ORDER NO. 12 159

ENTERED MAY 08 2012

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1415

In the Matter of the PUBLIC UTILITY COMMISSION OF OREGON Staff Investigation into Cost Methods for Use in Developing Electric Rate Spreads.	ORDER

DISPOSITION: POLICY GUIDANCE PROVIDED; FACTORS ADOPTED; DIRECTIVES ISSUED

I. INTRODUCTION AND PROCEDURAL HISTORY

On July 8, 2011, we issued a straw proposal in this docket related to time-varying rates. In the straw proposal, we presented a list of factors we believed would be relevant to an evaluation of any mandatory time-varying rate that might be proposed by a utility.[1] The straw proposal also included a number of directives to electric utilities. The goal of the directives was to provide the Commission with information about the potential benefits of time-varying rates, to encourage electric utilities' systematic analysis of such rates, and to allow stakeholders, Commission Staff, and the Commissioners to provide input on issues surrounding time-varying rates. We invited interested parties to comment on the straw proposal.

Parties filed opening comments on September 8, 2011. On September 27, 2011, we held a workshop to discuss the straw proposal and the parties' comments. During the workshop and in a ruling afterward, we clarified several elements of the straw proposal. On October 20, 2011, parties filed a second round of comments.

In this order, we do the following:

- Provide policy direction to electric utilities regarding time-varying rates;

[1] *See* Order No. 11-255.

- Evaluate and adopt a modified set of factors; and
- Adopt directives to electric utilities and Staff.

II. POLICY DIRECTION

The parties' comments on the straw proposal and on time-varying rates have been informative. After reviewing the comments and listening to issues raised at the workshop, we draw some initial conclusions about the straw proposal and about the readiness of electric utilities and their customers for time-varying rate structures.

A. The factors adopted in this order will apply to the evaluation of both mandatory and voluntary time-varying rates.

We asked during the workshop whether the factors outlined in the straw proposal should apply exclusively to mandatory time-varying rates—our initial proposal—or whether they should also apply to voluntary rates. Upon review of the parties' comments, we conclude that the factors we adopt in this order should apply to our evaluation of both voluntary and mandatory time-varying rates.

B. We would entertain proposals for certain time-varying rates at this time, but not others.

The parties' comments have clarified a number of issues with respect to the readiness of stakeholders for time-varying rates. First, it is clear that the data needed for a systematic evaluation of potential system benefits from certain mandatory time-varying rates is underdeveloped at this time. There is also great reluctance to move toward such rates due to stakeholder concerns about affordability, customer acceptance, effects on revenues, and other issues. We understand that additional groundwork will need to be laid before some of these concerns can be fully addressed.

Given that supporting data for mandatory time-varying rates may need further development, and the fact that additional groundwork must be laid for such rates, we draw some initial conclusions about whether we would be willing to entertain proposals for certain time-varying rates at this time.

At this time, we are willing to consider mandatory seasonal rates for any customer class. We would evaluate any such proposal on its merits, based on a comprehensive review of the factors adopted in this order.

At this time, we are not encouraging any other mandatory time-varying rate for residential customers. We believe that stakeholder concerns about mandatory time-varying rates for residential customers would lead us to summarily reject any other type of mandatory time-varying rate for such customers. We would, however, encourage utility proposals for voluntary time-varying rates for residential customers, with either opt-in or opt-out provisions. Again, we would evaluate any such proposal on its merits, based on a comprehensive review of the factors adopted in this order.

Our willingness to consider a rate proposal does not indicate that we would adopt it. The fact that we would be willing to entertain proposals for certain time-varying rates, including mandatory seasonal rates for residential customers and voluntary programs for residential customers with opt-in or opt-out provisions, does not indicate that we would adopt these or any other rates. We will evaluate each rate proposal that comes before us on a case-by-case basis. We believe, however, that it is important to continue to discuss and explore potential benefits of a wide range of time-varying rates.

We encourage the use of pilot programs. As part of the utilities' overall evaluation of potential time-varying rate structures, we encourage utilities to propose well designed, voluntary pilot programs that hold promise of yielding benefits to customers and meaningful information for future programs. We expect utilities to continue to undertake a comprehensive analysis of the potential for peak-load savings from demand response and pricing programs.

III. FACTORS

A. Overview

Over the past several years, we have wrestled with how to evaluate proposals for time-varying rates. Because parties have strongly disagreed about which issues the Commission should consider in its evaluation of proposed time-varying rates, we have in some instances declined to approve such rates. Instead, we opened a separate docket to consider the issues.[2] The factors adopted here are intended to provide the parties with guidance on how the Commission will decide whether to approve a time-varying rate proposed by a utility.

