ORDER NO. 21-091

ENTERED Mar 29 2021

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1953
PHASE II

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Investigation into Proposed Green Tariff.	ORDER

DISPOSITION: GREEN TARIFF PROPOSAL APPROVED

I. SUMMARY

In this order, we approve the offering of an additional 200 megawatts (MW) as part of Portland General Electric Company's (PGE) Voluntary Renewable Energy Tariff (VRET) proposal, update the nine conditions applicable to all VRET proposals in order to resolve issues presented by parties in the second phase of this docket, apply the nine conditions and resolve other issues related to PGE's specific VRET proposal, and provide guidance on issues specific to further expansions of PGE's VRET proposal to be addressed in future proceedings.

II. INTRODUCTION AND BACKGROUND

House Bill (HB) 4126 (2016) directed the Public Utility Commission to conduct a study to consider the impact of allowing electric companies to offer VRETs to their nonresidential customers. HB 4126 directed the Commission to consider the results of this study in conjunction with five statutory factors to determine a response to the threshold question, which was as follows: "[W]hether, and under what conditions, it is reasonable and in the public interest to allow electric companies to provide [VRETs] to non-residential customers."[1] The five statutory factors found in Section three (3)(a)-(e) of HB 4126 are:

[1] House Bill (HB) 4126 (2014) Section 3(3) at 1.

(1) Whether allowing electric companies to provide VRETs to nonresidential customers promotes the further development of significant renewable energy resources;
(2) The effect of allowing electric companies to offer VRETs on the development of a competitive retail market;
(3) Any direct or indirect impact, including any potential cost shifting, on other customers of any electric company offering a VRET;
(4) Whether the VRETs provided by electric companies to nonresidential customers rely on electricity supplied through a competitive procurement process; and
(5) Any other reasonable consideration related to allowing electric companies to offer VRETs to their nonresidential customers.

The required study was completed and, after extensive process and review, in Order No. 16-251 we set forth nine conditions for draft VRET filings. The nine conditions are as follows:

(1) Renewable portfolio standard (RPS) definitions that must apply to voluntary renewable energy products are for resource type, location, and bundled renewable energy certificates (RECs).

(2) Voluntary renewable energy options should only include bundled REC products. Any RECs associated with serving participants must be retired by or on behalf of participants, unless the participants consent to RECs being retired by the utility or developer.

(3) The year that a voluntary renewable energy program eligible resource became operational should be no earlier than 2015.

(4) The voluntary renewable energy program size is limited to 300 aMW for PGE.

(5) Voluntary renewable energy product design should be sufficiently differentiated from existing direct access programs.

(6) 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. PGE and PacifiCorp 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.

(7) 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.

(8) All direct and indirect costs and risks are borne by the participating voluntary renewable energy 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. Costs include but are not limited to ancillary services and stranded costs of the existing cost-of-service rate based system.

(9) All voluntary renewable offerings must be made publicly available and subject to review by the Commission to ensure they are fair, just, and reasonable.

Subsequently, PGE developed a VRET proposal and requested reevaluation of some of the nine conditions listed above. On March 5, 2019, in Order No. 19-075, we approved PGE's VRET program with certain modifications. We adopted PGE's proposal to review policy issues related to this docket in two phases, allowing PGE to procure up to 300 megawatts (MW) of new nameplate resources through power purchase agreements (PPAs) under the first phase of its VRET program, with remaining issues to be addressed in a second phase. PGE's VRET program included a cap of 100 MW on the PGE Supply Option (PSO), and a cap of 200 MW for a Customer Supplied Option (CSO), available to customers with demand in excess of 10 average MW.

By Order No. 19-348, entered October 25, 2019, we directed the Administrative Hearings Division to establish a process to review and clarify Order No. 19-075 consistent with ORS 756.568, and address, on a prospective basis, the appropriate, measurable or testable distinctions between the PSO and the CSO, the allocation of remaining program capacity between the PSO and the CSO, and any program procedures that would benefit from clarification, including queue procedures. This order was issued to address issues associated with PGE's compliance filing, and Staff's recommendation that PGE was non-compliant with Order No. 19-075.

