BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1056

In the Matter of the Investigation into Integrated Resource Planning Requirements.	)))))))	THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES' OPENING COMMENTS

I. INTRODUCTION

Pursuant to Administrative Law Judge ("ALJ") Logan's July 11, 2005 Consolidated Ruling, the Industrial Customers of Northwest Utilities ("ICNU") submits these Opening Comments regarding the Oregon Public Utility Commission's ("OPUC" or "Commission") integrated resource planning requirements. While significant changes in the integrated resource planning process do not appear to be warranted, ICNU believes that the Commission's requirements should be modified to reflect the changes in the law and regulatory policy that have occurred over the past sixteen years. ICNU's Opening Comments will focus on fundamental concerns to large industrial ratepayers. Since the workshop process is not complete, ICNU will reserve comment on most other parties' specific proposals until its Reply Comments.

ICNU's comments in this proceeding, and those that will be filed in the related proceeding regarding competitive bidding (Docket No. UM 1182), reflect a concern that a utility's integrated resource plan ("IRP") should not constitute formal

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approval of resource decisions, nor should it substitute for actual decisionmaking by utility management. Specifically, ICNU recommends that the Commission reject proposals that have been made by some parties to utilize the integrated resource planning process to address prudency issues, pre-approve resource decisions, consider specific rather than general resources, or require the utilities to consider external environmental costs. Overall, a utility's IRP should not be too prescriptive and should recognize that a utility can, and should, deviate from an acknowledged IRP in order to deal with changing circumstances or to otherwise benefit ratepayers.

The Commission also should recognize that the integrated resource planning process should ensure that utilities develop appropriate plans focused on providing reliable, low cost power to customers both in the short-term and long-term. ICNU recommends that the Commission reject efforts to artificially increase electric rates by including the costs of potential environmental laws that have not been enacted or by utilizing unfair rate design methodologies. Conversely, electric utilities should consider all available options to provide reliable, low cost power to customers, including but not limited to transmission resources, distribution investments, and distributed generation.

ICNU believes that the integrated resource planning process remains important in the current regulatory framework, but it should be modified to reflect the passage of Senate Bill ("SB") 1149 and other changes in the energy industry. SB 1149 imposes requirements regarding conservation, renewable resources, and the public purpose charge. These requirements must be accommodated; however, they should not require significant changes in utility planning. For example, the integrated resource

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planning process should continue to be relevant under the Commission's existing rule requiring utilities to include the costs of new utility resources in rates at market instead of cost. OAR § 860-038-0080(1)(b). However, PacifiCorp and Portland General Electric Company ("PGE") should not plan to acquire resources to serve all their customers eligible for direct access, especially if their customers are choosing electricity service suppliers ("ESSs"), or if such a plan effectively prevents customers from buying from an ESS.

II. BACKGROUND

The Commission issued its least cost planning order in 1989, establishing the substantive and procedural requirements for a utility's least cost plan ("LCP"). Re the Investigation Into Least-Cost Planning for Resource Acquisitions by Energy Utilities in Oregon, OPUC Docket No. UM 180, Order No. 89-507 (Apr. 20, 1989) ("Order No. 89-507"). The Commission explained that least cost planning should not alter the basic roles of the Commission and the utilities in the regulatory process, and that rate-making decisions would not be made in a LCP. Id. at 6. The Commission directed that all LCPs should include the following basic elements: 1) all resources must be evaluated on a consistent and comparable basis; 2) uncertainty must be considered; 3) the primary goal must be least cost to the utility and its ratepayers consistent with the long-run public interest; and 4) the LCP must be consistent with the energy policy of the state of Oregon. Id. at 7. Subsequently, the Commission has reviewed nearly forty utility LCPs and issued additional least cost planning orders, including the guidelines for the treatment of external environmental costs. E.g. Re the Development of Guidelines for the Treatment

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of External Environmental Costs, OPUC Docket No. UM 424, Order No. 93-695 (May 17, 1993) ("Order No. 93-695").

