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VIA Email – puc.filingcenter@puc.oregon.gov

Filing Center
Public Utility Commission of Oregon
201 High St. SE
Salem, OR 97301

Re: UM 2377 - In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation into Marginal Cost Study Treatment of Costs for Large Customers and Further Modifications to Portland General Electric Company's Rule C and Rule I

Dear Filing Center:

Please find enclosed Amazon Data Services, Inc.'s Application for Rehearing or Reconsideration in the above-referenced proceeding. Please let me know if you have any questions.

Sincerely,

Davis Wright Tremaine LLP



Caroline A. Cilek

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 2377

In the Matter of Public Utility Commission of Oregon, Investigation into Marginal Cost Study Treatment of Costs for Large Customers and Further Modifications to Portland General Electric Company's Rule C and Rule I	**AMAZON DATA SERVICES, INC.'S APPLICATION FOR REHEARING OR RECONSIDERATION**

I. INTRODUCTION

Pursuant to ORS 756.561 and OAR 860-001-0720, Amazon Data Services, Inc. ("ADS") respectfully applies for partial reconsideration or rehearing of Order No. 25-154 of the Public Utility Commission (the "Commission") in UM 2377, entered May 7, 2026 (the "Order").

ADS requests rehearing or reconsideration of the portion of the Order directing Portland General Electric ("PGE"), over PGE's objection, to establish an interconnection queue solely for large energy use facilities ("LEUF") for the following reasons:

(1) The Order contains errors of law that are essential to the decision. ADS submits there are two related errors of law relevant to ADS' application for rehearing or reconsideration:

First, the Order subordinates a utility's long-established statutory obligation to provide electric service within its service territory to the utility's HB 2021 clean energy targets. This outcome changes statutory law in a manner unsupported by the POWER Act or HB 2021.[1]

Second, and relatedly, the Order shifts onto customers—as a condition for obtaining electric service within a utility's exclusive service territory—the obligation to ensure *the utility's* compliance with HB 2021's clean energy targets. But the legislature expressly imposed these emission targets on

[1] Oregon House Bill 3546 (2025), *as codified in part* at ORS 757.292 – 757.295 ("POWER Act"); Oregon House Bill 2021 (2021), *as codified in part* at ORS 469A.400 *et seq.* ("HB 2021").

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the utility, not end-use customers. This condition also amounts to a change in law that is inconsistent with the controlling statutes.

(2) A change in the law or policy relating to an issue essential to the decision occurred after the date the Order was issued, and good cause exists for further examination of an issue essential to the decision. Two developments occurring after, or contemporaneously with, the Order's issuance also support reconsideration of the Order's establishment of an LEUF-only service queue:

First, the Order establishes the LEUF-only service queue in part based on the availability of alternative service options for customers to "avoid waiting for [service to] the higher-queued project."[2] But the current viability of such options for LEUF customers is not clear from the record; in particular, with respect to the option of direct access, the Order's conclusion appears in tension with the Commission's Order No. 26-153, issued on the same day in UM 2024, which includes significant limitations on the practical use of that program.

Second, the Federal Energy Regulatory Commission ("FERC") orders to show cause issued on June 18, 2026, under Section 206 of the Federal Power Act to six regional grid operators, raise questions as to the Order's consistency in approach with federal law. The FERC orders, which require the regional grid operators to demonstrate whether their open access transmission tariffs ("OATTs") are just and reasonable and not unduly discriminatory or preferential with regard to large load interconnection processes, are not directed at PGE. But they reflect FERC's assessment of discriminatory treatment of large load interconnection under its jurisdiction and the need to facilitate efficient and non-discriminatory interconnection of large loads to the electric system. A state policy

[2] UM 2377, *In the Matter of Public Utility Commission of Oregon, Investigation into Marginal Cost Study Treatment for Large Customers and Further Modifications to Portland General Electric Company's Rule C and Rule I*, Order No. 26-154 at 64 (May 7, 2026) (hereinafter UM 2377).

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that creates a discriminatory interconnection process for large load customers raises significant questions of federal and state consistency that were not addressed in the Order.

