

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 651

In the Matter of

Rulemaking Regarding Direct Access Including
2021 HB 2021 Requirements.

**PORTLAND GENERAL ELECTRIC
COMMENTS ON STAFF'S
PREFERENTIAL CURTAILMENT
PROPOSAL**

INTRODUCTION

Portland General Electric Company (PGE) submits these comments in AR 651 *Rulemaking Regarding Direct Access Including HB (House Bill) 2021 Requirements* in response to the Public Utility Commission of Oregon (Commission or OPUC) Staff's *AR 651 Schedule Update: Preferential Curtailment Rules* circulated October 14, 2022.¹ Staff first circulated proposed rules on preferential curtailment as part of their September 1, 2022, *Division 38 Direct Access Straw Proposal*.² PGE's response to that rule language welcomed the clarifications and sought further details on preferential curtailment operationalization and how the alternative provider of last resort (POLR) backstop capacity charge would be determined.³ These comments build upon discussions at the November 2, 2022, OPUC Workshop and the agenda set by the Administrative Law Judge's October 27, 2022 Memorandum.⁴ These comments also respond to the Commissioners' request during the October 4, 2022, Regular Public Meeting that stakeholders work with Staff to facilitate a workable solution regarding a utility's POLR responsibilities.

Regarding POLR obligations, Staff previously noted that "[b]ecause PGE remains the provider of last resort within its service territory [...] the company is obligated to provide safe and adequate service to all customers within its service area."⁵ Furthermore, the Commission has ruled that "customers who choose direct access should not be limited to default service on an "as available" basis."⁶ Accordingly, Staff's proposed rule language on preferential curtailment provided some

¹ AR 651, OPUC Staff, Schedule Update: Preferential Curtailment Rules, October 14, 2022, available at: <https://edocs.puc.state.or.us/efddocs/HAH/ar651hah154426.pdf>

² AR 651, Staff's Straw Proposal, September 1, 2022, pp 5-6, available at: <https://edocs.puc.state.or.us/efddocs/HAH/ar651hah164623.pdf>

³ AR 651, PGE Comments on Staff's Division 38 Direct Access Straw Proposal, pp 2-5, available at: <https://edocs.puc.state.or.us/efddocs/HAC/ar651hac161242.pdf>

⁴ AR 651, ALJ Allwein, Memorandum, October 27, 2022, available at: <https://edocs.puc.state.or.us/efddocs/HDA/ar651hda17720.pdf>

⁵ UM 115, Order No. 01-777 at 38, issued August 31, 2001, at 39, available at: <https://apps.puc.state.or.us/orders/2001ords/01-777.pdf>

⁶ UM 115, Order No. 01-777 at 38, issued August 31, 2001, at 38, available at: <https://apps.puc.state.or.us/orders/2001ords/01-777.pdf>

policy direction on a utility’s role as POLR, while articulating how that could be effectuated while attempting to prevent unwarranted cost-shifting.⁷ Under Staff’s proposals, utilities would remain the POLR [OAR 860-038-0290§§(2),(5)] with certain caveats to protect cost-of-service customers.⁸ So, by means of an example, if an electricity service supplier (ESS) were no longer able to provide service to a direct access customer, and PGE was also unable to provide emergency default service to that customer because market energy or additional PGE generation was unavailable, then, in accordance with Staff’s proposal, PGE would be authorized to preferentially curtail the returning direct access customer [per OAR 860-038-0290(3)]. Staff has also proposed that a utility may collect the costs required to “operationalize preferential curtailment” from a customer through a “reasonable charge” [OAR 860-038-0290(4)]. In situations where preferential curtailment is “infeasible” or “would negatively affect the electric system’s reliability” Staff further proposed that the utility will “plan for and acquire capacity to account for a direct access consumer’s potential return” through a POLR backstop capacity charge the specific cost of which will be recovered through a tariff [OAR 860-038-0290(5)(a)-(b)].

