



**Portland General Electric**  
121 SW Salmon Street · Portland, Ore. 97204

January 24, 2020

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High Street, S.E.  
P.O. Box 1088  
Salem, OR 97308-1088

**RE: Supplemental Filing of Advice No. 20-02, UE 358 New Load Direct Access (NLDA) Compliance Filing**

Portland General Electric (PGE) submits this Supplemental Filing as a follow up to the Supplemental Filing made by PGE on January 17. Following the January 17<sup>th</sup> Supplemental Filing, Calpine notified PGE that the "Term and Termination of Agreement" section of the service agreement was vague and unclear in describing the notice to return to cost of service provisions.

After review, PGE has made clarifying edits to the section identified by Calpine which add more concise language for the requirements and provisions of that section in the agreement, and no changes to the NLDA tariff are being proposed in this filing. Therefore, PGE submits this Supplemental Filing and has included the revised NLDA Service Agreement.

Please direct any questions regarding this filing to me at (503) 464-8954 or Andrew Speer at (503) 464-7486. Please direct all formal correspondence and requests to the following email address [pge.opuc.filings@pgn.com](mailto:pge.opuc.filings@pgn.com)

Sincerely,

A handwritten signature in blue ink that reads "Robert Macfarlane". The signature is written in a cursive, flowing style.

Robert Macfarlane  
Manager, Pricing and Tariffs

Enclosures

**[Customer name]**

**AND**

**PORTLAND GENERAL ELECTRIC COMPANY**

**NEW LARGE LOAD COST-OF-SERVICE OPT-OUT AGREEMENT**

**UNDER SCHEDULE 689**

**February \_\_\_\_, 2020**

This New Large Load Cost-Of-Service Opt-Out Agreement ("Agreement") dated \_\_\_\_\_ (hereafter the "Effective Date") is between \_\_\_\_\_ ("Customer") and PORTLAND GENERAL ELECTRIC COMPANY ("PGE"). This Agreement reflects Customer's binding election to participate in PGE's New Large Load Direct Access Program and take service under the terms and conditions of Schedule 689. PGE and Customer are hereinafter sometimes referred to individually as "Party" and collectively as "Parties."

The Parties agree as follows:

1. Term and Termination of Agreement

Customer is electing to take service under the terms and conditions of Schedule 689 as such schedule may be modified, amended, or succeeded from time to time following approval or equivalent action by the Oregon Public Utility Commission (hereinafter referred to as "Schedule 689").

This Agreement shall remain in effect for an initial term of either five years from the Effective Date or 60 months from the date Customer's service is energized, whichever is longer; provided this Agreement is not earlier terminated by PGE due to Customer's disenrollment from the program, as discussed in Section 2 of this Agreement, for failure to meet the NLDA Program's load requirements identified in Schedule 689 and/or OAR 860-038-0730(3). If not terminated earlier, then at the end of the initial term, this Agreement shall be automatically extended for one year, and thereafter from year-to-year, until a written Notice of Intent to Terminate is given to PGE, by Customer. If PGE should receive a Notice of Intent to Terminate, then this Agreement shall terminate on the third anniversary date of PGE's receipt of such notice. Except when this Agreement is unilaterally terminated by PGE due to Customer's disenrollment under Section 2, or due to business closure as discussed below, or due to violation of OAR 860-038-0730(1) pursuant to Section 7, Customer must give PGE not less than 3 years advance written notice of its intent to terminate this Agreement. Upon receipt by PGE, such notice of intent to terminate shall be binding on the Parties. Except as provided for in Section 7, at the time of termination of this Agreement Customer's account(s) will be moved to an appropriate cost-of-service rate schedule.

In the event Customer ceases operations (i.e., Customer goes out of business) at the location identified in Section 4, PGE may unilaterally terminate this Agreement without notice.