On November 12, 2019, Staff filed a stipulated status report indicating that the parties to this proceeding had participated in settlement discussions and that Staff, the Alliance of Western Energy Consumers (AWEC), Calpine Energy Solutions, LLC (Calpine Solutions), Northwest and Intermountain Power Producers Coalition (NIPPC), the

Oregon Citizens' Utility Board, Portland General Electric Company, and Renewable Northwest (stipulating parties) had reached a settlement in principle that addressed the issues identified in Order No. 19-348. The status report also indicated that the remaining parties, Avangrid Renewables, NW Energy Coalition, PacifiCorp, and Walmart Inc. did not object to the agreement in principle. On January 14, 2020, the stipulating parties filed a stipulated motion to amend Order No. 19-075 to the extent necessary to effectuate the agreement reached between the stipulating parties to address the compliance filing issues with PGE's VRET program.

The stipulating parties agreed that the 160 MW that already had been subscribed under PGE's program should be included under the PSO, with the remaining 140 MW of capacity reserved for the CSO. The stipulating parties agreed that PGE or any other party could file for reconsideration of the individual program caps on or after March 23, 2020. Any future change to the program caps would be based on a Commission determination that doing so is appropriate under the current circumstances of the program. Additionally, any anticipated effective date for shifting available capacity would occur no earlier than June 1, 2020. The stipulating parties agreed that these changes could include reallocation of any unsubscribed amount of the remaining 140 MW of capacity to non-CSO customers.

By Order No. 20-036, entered January 20, 2020, we approved the stipulation. On March 25, 2020, PGE notified the Commission that it had received a letter of intent to participate in the CSO program and subscribe to the entire remaining 140 MW, making moot the question as to reallocation of any unsubscribed CSO capacity.

III. PROCEDURAL HISTORY

On February 25, 2020, a procedural conference was held and a schedule for Phase II of the proceeding was adopted. PGE filed Reply Testimony addressing issues in Phase II on April 15, 2020. Pursuant to subsequent motions to amend the procedural schedule, on July 16, 2020, responsive and cross-answering testimony were filed by Staff, Walmart, PacifiCorp, Renewable Northwest and NIPPC. PGE filed surrebuttal testimony on August 19, 2020. Addressing a motion by PGE, Modified Protective Order No. 20-302 was entered on September 16, 2020.

A hearing was held via telephone on October 8, 2020 and opening briefs were filed by PGE, Staff, Walmart, AWEC, Calpine Solutions, NIPPC, Renewable Northwest, CUB, and PacifiCorp on November 3, 2020. Closing briefs were filed by PGE, Calpine Solutions, PacifiCorp, Staff, Renewable Northwest, and NIPPC on November 13, 2020.

Oral argument before the Commission was held via videoconference on December 3, 2020.

IV. DISCUSSION

Order No. 19-075, as modified by Order No. 19-348, directed that a Phase II proceeding address the nine conditions in Order No. 16-251 and review and clarify all other major issues arising out of the VRET offering. During the course of Phase II, the parties proposed changes to the conditions as they are applied to any VRET proposal and sought to have the Commission address questions relating to the implementation of any second tranche to PGE's specific VRET program.

First, we address parties' proposed changes to the nine conditions and provide our resolution. Second, we provide guidance as to how the interpretation of the original language and any changes we adopt are to be applied to the second tranche of PGE's VRET offering. In our discussion of condition nine, we provide guidance as to how the conditions are to be applied in any subsequent requests to expand PGE's VRET program. These guidelines are subject to change in the future as conditions change and PGE, Staff, and stakeholders learn more about the ongoing operation and effects of VRET programing. Finally, we discuss and resolve a series of issues applicable to PGE's program separate from the nine conditions.

A. The Nine Conditions

Condition 1--Definitions. The current language is as follows:

> Renewable portfolio standard (RPS) definitions that must apply to voluntary renewable energy products are for resource type, location, and bundled renewable energy certificates (RECs).