After reviewing the parties' comments, we adopt our initial straw proposal with some modifications. The modified factors are listed below, along with a brief summary of the parties' key comments. A clean list of the factors is attached to this order as Appendix A.

As noted above, the factors we adopt in this order will inform our evaluation of all time-varying rates, both voluntary and mandatory.[3] We will weight each factor differently based on the specific characteristics of each rate proposed.[4]

We emphasize that these factors are neither rigid nor exclusive. Parties are free to argue about the importance of any particular factor with respect to any given rate proposal.

[2] *See, e.g. In re Idaho Power Co. Request for a General Rate Revision,* Docket No. UE 213, Order No. 10-064 at 7 (Feb 24, 2010).

[3] We do not explicitly adopt these factors for evaluation of demand-response programs, though the parties may choose to employ them in their analysis of demand-response programs proposed in a rate case.

[4] For example, seasonal rates have particular characteristics that make them relatively simple and inexpensive to implement relative to other types of time-varying rates.

Parties are free to argue that other factors not listed here are relevant under any given set of circumstances. We will assume, however, that the factors below are relevant to our evaluation of any time-varying rate proposal.

We believe that the adoption of flexible guidelines will help guide the presentation of evidence and Commission deliberation on time-varying rate proposals, and minimize disagreement about whether certain factors should be considered at all.

B. Modified Factors

We adopt the following factors:

> *F-1. The amount of demand-side resource and system benefits that can be tapped through a time-varying rate.*

The parties identify F-1 as a factor critical to the Commission's analysis of a time-varying rate. It appears, however, that the development of data necessary to quantify system benefits may be in its early stages. Although data may be limited at this time, and the state of that data may vary from utility to utility, we conclude that F-1 is nevertheless a key factor in assessing the appropriateness of a proposal for time-varying rates. We expect the available data to improve over time due to improved technology, use of pilot programs, and other changes. We therefore adopt F-1 as originally proposed.

> *F-2. The extent to which an optional rate or alternative program can achieve ~~that resource~~ these demand-side resource and system benefits.*

A number of the parties repeat their assertions regarding F-1, that utilities' ability to quantify system benefits is weak at this time. No party disagrees with the relevance of this factor in theory. Staff proposes a wording change to improve its clarity. We adopt a slightly different wording change for the factor.

> *F-3. The impacts on customers of the proposed rate (e.g. rate shock, bill impacts on vulnerable populations, etc.) and the ability of customers to respond to those impacts.*

All parties agree that F-3 is a reasonable factor to consider when assessing time-varying rate proposals. Examples of potential impacts on customers include rate shock, bill impacts on vulnerable populations, and other impacts. PGE suggests adding a new factor that addresses the effect that mandatory time-varying rates may have on direct access participation. The Industrial Customers of Northwest Utilities (ICNU) agrees that a time-varying rate should be revenue-neutral for the utility. Staff believes these concerns are addressed by F-3, but proposes adding clarifying language as follows:

"The impact on customers (including secondary and/or non-price-related effects) of the proposed rate (e.g. rate shock, bill impacts on vulnerable populations, choice between direct access and standard cost of service, etc.) and the ability of customers to respond to those impacts."

We decline to add this additional language to F-3, but we clarify here that the concerns raised by Staff's proposed language are encompassed by the factor as originally written.

The Citizens' Utility Board of Oregon (CUB) suggests adding affordability of rates as a new factor, and includes five metrics for evaluating affordability. We clarify that F-3 is intended to encompass CUB's broad concerns about affordability. For this reason, we decline to add new language to this factor or adopt an additional factor.

ICNU proposes adding a new factor that addresses how differently situated customers will be affected by a time-varying rate proposal. Staff believes this issue is covered by F-3 and F-4. We agree with Staff.

We also delete the examples from the text of the straw-proposal factor. The examples included in the straw-proposal were intended to be illustrative rather than comprehensive. To clarify this point and ensure the factors are construed broadly, we will also remove the examples from the remaining factors.

F-4. The means available to mitigate impacts on customers ~~(e.g. phasing-in of rate differentials, opt-in and opt-out provisions, providing programmable equipment or software to enable customers to respond more easily)~~.