2. Disenrollment Process

For purposes of evaluating Customer's compliance with, and eligibility to continue under, Schedule 689 and this Agreement, Customer's service shall begin on the date the existing or new meter is energized for Customer [, or on \_\_\_\_\_, a mutually agreed upon date between the Customer and the Company]. To remain eligible for service under Schedule 689, Customer's actual load at the facility being served under the New Large Load Direct Access Program must achieve 10MWa over a period of twelve consecutive months within the first 36 months of receiving service. If, in month 33, Customer has not yet achieved at least one month at 10MWa, the Company may begin the process to disenroll Customer from the New Large Load Direct Access Program. The Company will do so by providing the Customer and the Commission with written notification of its proposal to transfer the Customer to an applicable cost-of-service rate schedule 90 days after the Company's disenrollment notice to the Customer. If Customer wishes to challenge

the disenrollment, then, within 60 days of receipt of such notification of disenrollment, Customer must provide written notice of its dispute and any supporting documentation, to both the Company and the Commission. To receive consideration, such supporting documentation must demonstrate that Customer's shortfall in load, below the threshold 10MWa, is attributable to: 1) equipment failure; 2) incremental demand-side management, load curtailment or load control; or 3) other legitimate cause outside the control of the Customer. If disenrolled, Customer will promptly be transitioned to an applicable cost-of-service rate and subject to all notice requirements and provisions of such cost-of-service schedule.

3. Service

PGE shall furnish to Customer, at each Service Point described in this Agreement, sixty-hertz alternating current of such phase and voltage as PGE may have available, subject to the General Rules and Regulations of PGE's current tariff, which tariff is typically available on PGE's website at: [www.portlandgeneral.com/our-company/regulatory-documents/tariff](http://www.portlandgeneral.com/our-company/regulatory-documents/tariff).

4. Location(s) to be Served

The New Large Load must be separately metered from any load at any existing facility owned by Customer, or otherwise measured separately with comparable accuracy and in a form that is mutually agreed upon between the Customer and the Company. Pursuant to this Agreement, PGE shall furnish service consistent with Schedule 689, at the Customer location(s) listed (or to be listed, once address is established at an undeveloped site) on Exhibit A, which exhibit is attached hereto and incorporated by reference. Construction meters and any energy supplied during construction will not apply toward any calculation for compliance purposes under Schedule 689.

5. Description of Service Point(s)

Pursuant to the requirements of Schedule 689, the Service Point(s), for the level of service(s) being planned for and provided under this Agreement, will be populated in Exhibit B to this Agreement once said Service Point(s) is/are known, but no later than 30 business days following energization.

6. Expected Load

Customer's expected annual load for purposes of this Agreement and for purposes of determining eligibility under Schedule 689 will be \_\_\_\_\_ MWa. This is the amount of load that will be counted toward the NLDA program cap unless Customer is disenrolled under Section 2 of the Agreement.

7. Resource Mix

In accordance with the Affidavit provided by Customer and attached hereto as Exhibit C, Customer agrees that its resource mix shall remain consistent with the requirements of OAR 860-038-0730(1). If Customer is found in violation of the provisions contained in Exhibit C, Customer will be enrolled in the general cost-of-service opt out program in the next direct access enrollment window, and this Agreement shall be terminated.

8. Pricing and Payment

Customer agrees to pay all applicable rates and charges specified in Schedule 689, including but not limited to, a New Large Load Direct Access Service Transition Rate, an Existing Load Shortage Transition Adjustment and any other applicable rates and charges related to Customer's election with regard to Energy Supply, in accordance with the terms and conditions of Schedule 689 and Tariff Rules. Following receipt of any bill from PGE, Customer shall make such payments to PGE when due.

9. Customer Address

All bills and notices issued to Customer under or pursuant to this Agreement shall be sent to Customer at the following address:

\_\_\_\_\_  
\_\_\_\_\_

10. Modification of Previous Agreements

Any other agreements pertaining to Customer's opting out of PGE's Cost of Service pricing for the location(s) and Service Point(s) designated in this Agreement are hereby superseded and replaced by this Agreement. For the avoidance of doubt, this Agreement is not intended to alter or supersede any agreement for Minimum Load Service, Alternate Service, or Dispatchable Standby Generation that may exist between the Parties.

