ORDER NO. 17 171

ENTERED MAY 16 2017

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1837

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation into the Treatment of New Facility Direct Access Load.	ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our May 16, 2017 Regular Public Meeting, to adopt Staff's amended recommendation that provides: "Open an investigation pursuant to ORS 756.515 to investigate questions related to the appropriate treatment of direct access transition adjustments for new customer load at a new site." The Staff Report is attached as Appendix A.

Dated this 16 day of May, 2017, at Salem, Oregon.

Lisa D. Hardie
Chair

Stephen M. Bloom
Commissioner

Megan W. Decker
Commissioner

PUBLIC UTILITY COMMISSION OF OREGON

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 Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. 4

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 16, 2017

REGULAR X **CONSENT** ____ **EFFECTIVE DATE** ____________

DATE: May 4, 2017

TO: Public Utility Commission

FROM: Lance Kaufman LK

I for MH

THROUGH: Jason Eisdorfer and Marc Hellman

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: Request for Investigation into the Treatment of New Facility Direct Access Loads.

STAFF RECOMMENDATION:

Staff recommends that the Commission open an investigation pursuant to ORS 756.515 to investigate questions related to the appropriate treatment of direct access transition adjustments for new commercial customer load at a new site.

DISCUSSION:

Issue

Whether the Commission should open an investigation into the fixed transition adjustments applied to new customer Direct Access load.

Applicable Rule or Law

ORS 756.515 provides that the Commission may summarily investigate matters related to public utilities on motion, with or without notice.

Senate Bill 1149 requires electric industry restructuring for large largest investor-owned utilities. This bill was signed into law in 1999. This bill required utilities to allow certain customers to purchase energy directly from independent Electricity Service Suppliers (ESS). This form of electricity service is termed Direct Access. The OPUC issued a series of orders establishing Direct Access rules in Oregon Administrative Rule (OAR) 860-038.[1] Direct Access rule OAR 860-038-0275(5) requires electric companies

1 See Order Nos. 00-596, 01-072, 01-153, 01-203, 01-599, and 02-053.

to "offer customers a multi-year direct access program with an associated fixed transition adjustment."

The initial Direct Access services offered by Portland General Electric included an option for long term direct access customers to avoid fixed transition adjustment charges after five years of direct access service. However, Pacific Power's initial Direct Access services did not provide customers with an option for avoiding transition adjustment charges. In Order No. 12-500, the Commission required Pacific Power to file a tariff "that allows a qualified customer to go to direct access and pay fixed transition charges for the next five years, and then to be no longer subject to transition adjustments."

In 2017, the Oregon Legislature contemplated SB 979. This bill proposed a number of changes related to Direct Access. One of the changes proposed in SB 979 excluded new commercial load from transition adjustments. This bill has not yet been signed into law.

<u>Analysis</u>

Current direct access tariffs allow commercial customers to receive generation services from a competitive market place while maintaining a neutral impact to existing cost-of-service customers. One component of the hold harmless provisions is the transition adjustment. When a customer switches from cost-of-service load to Direct Access load, the customer stops contributing to certain fixed generation costs of the distribution utility. This can cause the utility to under-recover costs, and results in higher rates for the remaining cost-of-service customers. The transition adjustment is a charge or credit to Direct Access customers that is intended to offset the rate impact that direct access has on cost-of-service customers. As designed, the transition adjustment is intended to be sufficient to make cost-of-service customers indifferent to other customers' decisions to participate in Direct Access.

SB 1149 initiated a new utility planning paradigm. Prior to SB 1149, utilities planned for and made investments based on all energy demands within their respective service territories. This resulted in a legacy system that was not optimized for the existence of Direct Access. Furthermore, the utility planning process at that time did not account for the potential impact of Direct Access. Because of this, it was reasonable to expect new customers choosing Direct Access to pay the same transition adjustments as existing customers choosing Direct Access.

Over time, utilities have gained experience with Direct Access and have modified their planning process to incorporate existing and forecasted future direct access loads.