For each of these reasons, ADS respectfully requests reconsideration or rehearing of the LEUF-only interconnection queue portion of the Order. With an established history of supporting the clean energy transition and renewable energy development,[3] ADS is committed to supporting Oregon's clean energy goals and eager to work with utility partners and the Commission to facilitate clean energy generation for the state. However, the establishment of the LEUF-only interconnection queue is not consistent with Oregon law. ADS accordingly requests the Commission revise the Order to interpret and apply the POWER Act and HB 2021 in a manner consistent with all of PGE's statutory obligations, and reject the establishment of an LEUF-only interconnection queue for service.

II. BACKGROUND

In PGE's most recent general rate case, UE 416, the Commission directed staff to open a docket to investigate PGE's new large load connection costs as well as to consider whether any mitigation of potential risks to customers associated with new large load was necessary in the interim.[4] Following the Commission's direction, docket UE 430 was opened, and PGE ultimately filed proposed tariffs to "address[] the needs of new load customers connecting to PGE's system and associated costs and fairly allocat[e] costs to serve large load customers."[5] After parties filed comments on PGE's proposed tariffs and following multiple staff-led workshops, the Commission suspended Advice No. 24-38, which

[3] *See, e.g.*, UM 2377, Surrebuttal Testimony of Carolyn A. Berry and Collin Cain, ADS 100/Berry-Cain/11.
[4] UE 416, *In the Matter of Portland General Electric Company, Request for a General Rate Revision; and 2024 Annual Power Cost Update*, Order No. 23-386 at 14 (Oct. 30, 2023).
[5] Advice No. 24-38/UE 430, *In the Matter of Portland General Electric Company, Investigation into New Load Connection Costs* at 2 (Dec. 20, 2024) (hereinafter UE 430).

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proposed revisions to Rule C and Rule I, and directed a contested case be opened to address the large load issues raised in the UE 430 proceeding.[6]

A large load interconnection queue was not included in the original list of party issues.[7] The concept was first raised in Opening Testimony by Staff and the Coalition. Staff testified that it recommended "unique provisions for large load customers above 20 MW" to "avoid the untenable situation with HB 2021 emission targets."[8] Staff then provided a list of ways that customers could "avoid the queue," including procuring behind-the meter resources, utilizing voluntary renewable energy tariffs, transitioning to direct access, and providing contributions in aid of construction to fund a portion of the generation or transmission needed to serve the customer.[9] The Coalition similarly proposed "a queueing system, under which a new data center load cannot connect until new non-emitting resources are available to meet the needs of that data center."[10]

PGE responded in rebuttal testimony stating:

> Parties' positions reflect a misunderstanding about HB 2021's relevance to establishing a data center large load customer class and associated rates. Under their approach, PGE would be required to treat data center large load customers differently than other retail customers—an outcome that would amount to discriminatory treatment and was never anticipated or allowed by HB 2021. The exact contours of these proposals are unclear based on opening testimony, but some appear to suggest that new large load customers should effectively ensure PGE's compliance with HB 2021 or that PGE should be prevented from serving such customers unless it can guarantee achievement of HB 2021 emissions goals. PGE does not agree with these positions, and we do not believe these approaches are supported by statute or policy. The carbon emission targets in HB 2021 apply to the generation and power purchases serving all of PGE's load, encompassing all customers—residential, commercial, industrial, and data centers alike. What the advocates are asking for

[6] *See e.g.*, UE 430, Parties' Comments filed Feb. 19, 2025; Staff Workshop/Settlement on Nov. 11, 2024; Staff Workshop on Jan. 27, 2025.
[7] *See* UM 2377, Ruling May 20, 2025.
[8] UM 2377, Staff Opening Testimony, Staff/200 Bolton/3-4.
[9] UM 2377, Staff Opening Testimony, Staff/200 Bolton/4.
[10] UM2377, Coalition Opening Testimony, Coalition/100 Souder/43.