CUB stated that the definitions in Condition 1 should not prevent the inclusion of storage capacity as part of a VRET offering. Staff also said that the inclusion of battery storage in conjunction with a renewable resource may make sense for future VRET resources, particularly as battery storage costs decline and mixed resource facilities become more common and economical. Staff expressed reservations about how pricing with a storage option would be calculated, arguing that a VRET should not be used primarily as a means to reduce overall power costs, and should not be used to directly compete with Direct Access offerings. CUB and Staff agreed on the following language to be added at the end of Condition 1:

> Non-carbon emitting energy storage resources may be included but only in conjunction with RPS-compliant resources.[2]

PGE opposes the additional language, claiming that VRET offerings may only include RPS-eligible resources.[3]

Commission Resolution. ORS 469A.120(2)(a) provides for cost recovery of "facilities that generate electricity from renewable energy sources, costs related to associated electricity transmission and costs related to associated energy storage." We therefore conclude that energy storage associated with RPS-eligible resources is consistent with the statute, and that including energy storage in a VRET offering is consistent with the public interest. Storage therefore, may be included if it meets the statutory standard of being associated with an RPS-eligible resource. We amend Condition 1 by adding the language proposed by CUB and Staff.

The parties in this case have not, however, addressed questions that may arise with this expanded condition, such as cost allocation issues, impacts on nameplate capacity, or the effect on the average output calculations on any proposal that might be brought forth in a VRET offering. In the event that a VRET proposal includes a storage component, any issues related to the impact of storage on the offering should be addressed at that time.

Condition 2—Renewable Energy Credits. The current language is as follows:

> VRET options should only include bundled REC products. Any RECs associated with serving participants must be retired on or on behalf of participants, unless the participants consent to RECs being retired by the utility or the developer.

PGE proposed to change Condition 2 to remove the customer option to allow a utility or developer to retire RECs.[4] Staff, PacifiCorp, Renewable Northwest, and CUB all support this change.[5]

Commission Resolution. We adopt PGE's proposed changes, and note that no party opposed this change. Condition 2 is amended to remove the final clause and read as follows:

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[2] Staff/400, Gibbens/7.
[3] PGE/800, Wenzel – Faist/12-13.
[4] PGE/800, Wenzel – Faist/3-4.
[5] PGE/800, Wenzel – Faist/3.

> Voluntary renewable energy options include only bundled REC products. Any RECs associated with serving participants must be retired by or on behalf of participants.

In the future and in light of ongoing policy evolution, the option for RECs to flow to an entity other than the participating customer may again become meaningful to parties, and we will remain open to addressing that circumstance as appropriate.

No party in this docket discussed the first sentence of Condition 2. We observe that our order originally adopting Condition 2 did not define "bundled REC products" for purposes of VRETs. We are aware that Staff and parties have discussed this in other contexts, and expect that this discussion will continue to evolve as Oregon gains experience with VRETs, RECs, greenhouse gas accounting and other policies and tools for supporting customer choices. We expect that this, too, will be an area of discussion as Oregon gains experience with VRETs, RECs, greenhouse gas accounting and other policies and tools for supporting customer choices.

Condition 3—Operation Date. The current language of Condition 3 is as follows:

> The year that a voluntary renewable energy program eligible resource became operational should be no earlier than 2015.

The parties agree that the specified date in Condition 3 is inapplicable to the current circumstances of this policy and that the condition's intention was for a resource not to have been operational for more than one year prior to the time that the customer signed a binding agreement.

Commission Resolution. This condition was originally adopted to ensure that only newly developed projects would be supported by this program. We update this condition to state that resources are eligible under the condition if those resources are operational no earlier than one year prior to the inclusion of the resource in the VRET program. We note that this change was not substantively debated by the parties. We amend Condition 3 to read as follows:

> The year that a VRET-eligible resource becomes operational shall be no earlier than one year prior to the resource being included in the program.

Condition 4—Program Cap Size. The current language is as follows:

> The VRET program size is limited to 300 aMW for PGE and 175 aMW for PacifiCorp.

Although the language of Condition 4 sets the size of PGE's VRET program cap in terms of average megawatts, in Order 19-075, we stated, "PGE may procure up to 300 MW of new *nameplate* resources through PPAs under this program. ****Instead of a pilot, we recognize this program as the first phase of a VRET offering, which may be followed by a second phase following the continuation of this proceeding."[6]

With 300 MW having been fully subscribed pursuant to the parties' stipulated allocation of 160 MW to the PSO and 140 MW to the CSO, by its letter of March 25, 2020, PGE stated that "Phase I of the Green Tariff program is full and no capacity remains. PGE looks forward to working with stakeholders, Staff and the Commission to expand the program in Phase II to meet further customer interest."[7]