On August 8, 2002, the Commission opened a new investigation to consider revisions to the least cost planning requirements. Re the Investigation into Least Cost Planning Requirements, OPUC Docket No. UM 1056, Order No. 02-546 (Aug. 8, 2002). The investigation was opened "to reconsider the fit between traditional least cost planning and a competitive electric industry, and to reopen an investigation to review least cost planning requirements." Id. The Commission held this proceeding in abeyance for over two years while investigating regulatory policies affecting new resource development. Re an Investigation into Regulatory Policies Affecting New Resource Development, OPUC Docket No. UM 1066, Order No. 05-133 (Mar. 17, 2005); Re the Investigation into Least Cost Planning Requirements, OPUC Docket No. UM 1056, Ruling (Dec. 19, 2002).

After this proceeding was reinitiated, ALJ Logan adopted the parties' proposed issues list, including over twenty-five separate issues to address in this proceeding. Re the Investigation into Integrated Resource Planning Requirements, OPUC Docket No. UM 1056, Memorandum (June 6, 2005). ALJ Logan provided the parties with guidance regarding the issues that should be addressed, stating that the Commission believes that the integrated resource planning "process generally works" and that an IRP should "remain outside the contested case process, and not involve any ratemaking decisions." Id. at 1.

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III. COMMENTS

1. Commission Acknowledgment of an IRP Should Not Result in Resource Pre-Approval or Alter a Subsequent Prudency Review

The Commission should not fundamentally alter the integrated resource planning process by changing the significance of the Commission's acknowledgement of an IRP for future prudence hearings or rate cases. In adopting the original least cost planning requirements, the Commission found that an acknowledged LCP is relevant to the ratemaking treatment and "will be an additional factor that the Commission will consider in judging prudence." Order No. 89-507 at 7. Consistency with the LCP does not guarantee favorable ratemaking treatment, and utilities can obtain rate recovery for resources that were prudently acquired in a manner inconsistent with their acknowledged LCP. Id.

A utility's IRP should continue to be an additional piece of useful information that will be reviewed in a subsequent rate proceeding, and the integrated resource planning process should not be transformed into a prudency or contested proceeding that would diminish the IRP's effectiveness. The integrated resource planning process cannot substitute for actual management of the utility, and utilities should continue to retain the discretion to prudently depart from a Commission-acknowledged IRP. Utilities should not be precluded from deviating from the IRP if such changes benefit ratepayers, because the IRP may be based on incorrect assumptions, and circumstances can change between the time of an IRP and a utility's resource decisions. The IRP should be a working document that the utility uses to guide its decision making

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process, not a straitjacket that forces a utility into making resources decisions which may prove to be imprudent or otherwise inappropriate.

The integrated resource planning process generally works, and changing the meaning of a Commission acknowledged IRP for future prudence reviews will irreparably diminish the value of the process. Although the integrated resource planning process is long, it is primarily an information gathering and testing process with the utility controlling the information that is provided. In addition, the integrated resource planning process is less rigorous and adversarial than a prudency review. The goal of the process is for the utility to solicit information and develop a working plan to meet its resource needs at the least cost for ratepayers. Transforming the process into a contested prudency review or pre-approval process will change the utilities' primary goal from developing the best plan to gaining Commission approval of any plan that guarantees favorable ratemaking treatment. In addition, it would be inappropriate to require Staff and intervenors to raise their prudency concerns in an IRP, especially when the rate impacts of a utility's resource acquisition decisions may not be known for years.

The Commission also should continue to acknowledge generic resources, not specific utility resource proposals. The IRP should focus on the utility's resource needs and review all available resources to provide low cost energy to ratepayers. Consideration of specific resources at designated locations may transform the process into providing a preliminary reasonableness analysis of the utility's resource decision and prevent the utility from prudently departing from its IRP. In addition, if the Commission

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reviews specific resource proposals, then the integrated planning process may eventually shift into a form of resource pre-approval.

2. The Integrated Resource Planning Process Should Focus on Obtaining the Lowest Cost Resources for Ratepayers

The integrated resource planning process should focus on ensuring that the utilities review all realistic options to provide reliable, low-cost power to customers, while balancing short-term and long-term rate impacts. An IRP should not be utilized to artificially increase energy rates to further other non-mandated social goals, including reducing certain emissions or combating global warming. Specifically, ICNU recommends that the Commission either remove the requirement that the IRP be "consistent with the long-run public interest" or clarify that this obligation does not require utilities to consider external social and environmental costs. Similarly, the integrated resource planning process should consider the risks associated with all proposed resources; however, the consideration of risk should not be utilized to justify charging ratepayers for a utility's acquisition of conservation or the above-market costs of new renewable resources.

