

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

DOCKET NO. UM 2143

In the Matter of Public Utility Commission of)	
Oregon: Investigation Into Resource)	CALPINE ENERGY SOLUTIONS, LLC’S
Adequacy in Oregon)	COMMENTS ON STAFF’S UPDATED
)	STRAW PROPOSAL
)	
)	

I. INTRODUCTION AND SUMMARY

Calpine Energy Solutions, LLC (“Calpine Solutions”) hereby submits its comments on Staff’s Updated Straw Proposal to the Public Utility Commission of Oregon (“OPUC” or “Commission”). Calpine Solutions appreciates the opportunity to provide its feedback on the Staff’s Updated Straw Proposal circulated February 17, 2023 (hereafter, “Staff’s Update Straw Proposal”). Staff’s Updated Straw Proposal contains many useful clarifications on the details of the proposed state-level resource adequacy (“RA”) rules, but Calpine Solutions is concerned with the aspect of the proposal that appears to completely foreclose the possibility of the Commission developing a reasonable RA backstop charge for utility-supplied resource adequacy as an alternative compliance option.

As explained in Calpine Solutions’ previous comments, Calpine Solutions generally supports the overall concept of providing three options for an electricity service supplier (“ESS”) and long-term direct access (“LTDA”) and new load direct access (“NLDA”) customers to meet the RA requirements of this Commission. Specifically, Calpine Solutions supports providing the following three general options: (1) the ESS’s participation in the Western Power Pool’s (“WPP’s”) Western Resource Adequacy Program (“WRAP”) coupled with the filing of a forward-looking informational filing with the Commission; (2) the ESS’s compliance with

OPUC-administered RA rules coupled with the forward informational filing to this Commission; or (3) the applicable customer's payment to the relevant utility of an RA backstop charge for utility-supplied RA.¹

Staff's Updated Straw Proposal more strongly incents all load serving entities ("LSEs") to participate in the WRAP for purposes of compliance with Oregon's proposed RA rules. Calpine Solutions appreciates the goal of encouraging Oregon LSEs to participate in the WRAP, to the extent feasible, and Calpine Solutions supports the revision in Staff's Updated Straw Proposal that clarifies the *informational* nature of a four-year showing for LSEs supplying their own RA. However, Calpine Solutions remains concerned that mandating participation in the WRAP's requirements as the only practically available compliance option could have unintended consequences—particularly when the WRAP's final requirements and participants' attempts to commercialize products that comply are still in flux during WRAP's non-binding phase until 2025. Calpine Solutions is concerned that Staff's Updated Straw Proposal could leave WRAP participation as the only practical option and ultimately have unintended consequences. Most notably, Staff's Updated Straw Proposal removes the third compliance option for ESSs and direct access customers to pay the so-called RA backstop charge for utility-supplied RA. Calpine Solutions continues to recommend that the Commission at least retain within its administrative rules the option to develop an RA backstop charge available to ESSs that ultimately elect not to participate in the WRAP.

II. COMMENTS

Staff's Updated Straw Proposal requests comments on any part of the new proposal but encourages comments specifically on: (1) the general sentiment towards requiring all Oregon

¹ See Calpine Solutions' Comments on Staff's Straw Proposal, Docket No. UM 2143 (Nov. 18, 2022).

LSEs to participate in WRAP, and (2) a proposed starting date for the state RA process. As explained below, Calpine Solutions first cautions the Commission against adopting administrative rules that enshrine the WRAP requirements as the sole means of compliance with the state RA program, without at least retaining within the rules the option of developing a Commission-approved RA backstop charge as an alternative compliance option for ESSs and their customers. Second, given the centrality of the WRAP requirements to Staff's Updated Straw Proposal, Calpine Solutions recommends that the state RA compliance process's start date be carefully established to coincide with the commencement of the binding phase of the WRAP.

1. While Calpine Solutions Supports Encouragement of WRAP Participation, the Commission Should Reserve Within Its Rules the Option of Developing an RA-Backstop Charge.

Staff's Updated Straw Proposal intends to more strongly incent all Oregon LSEs to participate in the WRAP for purposes of compliance with Oregon's proposed RA rules. While this intent has logical appeal, Calpine Solutions urges the Commission to include within its rules the option of developing a meaningful compliance option for non-participants in the WRAP and is concerned that relying solely on the WRAP for compliance could have unintended consequences.