PGE proposes to increase the size of its total program by 200 MW, for a total Green Energy Affinity Rider (GEAR) program size of 500 MW.[8] PGE agrees with NIPPC to maintain the CSO and PSO distinction, consistent with Phase 1 of its program.[9] Accordingly, the 200 MW PGE proposes for Phase 2 would allocate 100 MW for the CSO and 100 MW for the PSO.[10]

Walmart does not oppose PGE's proposed cap increase.[11] PacifiCorp does not oppose changes to the PGE cap, but proposes that its own program cap continue to be expressed in average MW.[12] Staff is concerned that there has been little to no information or experience from the first tranche, and that a higher cap comes with unknown, additional risk to COS customers.[13] Staff therefore recommends keeping the current participation cap adopted in Phase I. However, if the Commission determines that an increase is warranted, Staff recommended that the Commission set the cap at the amount it finds reasonable for the PSO portion of the program, rather than create a single cap for the PSO and CSO options. CSO customers could apply for the program on a case-by-case basis. Staff argues that this would maintain the distinction between the CSO and the PSO, and

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[6] Order No. 19-075 at 4 (emphasis added).
[7] PGE Notification Letter.
[8] PGE/800, Wenzel – Faist/2.
[9] PGE/800, Wenzel – Faist/6.
[10] *Id.*
[11] Walmart/400, Chriss/2.
[12] PacifiCorp Opening Brief at 4.
[13] Staff/400, Gibbens/31.

would limit the amount of risk COS customers would be exposed to as a result of the VRET program.[14]

Commission Resolution. We make no change in the Condition 4. As currently worded, this condition allows PGE to offer VRET programs up to 300 aMW. PGE seeks to increase the size of its current program from 300 MW to 500 MW, which does not necessitate any change in the current language of Condition 4.

We approve PGE's proposal to expand its current offering from 300 MW to 500 MW. As discussed below under Conditions 5 and 6, and Condition 8, respectively, PGE's program has been designed to minimize impacts to the competitive market and reduce the risk exposure to non-participating cost-of-service customers associated with this increase. We discuss the process for review of potential future expansions of PGE's program below.

Condition 5 and Condition 6—Differentiation from and Mirroring of Direct Access Programs.

The current language for Condition 5 is as follows:

> Voluntary renewable energy product design should be sufficiently differentiated from existing direct access programs.

The current language for Condition 6 is as follows:

> 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. PGE and PacifiCorp 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.

In approving PGE's initial VRET proposal with modifications through Order No. 19-075, we stated that the amended proposal "protects the competitive market for electricity as a whole, while larger policy questions are resolved."[15]

Conditions 5 and 6 in combination sought to both meet the need for customer choice among renewable energy resource products and provide the assurance that a new VRET

[14] Staff/400, Gibbens/32-33.
[15] Order No. 19-075 at 4.

program would not adversely affect the ability of other resource providers under the Direct Access Program to fairly participate in meeting market demand.

In addressing Condition 5 in this phase of the docket, although parties did not oppose retaining the condition, there was general disagreement around the meaning and practical application of what made a VRET offering "sufficiently differentiated" and how Condition 5 interacted with Condition 6.

In addressing Condition 6, there was no consensus among the parties as to the practical application of the condition and whether or in what form it should be retained. PGE argued that Condition 6 should be eliminated, stating it was inconsistent to require sufficient differentiation from Direct Access programs as in Condition 5, but then to require mirroring of Direct Access programs in Condition 6. PGE observes sufficient market protections are in place, and that Condition 4 sets the cap for the VRET and Condition 9 allows for evaluation of impacts to Direct Access programs.[16] NIPPC argued that Condition 6 be retained to prevent market power abuse by incumbent utilities, but stated that if the Commission believed that some modification was appropriate, it should be permitted on a case-by-case waiver request subject to conditions. The conditions outlined by NIPPC would permit modification only after PGE had made a showing that a given term or condition of service cannot reasonably be implemented under Direct Access and that the PGE has presented a compelling rationale for why different terms and conditions are necessary for the program to function; moreover, NIPPC would require a demonstration that the different treatment does not create barriers to the competitive market.[17] Staff proposed to retain but update Condition 6 and provided the following alternative language:

> 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.