The integrated resource planning process should include the actual economic costs of resources, including the costs of complying with existing federal and state environmental laws. However, it is inappropriate to require customers to pay higher electric rates by including the costs of complying with environmental laws that have not been enacted. Instead of attempting to determine how ratepayers should pay for the costs of mitigating alleged social and environmental ills, the integrated resource planning

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process should be focused on ensuring that utilities only develop the lowest cost electric resources. Likewise, the integrated resource planning process should not be used as a forum to require utility ratepayers to pay for alleged social and environmental "costs" that the state and federal legislatures have chosen not to address.

The integrated resource planning process should consider the risks associated with resource options, including the possibility that environmental, energy, and tax laws may change. The Commission should acknowledge the risk factors that utilities consider in their IRPs and the overall reasonableness of the utilities' decisions in a later rate proceeding. However, the Commission should not require the utilities to consider specific environmental risks and should acknowledge only those risk factors that are focused on protecting ratepayers from potential harms.

Requiring electric ratepayers to pay for external social and environmental costs may violate Oregon law. In passing SB 1149, the Oregon Legislature established a public purpose charge to fund the above-market costs of new renewable energy resources and cost-effective conservation. ORS § 757.612. The Legislature directed the Commission to remove these costs from the rates of PacifiCorp and PGE. ORS § 757.612(3)(g). Therefore, all the above-market costs for renewable resources and all conservation expenditures must be removed from rates and paid for by the public purpose charge.

Under SB 1149, the utilities should acquire all the cost-effective conservation and above-market renewable resources that can be funded through the public purpose charge. However, the Commission should not allow utilities to plan to

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acquire additional conservation or above-market renewable resources in order promote broader social and environmental goals or to develop a less "risky," but higher cost resource portfolio.

The Commission should also recognize that over emphasis of less "risky" resources harms ratepayers by inappropriately increasing costs. For example, since 1993 the Commission has required utilities to base their least cost planning analysis on a range of potential carbon dioxide regulatory costs. Order No. 93-695 at 5. In practical terms, despite the fact that a carbon tax has not passed, carbon based resources have been made to seem more expensive in the utilities' LCPs to account for this risk.

The inherent uncertainty of utility resource planning should focus the integrated resource planning process on the near-term impacts of a utility's proposed resource acquisition plans. Near-term rate impacts should receive a higher priority than long-term cost projections because long-term projections are invariably inaccurate. The value of a long-term least cost resource is also much lower than the value of a near-term least cost resource to current commercial and industrial customers that are struggling to compete. At a minimum, if resources have similar long-term cost impacts, the IRP should favor the resource with the lowest near-term costs.

3. Direct Access Should Not Significantly Alter the Integrated Resource Planning Process

Successful implementation of direct access for commercial and industrial customers in Oregon is consistent with the traditional integrated resource planning process. PacifiCorp and PGE remain under an obligation to plan to serve their expected

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load with the best mixture of low-cost and reliable resources. However, this obligation does not require that PacifiCorp and PGE unnecessarily increase their power costs by overbuilding and acquiring surplus resources in excess of their expected loads. In addition, application of the current market price rule should not obviate effective utility resource planning.

Customers eligible to choose ESSs should be accounted for in a realistic manner in an IRP. Staff has proposed that PacifiCorp and PGE should plan on serving their total customer loads (including those served by ESSs) over the IRP's planning horizon. Staff's only exception appears to be that PGE and PacifiCorp should not plan for customers that have enrolled in a long-term option to take power from ESSs.

PacifiCorp and PGE should not plan to serve all their customers that are eligible for direct access because such plans would ignore the reality that some customers will be served by ESSs. For example, in 2005 approximately 11.3% of PGE's direct access eligible load elected to take service from ESSs. OPUC Status Reports: Oregon Electric Industry Restructuring (August 2005). PGE would be ignoring its actual expected loads if it planned to serve and acquired power for those direct access customers that consistently elected to take service from ESSs. At a minimum, PGE's and PacifiCorp's IRPs should first focus on serving their actual expected loads, after accounting for all potential changes including economic conditions, weather, power prices, and the expected level of direct access participation.