PGE looks forward to commenting on the other issues in this rulemaking (non-bypassability, ESS compliance with HB 2021) at a later date. We also acknowledge Staff’s finding that “the issue of preferential curtailment also informs contested case decisions around direct access program caps”.⁹ As the Commission and the region work to resolve resource adequacy issues while decarbonizing the electric system in line with state policy goals, it is imperative that the current program caps remain in place. Caps are an essential tool to help mitigate the potential for cost shifting and unplanned load shifts as they place limits on “unknown and unknowable” system impacts and on the amount of load that can return on short notice that PGE is then required to serve with emergency default services as POLR.¹⁰ PGE recommends that preferential curtailment be demonstrated as a reliable method of addressing POLR risk before a decision is made on modifying direct access caps.

While PGE is committed to working collaboratively with Staff and stakeholders through this process to review preferential curtailment, PGE is concerned that many of the issues raised here are fact specific. PGE believes that these issues would ultimately need to be addressed in a contested-case, and therefore recommends deferring adoption of any formal rules addressing preferential curtailment until after the conclusion of a contested case which will address these fact-specific issues. PGE recommends that this contested case occur as the first phase of UM

⁷ AR 651, Staff’s Report for the October 4th Public Meeting, September 26, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAU/ar651hau17551.pdf>

⁸PGE currently effectuates POLR per [Schedule 81](#) (Nonresidential Emergency Default Service), a direct access customer no longer receiving service from its ESS and returning to PGE without the required notice is charged 125% of ICE-Mid-Columbia (Mid-C) Firm Index plus 0.306 cents per kWh for wheeling, plus line losses. After five business days (or before) the customer is moved to PGE’s standard offering (daily market pricing) and has the option of seeking a new ESS.

⁹ AR 651, Staff’s Straw Proposal, September 1, 2022, p 2, available at: <https://edocs.puc.state.or.us/efdocs/HAH/ar651hah164623.pdf>

¹⁰ UE 335, Order No. 19-128, available at: <https://apps.puc.state.or.us/orders/2019ords/19-128.pdf>

2024. PGE is concerned that adopting preferential curtailment rules ahead of addressing fact-specific issues in a contested case could lead to rules that are infeasible to operationalize from an engineering or cost perspective.

I. WORKSHOP AGENDA TOPICS

1. Timing of Infrastructure vs. Customer Transition

A customer that has elected direct access and chooses (or is required to install) preferential curtailment infrastructure should be required to pay the POLR backstop capacity charge until the equipment is installed and successfully tested. By ensuring that POLR risks are continually addressed (whether by preferential curtailment or a backstop capacity charge) the impact of the utility's POLR role should be minimized for cost-of service customers.

The amount of time to install the infrastructure will be highly customer-specific and dependent upon the service voltage (transmission, primary, or secondary) and whether the service point is overhead or underground. Transmission service is generally always overhead, but primary voltages service points are usually underground. Installing equipment underground would likely substantially increase the installation time and cost. Further exploration of preferential curtailment equipment can be found in Section I.2.

2. Collection of Infrastructure Costs

Staff's proposed rules state, "The electric company may collect a reasonable charge from a consumer to recover necessary costs for system upgrades that operationalize preferential curtailment of that consumer, using a Commission approved methodology."¹¹ If rules on preferential curtailment are ultimately adopted, then all costs associated with operationalization should be recoverable. PGE recommends changing 860-038-0290(4) to: "The electric company may recover the costs for system upgrades that operationalize preferential curtailment from the customer as a charge. The charge will be determined by using a Commission approved methodology." Preferential curtailment infrastructure costs could be collected through an initial set-up fee with an ongoing monthly charge to recover operations and maintenance. The collections could be administered via an optional service added to long-term direct access base schedules or as a miscellaneous charge schedule.

Table 1 provides PGE's preliminary high-level assessment of the equipment required to operationalize preferential curtailment, categorized by service voltage type and meter location. In addition to the cost of these system upgrades, the total amount recoverable would include (but is not limited to) labor costs, the additional costs of undergrounding (where necessary), PGE computer systems upgrades, as well as ongoing operations and maintenance costs. This is a fact-specific inquiry, and the methodology to calculate preferential curtailment costs should be addressed in a contested-case proceeding. Parties are not entitled to discovery in a rulemaking

¹¹ AR 651, Staff's Report for the October 4th Public Meeting, 860-038-0290 (4) pp 35-36, September 26, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAU/ar651hau17551.pdf>

proceeding, and therefore, this is likely an issue that would need to be addressed in a contested-case proceeding.