11. Waivers and Other Conditions

For the duration of this Agreement, Customer waives any rights to receive Electricity (as defined in Rule B of PGE's tariff) from PGE under cost-of-service rates and waives any claim against PGE under OAR 860-021-0010(5) based in any way on Customer's election of service under Schedule 689. In connection with these waivers and the taking of service under Schedule 689, by signing this Agreement Customer also acknowledges and agrees to abide by all the Special Conditions listed in Schedule 689, as such may be modified, amended, or succeeded from time to time following approval or equivalent action by the Oregon Public Utility Commission.

12. Representations and Warranties

- a) Representations and Warranties of PGE. PGE represents and warrants to Customer that:
- i. it has the full right, power and authority to enter into this Agreement, to grant Customer the rights set forth herein, and to perform its obligations hereunder;
  - ii. the execution of this Agreement by the individual whose signature is set forth at the end of this Agreement has been duly authorized by all necessary action on the part of PGE; and

- iii. this Agreement, once executed and delivered by PGE, constitutes the legal, valid and binding obligation of PGE, enforceable against PGE in accordance with its terms.
- b) Representations and Warranties of Customer. Customer represents and warrants to PGE that:
- i. it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder;
  - ii. the execution of this Agreement by the individual whose signature is set forth at the end of this Agreement, and the delivery of this Agreement by Customer, have been duly authorized by all necessary action on the part of Customer;
  - iii. the execution, delivery and/or performance of this Agreement by Customer will not violate, conflict with, require consent under or result in any breach or default under (i) any applicable law or PGE tariff, including but not limited to Schedules 135 and 203, or (ii) with or without notice or lapse of time or both, any of the provisions of any contract or agreement to which it is a party or to which any of its material assets are bound ("Customer Contracts"); and
  - iv. this Agreement, once executed and delivered by Customer (and assuming due authorization, execution and delivery by PGE), constitutes the legal, valid and binding obligation of Customer, enforceable against Customer in accordance with its terms.
- c) No other Representations or Warranties. **EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS SECTION, (A) NEITHER PARTY TO THIS AGREEMENT, NOR ANY OTHER PERSON ON SUCH PARTY'S BEHALF, HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY, EITHER ORAL OR WRITTEN, WHETHER ARISING BY LAW, COURSE OF DEALING OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND (B) EACH PARTY ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY THE OTHER PARTY, OR ANY OTHER PERSON ON SUCH PARTY'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION OF THIS AGREEMENT.**

### 13. Disclaimer of Consequential Damages

**NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, AND EXCEPT TO THE EXTENT REQUIRED BY LAW, PGE SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, MORAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR BASED ON ANY OTHER LEGAL OR EQUITABLE THEORY) UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER OR NOT ARISING FROM PGE'S SOLE, JOINT OR CONCURRENT NEGLIGENCE AND WHETHER OR NOT PGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

### 14. Jurisdiction and Venue

Subject first to the venue, jurisdiction, and appeals priority of the PUC, if applicable, any judicial action or proceeding seeking to enforce any provision of this Agreement, or based on any right

arising out of this Agreement, any legal action or proceeding shall be brought in the Multnomah County Circuit Court of the State of Oregon and each of the Parties irrevocably consents to the jurisdiction of such court (and of the appropriate appellate court) in any such action or proceeding and waives any objection to such venue.

15. Miscellaneous

Except for modifications which result from changes approved by the Oregon Public Utility Commission in Schedule 689 referenced and incorporated herein, no other modification of this Agreement shall be valid unless made in writing and signed by PGE and Customer.

No waiver of any provision of this Agreement shall be valid unless made in writing by the waiving Party, and no such waiver shall be deemed a waiver of compliance with any other provisions or conditions of this Agreement.