Commission Resolution. The interrelationship of Condition 5 and Condition 6 is such that questions of fairness with respect to utility participation in the market for serving large customer loads are best considered in a single condition that responds to both the desire for customer choice and the maintenance of a robustly competitive market. Accordingly, we provide a single, more generalized condition, which we believe will

[16] PGE/800, Wenzel – Faist/13.
[17] NIPPC Initial Brief at 2-3.

assure that appropriate review mechanisms are available to determine that a VRET offering does not unfairly or adversely impact the competitive market. We adopt the following as a consolidated Condition 5/6, replacing Conditions 5 and 6:

> VRET offerings, as customer choice products, can impact the competitive retail market for some customer segments even when differentiated from direct access offerings. The utility bears the burden of proof to demonstrate that a VRET offering does not unfairly undermine Direct Access Programs.

We have been committed to the development of a robust, competitive retail market for electricity. The competitive retail market provides customers with a greater number of choices to better enable them to acquire energy in a manner consistent with their economic and policy preferences. It also encourages innovation and efficiency on the part of energy source suppliers and an incentive to respond to customer demand. The Direct Access Program has provided customers with such alternatives while providing safeguards for cost-of-service customers who remain with the utility.

Because the Direct Access Program and VRET program may attract similar customer segments, in examining VRET programs, one of our consistent concerns is that a VRET offering should not undermine the marketplace by unfairly utilizing resources paid for by cost-of-service customers to deliver a more attractive VRET product than a Direct Access provider could offer. That noted, if there is no financial cross-subsidization in the utility offering and a VRET program is not presenting a substantially equivalent financial or risk value proposition as Direct Access, then customer demand for the VRET is evidence of customer interest in renewable resources provided by the utility, and not in and of itself evidence of a negative impact on the competitive retail market.

Given the design and operation of PGE's current VRET offering, we find that the expansion of PGE's VRET program from 300 MW to 500 MW does not negatively impact the competitive market. The PGE VRET proposal includes a menu of resources to subscribe to that is limited by technology and vintage (for the PSO program element), a long term subscription commitment, a bill credit floor that effectively prevents participating customers from saving money relative to cost-of-service rates, and continued exposure to future cost-of-service rate changes for participating customers. With the adoption of the conditions and guidelines in this order, PGE's VRET program can coexist with the existing Direct Access program without unduly adversely affecting the marketplace. Specifically, several program features designed to meet the prohibition of cost shifting to cost-of-service customers create substantial differences from the financial and risk value propositions and the optionality available in Direct Access

products. Given these differences in the products we do not anticipate a negative impact on the competitive market.

Condition 7-- Utility VRET Source Ownership

The current language for Condition 7 is as follows:

> 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 investment with the other utility customers for ratepayer-funded assets used to assist the voluntary renewable offering.

PGE proposed to delete the second clause of the first sentence and add the following: "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." Both PGE and PacifiCorp argue that the other conditions provide appropriate safeguards to prevent cost shifting, which is the underlying reason for removing, as unnecessary, the prohibition of rate-basing a VRET asset in Condition 7. NIPPC argues that the change would clearly undercut the competitive marketplace and has the potential to inflate transition costs for Direct Access customers and overcompensate the utility for risk, if a risk premium is assessed.[18]

Commission Resolution. We make no change to Condition 7. We find that PGE and PacifiCorp have failed to make a sufficient case demonstrating that there would be no adverse impacts on cost-of-service customers and the competitive marketplace associated with placing a VRET asset within a utility's general rate base.

Going forward, utilities may propose accounting safeguards that place VRET assets "in rate base," so long as those VRET assets can be accounted for separately from the utility's "general rate base." We interpret Condition 7 to prohibit commingling of rate-based assets supporting a VRET with the other assets that are in rate base for the purpose of serving non-VRET customers. If a utility can propose and implement safeguards that prevent such a commingling, while still accounting for VRET assets in a rate base classification, we would be less concerned about consistency with Condition 7 and its underlying rationale.

[18] NIPPC/300, Gray/27-28.

Condition 8—Risk Allocation and Customer Protection

The current language for Condition 8 is as follows:

> All direct and indirect costs and risks are borne by the participating voluntary renewable energy 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. Costs include but are not limited to ancillary services and stranded costs of the existing cost-of-service rate based system.