Calpine Solutions appreciates and supports the revision in Staff's Updated Straw Proposal that clarifies the *informational* nature of the four-year showing for LSEs supplying their own RA, and Calpine Solutions appreciates the goal of encouraging WRAP participation. Indeed, Calpine Solutions has been an active participant in the development of the WRAP from its inception, and Calpine Solutions has devoted substantial time and resources to working within the WRAP. Although the Federal Energy Regulatory Commission ("FERC") approved the WRAP tariff, as revised in response to a deficiency letter, the final requirements of the WRAP

are still being developed into the business practices that will implement important elements of the program, such as the exceptions to the firm transmission requirement.² During the upcoming non-binding phase of the program, those details and the participants' efforts to commercialize products that meet the WRAP's requirements will evolve, and thus it is not possible at this time to guarantee the final program and commercial products that will become available, will work for all Oregon LSEs. Thus, locking the compliance with WRAP into the Commission's administrative rules as the only practical compliance option, and tying that compliance to an ESS's certification to operate in Oregon's direct access programs at all, is not a reasonable course of action at this time.

Calpine Solutions notes that the two compliance options other than WRAP participation in Staff's Updated Straw Proposal appear unlikely to be very useful alternatives. The second option in Staff's Updated Straw Proposal is to demonstrate 100% procurement of WRAP-compliant supply one year in advance, with a slight reduction in the generation procurement to 90% two years in advance but full WRAP-compliant transmission procurement two years in advance.³ While this proposal is preferable to Staff's prior proposal which suggested there would be a three-year forward showing of binding procurement, it still appears to be of limited appeal. An LSE able to procure such WRAP-compliant supply, including WRAP's stringent firm transmission requirement, two years in advance would presumably just become a WRAP participant, and therefore it does not appear this state-specific requirement would likely be utilized.

The third option in Staff's Updated Straw Proposal is for the ESS to contract with a third

² *Northwest Power Pool*, 182 FERC ¶ 61,063 (Feb. 10, 2023).

³ Staff's Updated Straw Proposal, p. 6.

party to supply its RA, which replaces the previously discussed RA-backstop charge in Staff’s prior proposal. Staff explains this “major change is to eliminate the capacity backstop charge in this filing while making it clear that an ESS can procure capacity from an IOU through a bilateral contract as a means of compliance.”⁴ Staff also states that “Staff intends to resolve items related to a non-curtable cap or a capacity backstop charge in AR 651.”⁵ This aspect of Staff’s Updated Straw Proposal is confusing. As currently proposed, the rules in AR 651 will not address an alternative RA backstop charge available for an ESS to comply with the newly proposed state RA program; instead, AR 651 addresses whether an LTDA or NLDA customer would be preferentially curtailed or would pay enhanced capacity and energy charges upon early return to utility service. That issue is distinct from the options available to the ESS itself to comply with the newly proposed state RA requirements.

With respect to the RA compliance options at issue here, Calpine Solutions had understood that there would be development of an RA backstop charge in this docket as the option to comply with the state’s RA requirement for ESSs (or direct access customers) that ultimately elect not to participate in the WRAP or otherwise demonstrate comparable RA supply to the Commission. Calpine Solutions recognizes that there would be certain issues to be resolved with an RA backstop charge and that a certain amount of Commission resources would be spent on such an effort.⁶ But Calpine Solutions continues to support at least retaining the option to develop an RA backstop charge for that purpose. Staff’s Updated Straw Proposal suggests that an ESS could simply contract with the utility to purchase the WRAP-compliant RA

⁴ Staff’s Updated Straw Proposal, p. 3.

⁵ Staff’s Updated Straw Proposal, p. 6.

⁶ See Calpine Solutions’ Comments on Staff’s Straw Proposal, Docket No. UM 2143, pp. 19-20 (Nov. 18, 2022) (identifying certain issues to be resolved with an RA backstop charge).

products for purposes of complying with the state RA program, but the reality is that the utility may have no incentive or interest in selling such capacity to ESSs. It is not reasonable to expect that an ESS would have equal bargaining power to the utility when attempting to procure from the utility the RA capacity product to serve load within the same utility's own balancing authority. Nor is it reasonable to expect that such negotiations would likely result in direct access customers ultimately being charged a just and reasonable price for such capacity. Indeed, absent a Commission-established RA backstop charge, the ESS and its customers may have no means of compliance if the ultimate provisions of the WRAP and products available in that program do not work for the particular ESS.