Service Type	Meter Location	Potential Preferential Curtailment Requirements
Transmission	Overhead	Circuit switcher (a remotely operable device that can interrupt power)
	Underground	Not applicable
Primary	Overhead	SCADA (supervisory controlled and data acquisition) controlled recloser
	Underground	Meter-specific solutions will vary greatly (and with increased costs). A pad-mount (ground-mounted on a concrete pad) or underground SCADA-controlled means of disconnecting would be required. A significant investment in distribution system reconfiguration could also be required
Secondary		≤320A Could be curtailed through AMI (advanced metering infrastructure) control
	Overhead	≥400A Service is indirectly metered for operational safety; disconnecting the meter does not de-energize service. A customer-specific disconnection solution would be required to de-energize the transformer, such as a remotely operable primary-connected device. If the transformer is shared with one or more non-direct access customers, then the curtailable customer would have to be physically isolated from the others and served by a transformer dedicated to provide their service
		≤320A Could be curtailed through AMI control
	Underground	≥400A Service is indirectly metered for operational safety; disconnecting the meter does not de-energize service. Meter-specific solutions will vary greatly (and with increased costs). If the service is fed from overhead primary, then similar options exist to those discussed above for Secondary/Overhead/≥400A. If the service is fed from underground primary, then pad-mount or underground SCADA controlled means of disconnecting would be required. A significant investment in distribution system reconfiguration could also be required.

Table 1- Potential Preferential Curtailment Infrastructure Requirements

3. Treatment of Excess Generation/Market Purchases

Staff proposed, “[i]f an ESS is no longer providing service, and neither market energy nor excess generation is available, the electric company may preferentially curtail returning nonresidential

direct access consumers of that ESS.”¹² As PacifiCorp has articulated, generation in “excess” of a utility’s load may be necessary for reliability purposes, reserve requirements, regulatory requirements, contractual requirements (such as a capacity holdback in the Western Power Pool’s Western Resource Adequacy Program’s – WPP WRAP – future Operational Program), or some other need.¹³ As the proposed trigger for preferential curtailment, the lack of “[e]xcess generation” needs defining.

One readily available definition could be found in the North American Electric Reliability Corporation’s (NERC) descriptions of the Energy Emergency Alert (EEA) levels used to communicate the condition of a Balancing Authority experiencing an energy emergency.¹⁴ EEA 1 signals all available generation resources are in use:

“• The Balancing Authority is experiencing conditions where all available generation resources are committed to meet firm Load, firm transactions, and reserve commitments, and is concerned about sustaining its required Contingency Reserves.

• Non-firm wholesale energy sales (other than those that are recallable to meet reserve requirements) have been curtailed.”¹⁵

EEA 2 communicates that load management procedures are in effect:

“• The Balancing Authority is no longer able to provide its expected energy requirements and is an energy deficient Balancing Authority.

• An energy deficient Balancing Authority has implemented its Operating Plan(s) to mitigate Emergencies.”

Consideration of EEA 1 definition can further inform discussions on the potential parameters for triggering preferential curtailment: generation fully committed; concerns about sustaining required contingency reserves; energy sales halted; load management procedures imminent or in effect; implementation of emergency Operating Plan. More details on PGE’s Operating plan can be found in Section I.4.

4. Critical Facilities (Public Health, Safety etc.)

PGE has concerns with allowing critical facilities the option of installing preferential curtailment infrastructure. PGE’s Short Term Curtailment Operating Plan includes steps for implementing

¹² AR 651, Staff’s Report for the October 4th Public Meeting, 860-038-0290 (3) pp 35-36, September 26, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAU/ar651hau17551.pdf>

¹³ AR 651, PacifiCorp’s Comments on Staff Report for Commission’s October 4, 2022, Public Meeting, pp 3-4, October 3, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAC/ar651hac165553.pdf>

¹⁴ NERC, EOP-011-1 Emergency Operations Attachment 1 Energy Emergency Alerts, pp 11-12, <https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-011-1.pdf>

