

⁵⁶ PGE/800, Wenzel-Faist/48-49.

⁵⁷ Staff/400, Gibbens/49-50.

a streamlined process while preserving the Commission's ability to require more process in specific situations. We discuss that requests for tranche increases would be accompanied by IRP analysis below.

2. Transmission

PGE requests that the Commission approve PGE's proposal that the interim transmission solution outlined in PGE's 2019 Integrated Resource Plan ("IRP") Addendum on August 30, 2019 be applied to tranche 2 GEAR procurement. In testimony, PGE expressed its desire to consider changes to the transmission requirements in future tranches of the green tariff to ensure that our procurement process remains consistent with changes to regional transmission and future RFP requirements.⁵⁸ PGE's proposal to apply the interim transmission solution is in the spirit of maintaining that consistency.

3. Integrated Resource Plan

PGE requests that the Commission affirm that PGE's approach to addressing the GEAR interactions within the IRP is reasonable. PGE recognizes the Commission's authority to ask for additional information from PGE, if the Commission determines that the GEAR's interactions with the IRP are not as described. As stated in PGE's testimony, PGE's IRP and updates will incorporate all commitments under the GEAR to ensure consideration in the long-term planning process.⁵⁹ Specifically, as in the 2019 IRP, PGE will continue to include executed GEAR capacity in the base needs assessment and portfolio analysis while including additional VRET program sensitivities describing how potential additional programs might affect PGE's resource needs and interact with potential near-term actions. PGE will continue this practice by including tranche 2 of the GEAR, and potential tranche amounts beyond tranche 2 as a sensitivity in future IRP

⁵⁸ PGE/500, Sims-Tinker/34.

⁵⁹ PGE/800, Wenzel-Halley/47-48.

analysis as applicable. This will give the Commission the opportunity to evaluate tranche increases alongside the impacts to long-term planning.⁶⁰ PGE recognizes that continued coordination between present and future green tariff procurement and IRP planning is critical to ensuring prudent and strategic resourcing for our region as the region decarbonizes. If PGE files a tariff update to allow for future expansion of the GEAR, PGE will provide an update to IRP sensitivity analysis for the requested amount to show updated effects on resource needs and implications for near-term actions. Through both sensitivities for GEAR expansions in future IRPs and IRP updates, as well as an opportunity to update these sensitivities if PGE is asking for a GEAR expansion that exceeds what has previously been examined at the Commission’s request, PGE will be appropriately capturing the GEAR in long-term planning in response to the concern expressed by Chair Decker.⁶¹

4. *Competitive Bidding Rules (CBRs)*

PGE acknowledges that the CBRs apply to GEAR procurements. To allow PGE to offer the GEAR to its customers timely and without considerable procurement cost borne solely by GEAR subscribers, PGE requested a waiver of the CBRs for GEAR procurement. Because of stakeholder concern with a waiver of the CBRs when utility ownership is included in the procurement, a feature important to us, PGE is supportive of Staff’s proposal for an “RFP light”

⁶⁰ During the Hearing, Chair Decker asked about PGE’s intention for Commission opportunity to evaluate tranche increases and long-term planning impacts and PGE’s proposed 60-day tariff review process for future tranche requests in a tariff filing. PGE notes that while the 60-day process is designed to expeditiously meet customer interest, that may not be sufficient for the IRP interactions to be analyzed and reviewed. PGE understands that IRP interaction analyses may slow PGE’s desire for a known and expeditious process for future tranches. *See* Corrected Hearing Transcript at 116-118, and Faist response at 118.

⁶¹ Corrected Hearing Transcript at 109-116.

but would require the option to be available for all procurements, regardless of whether we include a utility-owned option.⁶²

III. CONCLUSION

For the reasons stated herein and supported in the record, PGE requests approval of the GEAR as a 500 MW program, with 200 MW subscription in tranche 2 to be served by a PPA(s), utility-owned resource(s), or a combination thereof; a streamlined process to meet additional customer demand post-tranche 2; and modifications to the nine conditions for subsequent VRET programs to meet customers' needs. Approval of PGE's requests would serve the dual benefit of allowing customers with stated demand to begin to meet their climate goals with products they desire, while providing revised conditions that meet the requirements of HB 4126. Additionally, Oregon would join the many states that offer VRET programs designed to add more renewables to the system; help our business and governmental customers reach their sustainability goals; and help contribute to ambitious greenhouse gas reductions outlined in the Governor's Executive Order 20-04 on climate change.⁶³

⁶² Staff/400, Gibbens/44.

⁶³ Or. Exec. Order No. 20-04 (Mar. 10, 2020), https://www.oregon.gov/gov/Documents/executive_orders/eo_20-04.pdf

With respect to the issues outlined above, PGE believes the record supports, and requests the Commission approval.

Dated this 3rd day of November, 2020.

Respectfully submitted,



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