Additionally, making such a WRAP-only RA requirement a provision of becoming and maintaining good standing as an ESS in Oregon could create barriers to entry into Oregon's retail market and limit opportunities for customers. Notably, one of the premises of FERC's approval of the justness and reasonableness of the WRAP tariff was its *voluntary* nature.⁷ Parties protested, for example, the WRAP's stringent transmission procurement requirements, which may be practically infeasible in the today's market, and limitations on use of exceptions to that process.⁸ In response, FERC relied on the voluntary nature of the program: "We also note that the *voluntary* nature of the WRAP, and the Transition Period (where penalties do not apply) provides practical flexibility for Participants to evaluate the operational implications for each Participant's individual circumstance."⁹ But the WRAP would no longer be voluntary if it

⁷ *Northwest Power Pool*, 182 FERC ¶ 61,063.

⁸ *Id.* at PP 57-62.

⁹ *Id.* at P 84 (emphasis added); *see also id.* at P 85 (stating: "Further, we disagree with NIPPC's argument that WPP's proposal inappropriately turns the Forward Showing Transmission Requirement into an extension of the planning function of transmission providers. Rather, the WRAP is a *voluntary* program that financially binds all participants to meeting

becomes the only option for compliance with a state RA program. Additionally, this Commission has very limited, if any, control over the terms of the WRAP tariff or business practices should they ultimately prove to be unworkable or unreasonable for any reason. Particularly when the WRAP program is just beginning and its ultimate feasibility remains unknown, it would be unreasonable for the Commission to adopt administrative rules that, in effect, lock in the WRAP requirements as the only option for participation as an ESS in Oregon.

In sum, Calpine Solutions recommends that the Commission's administrative rules at least expressly state that the Commission will develop an RA backstop charge as a compliance option to the extent the Commission deems such a charge warranted.

2. The Commission Should Carefully Consider the Starting Date for Compliance.

Staff requested comment on a proposed starting date for the state RA compliance process.¹⁰ Calpine Solutions recommends that the Oregon RA compliance program be carefully designed to become binding and effective no earlier than the time that WRAP becomes binding and effective for Oregon LSEs. Given that LSEs participating in WRAP cannot demonstrate compliance in the binding WRAP program until at least when WRAP first becomes binding in 2025, it would be unreasonable to apply an earlier compliance date to LSEs electing another compliance option for Oregon's state RA program. Additionally, to the extent that the WRAP participation remains the only viable option for compliance with Oregon's RA program, the Commission should carefully correspond the effective date of its program with the limitations on elections possible within the WRAP. Thus, careful consideration of the WRAP's timing and

capacity and transmission showing requirements that will, as a result, provide better information to state and local regulatory agencies' planning processes." (emphasis added)).

¹⁰ Staff's Updated Straw Proposal, p. 7.

notice requirements is important.

WRAP already required existing participants to make an election as to their first Binding Season by December 31, 2022, with the options for the LSE's first Binding Season being from Summer 2025 through Winter 2027-2028.¹¹ That election had to be made in the absence of knowledge as to what requirements this Commission will adopt for the state-level RA program, including its date of effectiveness. Calpine Solutions understands that WRAP currently requires that an LSE seeking to change its prior election of the first Binding Season must provide notice to WRAP at least two years prior to the revised first Binding Season.¹² Thus, this Commission should allow at least two years after finalizing its administrative rules before making effective any requirement that the LSE demonstrate compliance through binding participation in the WRAP. In other words, the Commission should ensure the Commission's rules do not require that the LSE be a binding WRAP participant sooner than the Binding Season occurring after such two-year notice of revised Binding Season could feasibly be submitted by the LSE to WRAP.

¹¹ WPP's WRAP Submittal Letter, FERC Docket No. ER22-2762, p. 68 (Aug. 31, 2022); WRAP Tariff, § 1 (Definition of "Transition Period" is "Binding Seasons within the time period from June 1, 2025, through March 15, 2028, plus the time period required to implement the requirements and procedures of Part II of this Tariff applicable to Binding Seasons").

¹² WRAP Tariff, § 15.3 .

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/s/ Gregory M. Adams

Gregory M. Adams (OSB No.101779)
RICHARDSON ADAMS, PLLC
515 N. 27th Street
Boise, Idaho 83702
Telephone: (208) 938-2236
Fax: (208) 938-7904
greg@richardsonadams.com

Of Attorneys for Calpine Energy Solutions, LLC