PGE proposes to eliminate the last sentence, arguing that this modification recognizes that ancillary services costs and existing assets are funded through the subscribing customer's continued service on cost-of-service.[19] Staff would keep the last sentence and insert "and additional future" after "existing" in the last sentence, as it would address future concerns about growth of the VRET and its relation to customer costs and risks considered in IRPs.[20] Staff is concerned that, even if there are measures in place to eliminate cost-shifting between participants and non-participating customers, the mere fact that procurement occurs outside of an IRP process will have an impact on the preferred portfolio in the utility's IRP.

Commission Resolution. In reviewing VRET programs, as when we review Direct Access program changes, we must consider both existing and future conditions, and the impacts of these customer options on general utility planning. Currently, none of the nine conditions directly addresses the impact that large VRET programs may have on utility least-cost, least-risk planning. Condition 8 provides that all direct and indirect VRET costs must not be borne by cost-of-service customers, but instead by a party who is associated with the voluntary program. Quantified cost shifts are therefore addressed in current language, but Staff's proposed addition clarifies to stakeholders the Commission's intent to consistently examine the VRET program's impact on long-term costs and risks to non-participating cost-of-service customers and to review the program's impact on the overall portfolio to identify any cost-shifting or increased future cost risk.

We adopt Condition 8 with the addition of Staff's language so that it reads as follows:

> All direct and indirect costs and risks are borne by the participating voluntary renewable energy tariff customers, shareholders of the utility or

[19] PGE/800, Wenzel – Faist/28.
[20] Staff/400, Gibbens/24-25.

> third-party developers and suppliers with provisions allowing independent review and verification by Commission Staff of all utility costs. Costs include but are not limited to ancillary services and stranded costs of the existing and additional future cost-of-service rate-based system.

In adopting this change, we note that the scale of VRET adoption in Oregon will necessitate more careful consideration of these resources and their impacts through our IRP process. In that process, we expect utilities to examine how various market price scenarios impact utility VRET portfolios, and whether or not those scenarios may lead to significant cost-of-service customer impacts and risks that should be addressed through changes in VRET customer crediting practices or other mechanisms.

Our key current concern is that these resources still lock in an energy price for cost-of-service customers for many years into the future. In the PGE VRET design, that energy price is set by the bill credit rate paid to participating customers, a rate set according to a long-term forecast of energy market prices that, like any long-term market price forecast, may be wrong. Locking in a long-term price for energy (or paying for the return of a utility capital over the long term, if a utility were able to meet Condition 7) means that customers forego the opportunity to take advantage of lower cost resources or lower market prices in the future. Cost-of-service customers also forego the opportunity to procure a resource better suited to system needs for reliability, greenhouse gas reduction, or another attribute that might serve them better than the underlying energy from the VRET resource does. These issues have been at the crux of the debate in recent IRPs and RFPs and will continue to be a challenge during the substantial wave of generating resource turnover likely to be driven by the clean energy transition. Expanding VRET programs adds resources outside the standard IRP and RFP process, and should not avoid review of these important issues.

Having reaffirmed our commitment to Condition 8 and to reviewing VRET programs to avoid cost- and risk-shifting to non-participating customers, we turn to review of PGE's request to expand its VRET program from 300 MW to 500 MW. We note that Staff and CUB opposed this expansion, arguing among other things that an increase is premature because we lack sufficient experience and data from the first 300 MW of PGE's VRET program to determine whether the identified risks to cost-of-service customers have borne out or been adequately mitigated. Although we remain concerned about the risks that Staff and CUB identify, we do not think that waiting for meaningful operational experience from the program's first tranche is the best way to evaluate them. The outcome of identified risks related to deviation between long-term forecasts and actual market prices will not be known within the time frame that we believe is reasonable for us to address customer demand for these programs. To timely address these risks, we

must look to portfolio analysis that evaluates risk to non-participating customers and product design that mitigates it.

In this docket, PGE committed to provide portfolio analysis before expanding its VRET program to 500 MW, and ahead of any additional expansion. As PGE stated during oral argument and memorialized in its IRP update, filed January 29, 2021:

> PGE has committed to providing sensitivity analysis of a proposed expansion of the GEAR program beyond the original 300 MW in the next IRP and to provide updated sensitivity analysis with a tariff filing. In addition, PGE looks forward to working with Staff and participants to explore additional analysis aimed at evaluating the long-term impacts of the potential growth of Voluntary Renewable Programs in the public Roundtable process for the next IRP.[21]

PGE's commitment to portfolio analysis of this and any future expansion is reassuring, though we expect PGE's portfolio analysis to continue to improve its consideration of forecast risk and the value or risk to cost-of-service customers associated with locking in energy prices by way of VRET resources. We also need to continue to evaluate how PGE considers and values VRET resources' suitability to meet system needs for reliability, greenhouse gas reduction, or other attributes. PGE's VRET program design and, in particular its credit mechanism will need to keep pace with evolution in analysis and evaluation of the costs and risks. In considering future expansions, PGE's product design and crediting mechanism may need to change as we gain a better understanding of risks to non-participating cost-of-service customers and options for mitigating them.