It is a condition of this Agreement that Customer continues to meet applicable statutory requirements and the requirements of PGE's Schedule 689 during the term of this Agreement. For the avoidance of doubt, Customer is expected to cease any current participation, and refrain from future participation, in any PGE program or pilot that would i) violate a statute, rule or order of the Public Utility Commission of Oregon, or ii) prohibit dual enrollment, as of the time and date Customer begins taking service under Schedule 689. If, at any time during the term of this Agreement, Customer should fail to satisfy this condition, PGE shall have the right to terminate this Agreement and/or seek all such remedies that may be available to it under the law and/or in equity. To the extent the right to terminate is exercised by PGE, Customer will be considered a "new" Customer for purposes of determining available service options, but NOT eligible for enrollment under Schedule 689.

This Agreement and the services, rates, terms and conditions described in this Agreement, or incorporated by reference, are subject to all changes in applicable tariffs and all lawful orders of the Oregon Public Utility Commission.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the undersigned Parties have executed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
(Company Name)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name and Title of Signatory Party)

\_\_\_\_\_  
(Date)

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name and Title of Signatory Party)

\_\_\_\_\_  
(Date)

Approved as to rates \_\_\_\_\_



**Exhibit A**  
**Customer Location(s)**

Location Name/Description	Address

**Exhibit B**  
**Customer Service Point(s)**

<b>Location Name</b>	<b>Service Point Name/Description</b>	<b>Service Point Location/Address</b>

**Exhibit C**  
**Signed Affidavit**

**SEE ATTACHED**

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

Return this completed and notarized document no later than February \_\_, 2020 along with an executed copy of the New Large Load Cost of Service Opt Out Agreement.

AFFIDAVIT OF ELIGIBILITY AND COMPLIANCE

I, \_\_\_\_\_ (full legal name and title), having been duly authorized to act on \_\_\_\_\_ [participating entity’s name] behalf, and being duly sworn, depose and say:

1. \_\_\_\_\_ [participating entity’s name] has made the election to enroll in PGE’s New Large Load Direct Access Program under (“Schedule 689”) and it is understood that \_\_\_\_\_ [participating entity’s name] is provisionally enrolled (an “NLDA Participant”), subject to space under PGE’s Schedule 689 cap and verification of eligibility.

2. I understand that I am submitting this Affidavit of Eligibility and Compliance (“Affidavit”) to assist in determining whether \_\_\_\_\_ [participating entity’s name] is eligible to be an NLDA Participant in accordance with OAR 860-038-0700 through 860-038-0760 (the “OPUC Rules”) and Schedule 689.

3. I represent that \_\_\_\_\_ [participating entity’s name] satisfies all of the eligibility requirements under the OPUC Rules and Schedule 689, or alternatively, that \_\_\_\_\_ [participating entity’s name] has obtained a waiver from the Public Utility Commission of Oregon for the following eligibility requirements:

[list each eligibility criterion for which waiver was granted]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

thereby allowing \_\_\_\_\_ [participating entity’s name] to enroll as an NLDA Participant under Schedule 689.

4. I further represent that, throughout the duration of its enrollment under Schedule 689, \_\_\_\_\_ [participating entity’s name] shall fully comply with its obligations under OAR 860-038-0730(1) by contracting for energy resources that do not include any allocation of coal-fired resources, as defined in ORS 757.518 (l)(b)(B), after

January 1, 2030. Furthermore, it is understood that violation of this commitment could result in disenrollment from Schedule 689 service.

5. I understand that Portland General Electric Company is obligated to, and shall provide a copy of this Affidavit of Eligibility and Compliance to the Public Utility Commission of Oregon pursuant to OAR 860-038-0730(2)(a).

6. If any of my statements in this Affidavit is false, I acknowledge that the consequence could be disenrollment from Schedule 689 in addition to any other remedies that PGE may seek to enforce against \_\_\_\_\_  
[participating entity's name].

By: \_\_\_\_\_  
Printed name: \_\_\_\_\_

Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

[SEAL]