Most parties filing comments agree that it is important to assess the means available to mitigate impacts on customers. Staff recommends removing the "opt-in and opt-out" clause and replacing it with "promoting equal-pay provisions." As noted, we have removed the examples from the written factors because they were intended to be illustrative, not comprehensive. But because we have decided that the factors apply to both mandatory and voluntary time-varying rates, we clarify that our original inclusion of "opt in and opt out provisions" may be a relevant example under appropriate circumstances.

F-5. The direct costs of implementing time-varying rates ~~(e.g. IT costs, accounting, call-center and outreach burdens)~~.

The parties generally agree that this factor is reasonable, and that it should be construed to include infrastructure and capital costs. ICNU points out that it makes no sense to implement time-varying rates unless the benefits outweighs the costs to customers and utilities, including infrastructure costs.

PGE proposes adding a factor that includes "the acceptance of certain customer classes to mandatory time-varying rates and the implications to call center operations and the overall customer experience." PGE explains that it currently has over 825,000 accounts that are not on time-varying pricing, and a sudden switch to time-varying pricing would likely overwhelm its call center.

Staff believes that PGE's concerns are addressed by factors F-5 and F-6, and proposes adding "call-center and outreach burdens" to F-5 to explicitly address part of PGE's concern. We decline to add this language, but clarify that Staff's proposed example may be relevant under appropriate circumstances.

F-6. The ability to explain and communicate the rate to customers.

The parties generally agree that F-6 is a reasonable factor. PacifiCorp, dba Pacific Power, proposes adding a new factor addressing the importance of "acceptance by customers" of time-varying rates, particularly if mandatory rates are proposed. Staff proposes adding new language to F-6 to clarify this point. We believe that other factors adequately ensure that time-varying rates are appropriate for customers and adopt the factor as originally written.

F-7. The cost differential between the relevant time periods, how robust the cost studies are, and whether customer response to the time-varying rate is expected to affect the cost differential over time.

Idaho Power Company believes this factor is problematic because data supporting the factor "is simply lacking at this time." It argues that the weight afforded the factor should be low until data is available to concretely demonstrate the impacts. Idaho Power states, however, that differentials *between time periods* are reasonable to consider when evaluating proposed time-varying rates. PGE notes that this factor reinforces its desire to implement time-varying rates gradually and notes that "the desire for gradualness may initially supersede questions about cost differentials and the robustness of a particular cost study." Staff agrees that time-varying rates should be based on the type of data contemplated by F-7.

As we have noted, we recognize that the ability to quantify system and customer benefits of certain time-varying rates may be in the early stages of development. We nevertheless believe F-7 is an important factor, and adopt it as written.

C. New Factors

In comments, the parties propose a number of additional factors. We adopt the following two:

F-8. The extent to which rates reflect cost-of-service.

We clarified during the workshop that cost-causation remains a relevant factor in our assessment of any proposed rate, including time-varying rates. We add this factor to make that clarification explicit.

F-9. The effects on utility revenues arising from time-varying rates.

PGE suggests adding a factor to address the potential level of short-term revenue attrition to the utility if customers either reduce or shift their consumption due to time-varying rates and the long-term volatility of revenues. Others, including Pacific Power, Idaho Power, and ICNU, agree. Pacific Power notes that, "[I]nitially, time-varying rates are designed to be revenue-neutral. However, in addition to better reflecting the cost to serve, one of the purposes of time-varying rates is to encourage a shift in energy usage in order to capture system benefits * * * it is important to understand how revenues may be impacted over both short-term and long-term timeframes [due to shifts in energy usage]."

Staff acknowledges the utilities' concerns, but views the net revenues concern as more appropriate. Staff points out that a simultaneous reduction or increase in costs *and* revenues would maintain earnings stability. Staff proposes a new factor to address the revenues issue.

We adopt new factor F-9, above. In most instances, rates proposed by utilities are intended to be revenue-neutral and are adopted in the context of a rate case. In such instances, the concerns raised by F-9 are unlikely to be an issue. In other contexts, however, the application of F-9 may be appropriate.

IV. DIRECTIVES

We issue the following directive to electric utilities:

D-1. Cost Data

> Within 60 days of entry of this order, we direct the electric utilities to provide the Commission with detailed information on the cost of serving Oregon customers during different time periods within the year. This cost data should be sufficiently granular to appropriately construct the specifics of both price and duration of on-peak, shoulder, and off-peak rates. The utilities are directed to develop best estimates of meaningful hourly marginal cost values, given their individual load and dispatch-cost structures, and provide this data as well.