Requiring PacifiCorp and PGE to plan on serving all load eligible for direct access will unnecessarily increase the utilities' overall power costs and maintain an

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inappropriate barrier to direct access implementation. If PacifiCorp and PGE plan to serve their entire direct access eligible load, then they will build or acquire resources to serve this load. The utilities' power costs may be unnecessarily increased if they are required to sell off their surplus resources when customers depart to take service from ESSs. Customers that elect direct access may be particularly harmed because the utilities' failure to plan on direct access load loss can cause significant undervaluing of their resources in the transition adjustment and prevent customers from electing direct access. Essentially, by planning to serve their entire load eligible for direct access, the utilities will make it impossible for significant numbers of their customers to actually choose ESSs.

The existence of the current market price rule should not fundamentally alter the integrated resource planning process. The market price rule impacts the ratemaking treatment of new utility resources but does not remove a utility's obligation to prudently plan to serve its customers. For example, valuing resources at market will provide the utilities with a strong incentive to continue to plan to build and acquire the lowest cost resources. The option for the utilities to request waiver of the market price rule also means that some resources may be placed in rates at cost, reaffirming the need for the utilities to appropriately plan their generation resources.

4. Rate Design Should Not Be Utilized as a Potential Demand Response

The Commission should not require utilities to consider rate design as a potential demand-side resource. Utilizing rate design to influence load changes is a departure from cost based rates that can have significant negative consequences for

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customers. For example, requiring Oregon industrial customers, who already have artificially high rates because of the long-run incremental cost methodology used in Oregon, to pay higher peak rates may cause customers that cannot shift load to off-peak periods to close their businesses. Industrial customers that can shift load to off-peak time periods could increase their overall costs through increased accident rates and employee expenses associated with additional graveyard shifts.

Utilization of rate design as a demand response, including time-of-use pricing, has also not been shown to be effective. Time-of-use pricing is designed to limit peak electricity usage; however, overall industrial loads are down in Oregon and much of the new peaking is related to causes that are unlikely to be affected by time-of-use rates, including the increased residential use of summer air conditioning and winter heating. In addition, time-of-use pricing in some jurisdictions has resulted in disasters that harmed nearly all participating ratepayers without significant corresponding load reductions. See Washington Utils. & Transp. Comm'n v. Puget Sound Energy, Docket Nos. UE-011570 and UG-011571, Fourteenth Supp. Order (Nov. 15, 2002). The IRP process should not be used to promote social engineering experiments that may have significant unintended negative consequences for Oregon ratepayers.

5. The Utilities' IRPs Should Consider Transmission and Distribution Resources

The integrated resource planning process should consider potential cost savings associated with transmission and distribution resources. The utilities' IRPs have not fully considered the potential for utilizing non-wires solutions for transmission and

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distribution planning, customer-owned combined heat and power resources, standby generation, and distributed generation. These potential resources should be considered and included as part of an acknowledged IRP if they are cost-effective and are part of an overall least cost, reliable power supply.

IV. CONCLUSION

The integrated resource planning process should continue to be used to assist Oregon utilities in developing the best strategy for reliably meeting their resource needs at the lowest cost. The Commission should not usurp the role of the utility decision maker by imposing unyieldy requirements regarding resource options and the inclusion of environmental costs. Similarly, the Commission should not transform an IRP into a contested proceeding focused on providing the utility with guaranteed rate recovery.

The Commission should also merge the integrated resource planning process with the requirements of SB 1149. Utilities should plan on acquiring cost-effective conservation resources and above-market renewable resources; however, these resources can only be funded by utility shareholders or the public purpose charge. In addition, the only significant impact that customers choosing direct access should have on the integrated resource planning process is that PGE and PacifiCorp should no longer plan to serve all of their direct access eligible load.

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Dated this 9th day of September, 2005.

Respectfully submitted,

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September 9, 2005

Via Electronic and US Mail

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Re: In the Matter of the Investigation into Integrated Resource Planning Requirements
Docket No. UM 1056

Dear Filing Center:

Enclosed please find the original and two copies of the Opening Comments of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Please return one file-stamped copy of the document in the self-addressed, stamped envelope provided. Thank you for your assistance.

Sincerely,

/s/ Sheila R. Ho
Sheila R. Ho

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Opening Comments of the Industrial Customers of Northwest Utilities upon the parties on the service list by causing the same to be sent via electronic mail and to be mailed, postage-prepaid, through the U.S. Mail, with the exception that the parties that have waived paper service have only been sent an electronic copy.

Dated at Portland, Oregon, this 9th day of September, 2005.

/s/ Sheila R. Ho
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