¹⁵ NERC, EOP-011-1 Emergency Operations Attachment 1 Energy Emergency Alerts, pp 11-12, <https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-011-1.pdf>

rotating outages (“emergency curtailment”) to protect the “performance, integrity, or stability” of the electrical system in an emergency (including “extreme weather, the temporary loss of a major generating plant or transmission facilities, or conditions that violate the North American Reliability Corporation (NERC) standards”).¹⁶ Note that for PGE “[f]acilities deemed necessary to public, safety, and welfare are excluded from the rotating outage”¹⁷, including:

- 911 Centers
- Electric Infrastructure
- Emergency Media
- Emergency Operations Centers
- Flood Control Facilities
- Hospitals
- Transportation
- Waste Water
- Water Supply

PGE is not convinced that it is in any cost-of-service customers’ interest to disconnect critical facilities if they return from long-term direct access with insufficient notice and there is no excess generation to serve them. Under Staff’s proposed rules the alternative for non-curtable customers would be for the utility to “plan for and acquire capacity to account for a direct access consumer’s return to the electric company’s service”.¹⁸

5. Backstop Capacity and Non-Curtable Customers

Staff’s draft rules propose that a utility will “not preferentially curtail non-residential direct access consumers if it is infeasible to do so or curtailment would negatively affect the electric system’s reliability”, adding:

“(a) Where an electric company will not enact preferential curtailment, the electric company will plan for and acquire capacity to account for a direct access consumer’s potential return to the electric company’s service.

¹⁶ PGE, Rule C – Conditions Governing Customer Attachment to Facilities B. Short Term Emergency Curtailment, C-2, April 24, 2020, available at: https://assets.ctfassets.net/416ywc1laqmd/5SfZZI4LC1xf9xctCK3Aqr/efcf1b7799f0f10e40863b2141faf54b/Rule_C.pdf

¹⁷ PGE, Rule C – Conditions Governing Customer Attachment to Facilities B. Short Term Emergency Curtailment, C-2, April 24, 2020, available at: https://assets.ctfassets.net/416ywc1laqmd/5SfZZI4LC1xf9xctCK3Aqr/efcf1b7799f0f10e40863b2141faf54b/Rule_C.pdf

¹⁸ AR 651, Staff’s Report for the October 4th Public Meeting, 860-038-0290 (5)(a) pp 35-36, September 26, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAU/ar651hau17551.pdf>

(b) The electric company will design tariffs to collect charges from the direct access consumer that only recover the costs of the capacity investment and the generation that serves that consumer.”¹⁹

PGE supports allowing direct access customers the choice of pursuing preferential curtailment infrastructure or compensating the utility for acquiring capacity as insurance that emergency default service will be available if they return on short notice rather than a feasibility determination. However, as discussed above, PGE has overarching concerns with allowing critical facilities such a choice as the community impacts could outweigh the value of reducing POLR risk. PGE welcomes further discussion as to whether critical facilities should have the option to choose preferential curtailment.

Preferential curtailment should be an option regardless of customer size. While a large customer would have more reliability and cost impacts upon its return than would a small customer, if an entire ESS fails, the system impacts of the smaller customers in aggregate could have consequential effects. This leads to the question of how much capacity should a utility “plan for and acquire”.²⁰ Minimizing the risk to cost-of-service customers would require planning for and acquiring capacity equal to the entire load on long-term direct access that is, or chooses to be, non-curtailable. Furthermore, the current draft rules direction to a utility to “plan for and acquire capacity” is more reflective of an ongoing insurance cost to the long-term direct access customer rather than a fee that is only incurred during the customer’s time on emergency default service. PGE supports an ongoing POLR capacity charge if the utility is required to plan for and acquire capacity.

Staff also appear to link non-curtailable direct access customers to resource adequacy in UM 2143 (State Investigation into Resource Adequacy), proposing that “[t]o avoid Capacity Backstop charge, [each] non[-WPP WRAP]-participant ESS must show compliance for every year of three-year action plan and ensure that its long-term opt out customers can be preferentially curtailed by the IOU [investor-owned utility].”²¹ PGE supports the expectation that a long-term direct access customer’s ESS should be resource adequate before the customer has the option of preferential curtailment, and thereby avoid the alternative of paying the utility to plan for and acquire POLR capacity on the customer’s behalf but even that does not fully mitigate the risks.