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> would require a change in the HB 2021 law and a change in the state's GHG emission reporting requirements, which do not distinguish between loads.[11]

In its surrebuttal testimony,[12] Staff refined its proposal to say that the "queue proposal does not equate to a ban on PGE serving a customer, it simply delays that service until PGE has the means to fulfill service without impeding progress on emission targets." Staff clarified that the queue would operate as follows:

> - When the Company receives a request for service from a large energy use facility, PGE would identify the amount of time until resources would be available to serve the customer without impeding emissions goals. This would be determined in conjunction with cluster studies and other studies as part of the customer's energization process.
> - The customer would be able to utilize load flexibility, special contracts, VRET, Direct Access service, and onsite generation to avoid waiting for the resource. These options could be used in combination with each other, but ultimately need to enable the utility to serve the customer without impeding state emissions goals.
> - The customer would decide prior to signing a service agreement whether an alternative pathway as described above will be used in lieu of a utility planned resource. This queue would take effect for customers in the cluster study and/or system impact study process of PGE's large load connection timeline.[13]

CUB, the Coalition, and CRITFC supported versions of Staff' proposal.[14] PGE, DCC and ADS opposed it.[15] In legal briefing, Staff recommended "implementing a queue for Large Load Customers that would preclude the utility from serving the customer if HB 2021 emission goals would be impeded by serving the customer."[16] In response to PGE's concerns, Staff "acknowledge[d] that its proposed

[11] UM 2377, PGE Rebuttal Testimony, PGE/200 Ferchland – Barrow/38.
[12] Staff's Rebuttal Testimony reiterated its position from its opening testimony, and discussed parties' positions.
[13] UM 2377, Staff Surrebuttal Testimony, Staff/600 Bolton/3-4.
[14] *See* UM 2377, CUB Rebuttal Testimony, CUB/200 Jenks/44; UM 2377, Coalition Opening Testimony, Coalition/100 Souder/43; UM 2377, CRITFC Opening Testimony, CRITFC/300 DeCoteau/19.
[15] *See* UM 2377, DCC Position Statement at 9; UM 2377, ADS Opening Brief at 9.
[16] UM 2377, Staff Opening Brief at 37.

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treatment for data center load is different than treatment for other customers, but the difference is warranted by the size of the data center's load." Staff made an almost identical argument in its closing brief as it did in its opening brief.[17] The Coalition argued the queue would not violate PGE's duty to serve because it "would not give PGE the ability to deny service requests, but only require that the Company be able to serve new data center loads with non-emitting resources."[18] The Coalition compared the queue to PGE's capacity queue to support its position that the LEUF queue does not constitute a denial of service.[19]

PGE pushed back against the queue concept, arguing "that it is inequitable and unreasonable to require a queue that is structured to block customers from being served by PGE and from entering service until restrictive and undefined conditions are met" and "flies in the face of PGE's obligation to serve customers without undue discrimination."[20] In PGE's Closing Brief, PGE provided:

> Under Staff's proposal, PGE could begin offering service to large load customers only when 'resources would be available to serve the customer without impeding emissions targets.' This is not a summary of Staff's queue proposal. *This is the entirety of Staff's concept – one sentence.* Despite having three rounds of testimony and multiple data requests to explain the details of this proposal and how it would be implemented, this is the totality of Staff's queue idea, which is breathtaking both in its impact on customers and its lack of clarity and detail.[21]

Similar to PGE, ADS explained the queue was inconsistent with Oregon law and that neither the POWER Act nor HB 2021 authorized overriding "utilities' fundamental and long standing

[17] UM 2377, Staff Closing Brief at 31-32.
[18] UM 2377, Coalition Closing Brief at 39.
[19] UM 2377, Coalition Closing Brief at 39.
[20] UM 2377, PGE Opening Brief at 99.
[21] UM 2377, PGE Closing Brief at 18.