Some utilities assert they do not have data sufficiently granular to respond to this directive. To the extent a utility has difficulty constructing the data necessary to respond to this directive, it should work with Staff to find a suitable method for providing the information requested. To the extent a utility must file cost information that it considers confidential, the data may be designated confidential under the protective order issued in this docket.[5],[6] .

The data provided under this directive is intended to provide the Commission with a basic understanding of a utility's cost-of-service during different time periods; the goal is to obtain a reasonable estimate, not absolute precision. We acknowledge that the information provided under this directive may not reflect a utility's cost of serving

[5] We clarify that this information is intended to be for informational purposes only.
[6] *See* Order No. 09-147.

customers at any given time. Nevertheless, we are interested in information this data may provide.
We issue the following directive to Commission Staff:

> ***D-2. Evaluation of Potential Rate Structures***
>
> Beginning this year, Commission Staff will work with each utility to identify a limited number of promising time-varying rate structures for review. Staff will work with utilities and stakeholders to review the potential benefits of such rate structures and report to the Commission on the conclusions drawn from the discussions. These discussions will be conducted on a periodic basis as Staff deems appropriate.

The purpose of this directive is to ensure that utilities are systematically evaluating the potential benefits of time-varying rates, that the Commission is kept apprised of utilities' progress, and that stakeholders, Staff, and the Commissioners have an opportunity to weigh in on potential new time-varying rates or pilot programs.

We note that both Staff and the utilities have included in their reply comments a number of different incentive- and price-based programs that may offer potential system and/or ratepayer benefits. These suggestions may serve as a good starting point for discussion.

Utilities are also welcome to evaluate during these discussions the potential benefits of demand-response programs. If this is done, it may be appropriate to conduct the review in conjunction with a utility's evaluation of demand-response programs for its IRP.

We clarify that these Commission-sponsored discussions of time-varying rates do not constitute approval of those rates. As CUB notes, Commission approval of any utility rate also requires a traditional filing for a rate revision. Should a utility decide to seek approval of time-varying rates in such a filing, we would review the proposed rate using the standards established by ORS 757.210 and the factors identified in this order.

We decline to adopt straw proposal directive D-3.[7]

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[7] D-3 originally read: "The utility will discuss in the IRP whether any time-varying rate should be part of its action plan."

V. ORDER

IT IS ORDERED that:

1. The factors identified in this order, and attached as Appendix A, are adopted.

2. Within 60 days of entry of this order, the electric utilities will provide the Commission with detailed information on the cost of serving Oregon customers during different time periods within the year as described in this order.

3. Beginning this year, Commission Staff will work with each utility to identify a limited number of promising time-varying rate structures for review as specified in this order.

Made, entered, and effective MAY 08 2012.

John Savage
Commissioner

Susan K. Ackerman
Commissioner

Stephen M. Bloom
Commissioner

APPENDIX A

Docket No. UM 1415
Factors and Directives

We will consider the factors when evaluating whether or not to approve a proposed voluntary or mandatory time-varying rate. We will weigh the factors differently depending on the type of time-varying rate and attendant circumstances. The factors are as follows:

F-1. The amount of demand-side resource and system benefits that can be tapped through a time-varying rate.

F-2. The extent to which an optional rate or alternative program can achieve these demand-side resource and system benefits.

F-3. The impacts on customers of the proposed rate and the ability of customers to respond to those impacts.

F-4. The means available to mitigate impacts on customers.

F-5. The direct costs of implementing time-varying rates.

F-6. The ability to explain and communicate the rate to customers.

F-7. The cost differential between the relevant time periods, how robust the cost studies are, and whether customer response to the time-varying rate is expected to affect the cost differential over time.

F-8. The extent to which rates reflect cost-of-service.

F-9. The effects on utility revenues arising from time-varying rates.

Directive to Electric Utilities:

D-1. Within 60 days of entry of this order, we direct the electric utilities to provide the Commission with detailed information on the cost of serving Oregon customers during different time periods within the year. This cost data should be sufficiently granular to appropriately construct the specifics of both price and duration of on-peak, shoulder, and off-peak rates. The utilities are directed to develop best estimates of meaningful hourly marginal cost values, given their individual load and dispatch-cost structures, and provide this data as well.

Directive to Commission Staff:

D-2. Beginning this year, Commission Staff will work with each utility to identify a limited number of promising time-varying rate structures for review. Staff will work with utilities and stakeholders to review the potential benefits of such rate structures and report to the Commission on the conclusions drawn from the discussions. These discussions will be conducted on a periodic basis as Staff deems appropriate.