At its currently proposed size of 500 MW (nameplate capacity of participating resources), PGE's program design sufficiently mitigates our concerns about whether the IRP crediting methodology adequately protects non-participating customers. The key design features of PGE's program are that participating customers remain cost-of-service customers exposed to all the same rates and future rate changes as non-participating customers, and that PGE's program caps the VRET bill credit so that participating customers cannot receive a credit from the program that exceeds the cost of participating in the program. We found previously, and find again here in response to PGE's

[21] In the Matter of Portland General Electric's Integrated Resource Plan LC 73, 2019 Plan Update at 22-23 (Jan 29, 2021.)

requested 200 MW expansion, that this design adequately mitigates risks to non-participating cost-of-service customers.[22]

Condition 9—Commission Oversight

The current language for Condition 9 is as follows:

> All voluntary renewable offerings must be made publicly available and subject to review by the Commission to ensure they are fair, just, and reasonable.

Commission Resolution. None of the parties sought to change this condition, and we leave the language unchanged. We emphasize the role the PUC must play to ensure that the ongoing operation of this program remains consistent with these conditions, as revised, and the public interest.

In light of this condition, continued oversight is expected should PGE seek to expand their program further, or alter it in a material way.

We agree with Staff that the process proposed by PGE for further expansion gives the PUC and stakeholders adequate opportunity for review. PGE proposes to initiate any future expansion of the program with a filing that would be discussed and decided upon in a public meeting no later than 90 days after its submission to the Commission. Presumably, this would provide adequate time for Staff and stakeholder review for consistency with our orders and the nine conditions, including for examination of PGE's analysis of the expansion's effect on its IRP and its current and planned portfolio of resources. Within that 90-day period, we would expect to approve an expansion or determine that more examination is necessary, directing Staff to lead an investigation of the expansion proposal.

B. Issues Specific to PGE's Program Proposal

Though we discussed the application of the nine conditions to PGE's program above, in the following sections we resolve other issues with PGE's proposal that are not directly related to the nine conditions. We observe that, in this docket, credit calculation was discussed but that ultimately no changes to the credit methodology were put forward by

[22] Other program designs could also adequately address cost and risk shifting. As we described in Order No. 19-075, "[a] credit that updated in a predictable way periodically would shift that [forecast] risk to the participating customer, creating an opportunity for us to consider allowing a credit that could result in overall bill savings so that cost-of-service customers are not crediting subscribers more for the energy they bring to the system than cost-of-service customers would pay otherwise."

parties. We do not change the credit methodology approved in Phase I of this proceeding.

1. Customer Size Requirements

In the CSO portion of PGE's VRET program, a customer must average 10 aMW of load in order to participate. The Commission committed to considering in Phase II whether participation in PGE's CSO program element should be based on criteria in addition to or in lieu of the size of a customer's load.[23] In Phase I, Walmart had advocated for the Commission to reduce the minimum size for the CSO and allow customers larger than 5 aMW to participate.[24] PGE agrees with, and Walmart accepts as a compromise, the Staff proposal to allow customers below 10 aMW to petition the Commission for approval to participate in the GEAR program on a case-by-case basis.

Commission Resolution. We adopt the Staff proposal and agree to address proposals for CSO participation in the VRET program from customers whose load is greater than 5 aMW, but less than 10 aMW, on a case-by-case basis through individual applications to the Commission. In order to obtain approval, proposals should demonstrate through evidence such as the size and scope of the proposer's overall operations, including operations outside of Oregon, that the proposer is highly experienced in developing and fulfilling long-term PPAs.