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obligation to serve all customers within their service territories."[22] DCC explained the queue was inconsistent with the Commission's prior orders relating to, and infringed upon, PGE's duty to serve.[23]

The Order mandates an interconnection queue for LEUF customers and requires an HB 2021 compliant plan of service before PGE can serve an LEUF.[24] The Order rejects the assertion that the queue constitutes a denial of service because (1) "customers have the ability to move forward through the queue by establishing a plan of service," stating that "the record shows the customer would be able to utilize load flexibility, special contracts, [voluntary renewable energy tariffs], direct access service, and onsite generation to avoid waiting for higher [a] higher queued project," and (2) the queue is by its plain language not a denial of service but only a potential delay of service "until that service can be accomplished in accordance with law."[25]

III. LEGAL STANDARD

The Commission may grant rehearing or reconsideration of any order "if sufficient reason therefor is made to appear."[26] The Commission may grant an application for rehearing or reconsideration if the applicant shows that there is one or more of the following factors in OAR 860-001-0720(3): (a) "[n]ew evidence that is essential to the decision and that was unavailable and not reasonably discoverable before issuance of the order; (b) [a] change in the law or policy since the date the order was issued relating to an issue essential to the decision; (c) [a]n error of law or fact in the order that is essential to the decision; or (d) [g]ood cause for further examination of an issue essential to the decision."[27]

[22] UM 2377, ADS Opening Brief at 9.
[23] UM 2377, DCC Closing Brief at 11-12.
[24] UM 2377, Order No. 26-154 at 63.
[25] *Id.* at 64.
[26] ORS 756.561(1).
[27] OAR 860-001-0720(3).

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In addition to specifying one or more of the above grounds for rehearing or reconsideration, an application must specify: (a) the portion of the challenged order that the applicant contends is erroneous or incomplete; (b) portion of the record, laws, rules, or policy relied upon to support the application; (c) the change in the order that the Commission is requested to make; and (d) how the applicant's requested change in the order will alter the outcome.[28]

IV. ARGUMENTS

The Commission must ensure that all customers, regardless of their unique characteristics, are provided with "adequate and safe service, equipment and facilities," at "reasonable and just" rates and without undue discrimination.[29] In this proceeding, parties presented evidence and argument that neither the POWER Act nor HB 2021 authorizes or mandates an interconnection queue that requires LEUF customers to secure HB 2021-compliant resources in order to obtain service. As explained below, the Commission should have issued an Order that interpreted and applied the POWER Act and HB 2021 in a manner consistent with all of PGE's statutory obligations and declined to establish an LEUF-only interconnection queue for service.

A. The Order erred as a matter of law in establishing a large load interconnection queue.

The Commission's decision erred in its interpretation and application of the POWER Act and HB 2021 as authorizing an LEUF-only interconnection queue. The queue establishes an indeterminate delay or denial of service that is unduly discriminatory and in violation of PGE's statutory obligation to provide its customers with safe and reliable service at reasonable rates and in a non-discriminatory manner.[30] Neither the POWER Act nor HB 2021 authorizes such an interpretation. Nor does either law

[28] OAR 860-001-0720(2).
[29] ORS 757.020; ORS 757.210; ORS 757.325.
[30] *Id*.

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allow the Commission to effectively shift onto customers, as a condition for service, HB 2021's clean energy targets that the legislature imposed on utilities.

Oregon courts require statutes addressing the same subject to be read together and harmonized wherever possible.[31] The Commission must "ascertain and declare what is, in terms or in substance," contained in the statute, not "insert what has been omitted, or to omit what has been inserted[,]" and must "give effect to all" of the statute's provisions.[32] Under that framework, a later statute should not be interpreted to impliedly amend or supersede an earlier statutory obligation unless the two are truly irreconcilable.[33] Oregon law disfavors treating later statutes as impliedly superseding earlier ones.[34]

1. The Order changes statutory law by prioritizing HB 2021 emission targets to the statutory obligations to provide non-discriminatory electric service within an exclusive service territory.

The Commission's justification for establishing the queue is that the POWER Act "compels us to consider whether the rates we approve in this order and subsequent orders for Schedule 96 impede the electric company's ability to meet the clean energy targets … in HB 2021."[35] The specific language in the POWER Act related to HB 2021 is as follows:

> (3) In deciding whether to approve a proposed tariff schedule of an electric company for a classification of service described under subsection (2) of this section, the commission shall consider whether the rates:
> ***
> (c) Impede the electric company's ability to meet the clean energy targets set forth in ORS 469A.410 or reduce the emissions of greenhouse gases consistent with state policy;