There was some discussion of the WPP WRAP Operational Program (Ops Program) as a possible solution to the POLR risk. When fully implemented, the WPP WRAP will include both a forward showing resource adequacy planning component and an Ops Program requiring participants to holdback capacity and potentially deliver energy if another participant signals that they have

¹⁹ AR 651, Staff’s Report for the October 4th Public Meeting, 860-038-0290 (5) pp 35-36, September 26, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAU/ar651hau17551.pdf>

²⁰ AR 651, Staff’s Report for the October 4th Public Meeting, 860-038-0290 (5) pp 35-36, September 26, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAU/ar651hau17551.pdf>

²¹ UM 2143, Staff’s Updated Process proposal for continuation of UM 2143 – Errata, pp 6-7, October 5, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAH/um2143hah16627.pdf>

insufficient capacity to cover their projected demand.²² The Ops Program should reduce the risk of an ESS being unable to serve a direct access customer and triggering that customer to return to the utility with insufficient notice. However, that short-notice return risk would still exist, and the utility would still be obliged to serve as POLR. For example, depending on the timing of the returning customer, the utility could use the Ops Program to access another participant's capacity to provide emergency default service if the utility had no excess generation available. However, if the Ops Program bilateral capacity exchange to cover emergency default service failed to materialize, once again the utility would still be obligated to serve as POLR with cost-of-services customers potentially exposed to unwarranted costs and risks.

Finally, PGE acknowledges Staff's comment that "[t]he formula to determine these [POLR capacity] charges will be determined in the contested case" proceeding of UM 2024 (AWEC Investigation into Direct Access).²³

6. Defining Terms

PGE discussed the need to define terms in our comments on Staff's Division 38 Direct Access Straw Proposal from September 1, 2022, which also included, for the first time, draft language on preferential curtailment.²⁴ PGE appreciates Staff's updates to rule section (4) changing "transition charge" to "reasonable charge" and removing the term "transmission system upgrades" to leave only the broader term "system upgrades".²⁵ As discussed above, PGE has made suggestions on the: timing of infrastructure versus customer transition; treatment of excess generation/market purchases; the duration of preferential curtailment; and the concept of curtailment as a choice (with concerns about critical facilities taking this option). It is still not clear whether the anticipated POLR capacity is to be for the sole use of the direct access customer paying for it, or whether it becomes a system resource.

7. Contractual Curtailment Options

The Alliance of Western Energy Consumers (AWEC) has proposed that "preferential curtailment could be effectuated through contractual means rather than physical" requiring direct access customers to "self-curtail their load or face substantial financial penalties."²⁶ PGE does not support this idea as a solution to addressing the POLR risk. There is no guarantee that a customer capable of self-curtailment would respond (or respond in time) in a manner that would avoid system impacts. While "substantial financial penalties" could be an incentive, if penalties are

²² (N)WPP Resource Adequacy Program – Detailed Design, p 140, July 2021, available at: https://www.westernpowerpool.org/private-media/documents/2021-08-30_NWPP_RA_2B_Design_v4_final.pdf

²³ AR 651, Staff Straw Proposal, September 1, 2022, p 2, available at: <https://edocs.puc.state.or.us/efdocs/HAH/ar651hah164623.pdf>

²⁴ AR 651, PGE Comments on Staff's Division 38 Direct Access Straw Proposal, September 15, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAC/ar651hac161242.pdf>

²⁵ AR 651, Staff's Report for the October 4th Public Meeting, p 6, September 26, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAU/ar651hau17551.pdf>

²⁶ AR 551, Comments of The AWEC, p 3, September 15, 2022, available at: <https://edocs.puc.state.or.us/efdocs/HAC/ar651hac153535.pdf>

actually incurred then the cost-of-service customers could already have been subject to a deterioration in service.

CONCLUSION

PGE looks forward to Staff recirculating an updated POLR proposal after considering the feedback received in comments and at the November 2, 2022, workshop.

Respectfully submitted this 18th day of November 2022.

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Enclosures:

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