Utilities now anticipate that some new and existing commercial customers will choose to receive generation services through Direct Access, and therefore incorporate these forecasted impacts of Direct Access when planning for new investments. It is possible that utilities have sufficient experience planning around Direct Access to accommodate direct access load of new customers without adversely impacting cost of service customers. If this is the case, it may be warranted to revise the transition adjustments applied to new customers.

The Senate Committee on Business and Transportation held a hearing on April 3, 2017, to receive public input on SB 979. Staff reviewed this hearing and found substantial public interest in SB 979, including interest in the treatment of new direct access loads. Among other issues, the proposed legislation contemplated removal of the transition adjustment for new commercial load at new sites choosing direct access over cost of service. The underlying reasoning for this suggestion was that utilities may not plan for this new load in the first place and thus would not result in harm to cost of service customers if they were to select direct access. Numerous business interests expressed support for SB 979, including Industrial Customers of Northwest Utilities, Northwest Intermountain Power Producers Coalition, Walmart, TechNet, and Microsoft.

Two groups expressed concern with the transition adjustment provisions of the bill: Pacific Power and Portland General Electric (PGE). Opposition to modifying transition adjustments raised two concerns:

1. Eliminating transition adjustments for new customers may cause excessive cost shifts to cost-of-service customers; and
2. Eliminating the transition adjustment may affect the risk associated with Utility's ongoing burden to be a Provider of Last Resort.

In addition to interest raised through SB 979, the Commission has been approached by other interested parties in examining transition charges for new load at new sites. This has been a topic of discussion for some years in the context of determining transition adjustment charges for PGE and PacifiCorp. Facebook filed comments on December 10, 2015, as part of the Commission's recent voluntary renewable energy tariff docket UM 1690. In these comments, Facebook presents an argument for why transition adjustments should be applied differently to new customers.

The proposed treatment of new direct access load in SB 979 is similar to current treatment in two other western states, Utah and New Mexico. The Public Service Commission of Utah recently approved Rocky Mountain Power Schedule 34. This schedule allows for special contracts with large electric customers. Schedule 34 contracts with new customers do not require consideration of the cost of existing

Company facilities as part of the public interest. The Public Service Company of New Mexico offers a special service rate exclusive to new customers through Rate No. 36B. This rate appears to limit charges associated with existing facilities in a similar manner as SB 979.

PGE and Pacific Power raise valid points regarding the potential for cost shifting if current transmission adjustment charges are modified. However, based on the public interest in the treatment of new Direct Access load, the treatment in other states, and the extensive experience utilities have in planning for Direct Access load, Staff finds that an investigation is warranted. If the Commission opens an investigation into this matter, the investigation should be targeted on the concerns raised.

Given the complex and historically contentious nature of Direct Access, Staff recommends that the scope of the investigation be limited to address questions related to the appropriate treatment of the transition adjustment for new commercial customer load at a new site. We expect that the investigation will address issues such as:

1. What constitutes new customer load, and what actions can invalidate new customer status?
2. What types of new customer direct access loads can utilities accurately plan for?
3. Do utilities currently have investments or costs rendered un-economic as a result of new direct access customers?
4. Can utilities plan in a manner that allows new customer direct access without adverse impacts on cost-of-service customers?
5. Can utilities treat new customers differently from existing customers without discriminating?
6. Do transition adjustment charges mitigate risk to utilities and cost-of-service customers associated with the Provider of Last Resort requirements?
7. What constitutes new customer load, and what actions can invalidate new customer status?
8. What parameters can be placed on the type of new load receiving altered transition adjustment treatment to minimize cost shifting?
9. What are the consequences of modifying transition adjustments for new customer on cost-of-service customers?

<u>Conclusion</u>

The public has expressed an interest in modifying the applicability of transition adjustment charges to new customer Direct Access loads. Utilities have garnered sufficient experience with Direct Access to warrant a review of the treatment of new customer Direct Access loads. Staff has identified a number of questions that can help address concerns raised by both the public and the Utilities. These questions can most appropriately be answered through a Commission investigation.

PROPOSED COMMISSION MOTION:

Open an investigation pursuant to ORS 756.515 to investigate questions related to the appropriate treatment of direct access transition adjustments for new commercial customer load at a new site.

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