2. Competitive Bidding Rules (CBRs)

For Phase I of PGE's GEAR program, the Commission granted PGE's request for a waiver of the CBRs, noting specifically that PGE had "recently completed an RFP process" and was likely in a position to identify a resource on an expedited basis.[25]

PGE acknowledges that the CBRs apply to procurements under its VRET program, but raised concerns with respect to the inherent costs that the customers would have to bear and the time consumed by the RFP process. While PGE initially sought a waiver of the CBRs, it was agreeable to a Staff's "RFP Light" proposal, which involved an iterative process providing incremental changes to the currently established CBRs, as follows:

- All interested parties are able to provide feedback on the scoring, selection, RFP criteria, and independent evaluator selection. The Commission would set the criteria at a public meeting.

[23] Order No. 19-075 at 8.
[24] Walmart/400, Chriss/2.
[25] Order No. 19-213, Appendix A at 8.

- A qualified independent evaluator who will review the Company's adherence to an agreed upon process and proper selection of chosen resources.
- Ability for interested parties and the Commission to review the scoring and decision-making process.
- Shareholder assumption of risk for any decisions or outcomes deemed to be outside of the agreed upon standards by the Commission during a second public meeting.
- Review of and potential amendments to this process following procurement.[26]

NIPPC opposed any up-front grant of a blanket waiver of the CBRs, and in no event for a PGE-owned resource.

Commission Resolution. The parties generally agree that there should be a streamlined RFP process to respond to customer demand for VRET products where utility ownership is not at issue, and Staff has offered a general approach toward addressing the CBRs. However, to adopt Staff's proposal as a standard procedure would be contrary to the existing rules and, as such, would require a waiver to apply. Furthermore, as Staff noted at oral argument in discussing implementation of CBRs, risk adjustment issues, the program cap and utility resource ownership, there was a lack of specificity in the proposals and that the parties were seeking guidance from the Commission.[27]

We therefore conclude that, so long as utility ownership is not being proposed, the most reasonable approach is for PGE to seek a waiver of some or all of the various aspects of the CBRs on a case-by-case basis. In its waiver request, PGE would provide its proposed process and review criteria and all interested parties would have the opportunity to comment upon the specific aspects of the waiver requests as they are tailored to the particular circumstances of the VRET offering.

3. Risk Adjustment Fee and Administrative Fee

In Phase I, PGE was allowed to apply a risk premium to GEAR subscriptions to account for the risk that the output of a procured resource may exceed the demand associated with subscriptions to the resource under the VRET. PGE now seeks to augment the risk adjustment fee to capture customer load variability and variable resource risk by using either: (1) a flexible calculation that considers the specific risks introduced at the time of an offering but with a cap of 10 percent of the PPA price; or (2) the lower of the cost of

[26] Staff/400, Gibbens/43.
[27] Oral Argument Transcript, at 47-50.

debt or cost of equity, but again capped at 10 percent of the PPA price.[28] PGE argues that 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. Through data requests, the hearing, and its opening brief, PGE discussed the proposed administrative fee. The administrative fee is based on a forecast of the direct costs to support the GEAR.

Staff argues that the Phase I risk adjustment fee should be continued without change in Phase II. The Commission should only consider changes to the fee as part of a tariff filing when a more detailed review of methodology and calculation could be reviewed.[29] Staff argues that PGE's administrative fee, which was presented through data request responses and at hearing rather than through the initial filing, has not been sufficiently vetted on the record to be approved at this time. Staff continues to maintain that the Company and its shareholders should be appropriately compensated for additional risk resulting from the GEAR program, but asks the Commission to allow stakeholders to ensure that the risk adjustment matches the risks associated with each tranche.

Commission Resolution.

At this time, the need for a change to the risk adjustment fee and the inclusion of the administrative fee has not been sufficiently justified on the record. We agree with Staff that a more thorough review of the underlying methodology as part of any change is appropriate, and that the administrative fee must be separately justified. In considering methodological changes, we ask stakeholders to review ways in which cost-of-service customers, as well ask shareholders, can be better insulated from risks associated with this program.

[28] PGE/800, Wenzel-Faist/38-40 and PGE/802, Wenzel-Faist/1-4.
[29] Staff/400, Gibbens/37.

V. ORDER

IT IS ORDERED that Portland General Electric Company is authorized to develop and offer a voluntary renewable energy tariff program consistent with this order.

Made, entered, and effective Mar 29 2021.

Megan W. Decker
Chair

Letha Tawney
Commissioner

Mark R. Thompson
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.