[31] *See* ORS 174.010; *Powers v. Quigley*, 345 Or 432, 438 (2008) ("[W]hen multiple statutory provisions are at issue in a case, this court, if possible, must construe those statues in a manner that 'will give effect to all' of them.") (citing ORS 174.010).
[32] ORS 174.010.
[33] *State v. Farnham*, 341 Or App 787, 790 (2025) (citation omitted).
[34] The Oregon Supreme Court has noted that when two statutes "are totally irreconcilable, the latter will prevail…but if the statutes can function together, a claim that the earlier statute is superseded depends on some persuasive indication that the legislature meant the new statute to prevail over an unrepealed (and perhaps unnoticed) one." *Harris v. Craig*, 299 Or 12, 15 n 1 (1985).
[35] Order No. 26-154 at 64.

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> (d) Allow for procurement of or contracts for generation resources that support the electric company's ability to meet the clean energy targets set forth in ORS 469A.410 or reduce the emissions of greenhouse gases consistent with state policy; and HB 3546, Section 2(3).[36]

There is no dispute that the POWER Act grants the Commission the authority to review *rates* in an LEUF tariff for the purposes specified by the statute. However, the interconnection queue is a term of service. Indeed, as crafted in the Order, it is a condition precedent to a LEUF receiving electric service. ADS recognizes that the Commission has the authority to review and approve utility tariff rules, including terms of service. But the POWER Act did not specifically grant the Commission authority to condition service on a utility's progress toward meeting clean energy targets. Rather the law only directs the Commission to "consider" the effects of "the rates" in a tariff on compliance with clean energy targets. Interpreting the statute to allow a utility to condition service, and, indeed, *requiring* a utility to condition service, based on the utility's own clean energy obligations imposes a mandate the Oregon Legislature did not enact. And such interpretation implicitly supersedes investor-owned utilities' long-standing statutory obligations to provide service in exclusive service territories.

The Order responds to these arguments by reasoning that allowing LEUF customers to "connect to the grid without first ensuring [] they are served by HB 2021-compliant resources," would be ceding the Commission's responsibility under the POWER Act. The Order further reasons that the queue does not "constitute[] a denial of service" because "by its plain language [it is] not denying service to customers, but rather potentially delaying service until that service can be" HB 2021 compliant.[37] Yet the Order then makes its effect clear: "[i]f load cannot be met without increasing PGE's emissions, then the process of large load energization should be paused."[38]

[36] ORS 757.292; HB 3546 Sec. 2(3) (2025).
[37] UM 2377, Order No. 26-154 at 64.
[38] *Id.* at 64.

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Whether framed as a pause, delay, or denial, the unconditional effect of this language is that PGE's statutory obligation to provide service is secondary to the utility's emissions targets under HB 2021. In other words, pursuant to the Order, when it comes to an LEUF customer, the obligation in ORS 757.020 for a utility to "furnish adequate and safe service, equipment and facilities" is subordinate to HB 2021's clean energy targets. This interpretation is a change in law that is not supported by any express statutory language. It creates a hierarchy in which a utility's statutory obligations start—and may end—with how well the utility is meeting its clean energy targets under HB 2021.

The Commission has repeatedly recognized the statutory obligation to provide service, particularly within exclusive service territories.[39] Nothing in HB 2021 changed that obligation. Instead, it sets clean energy targets for PGE, as well as specific statutory mechanisms and release valves should those targets appear too costly or raise other risks.[40] Denial of service is not one of those mechanisms or release valves. ADS understands the Order to be based on the view that the POWER Act changed the obligation to serve by directing the Commission to consider the effect of "rates" on a utility's compliance with HB 2021 targets. But if the legislature wanted to change that obligation and authorize the Commission to deny or delay service to LEUF customers, it would have said so.

The Order's establishment of an LEUF-only interconnection queue is also unduly discriminatory. The Commission acknowledges that "[i]n reality, all load growth, regardless of source,

[39] UM 1818, Order No. 19-221 *Columbia Basin Elec. Coop. v. Umatilla Elec. Coop*. (July 2,2019) (The Territory Allocation law, ORS 758.400 to 758.475, "set out a process by which utility service territories may be allocated thus providing a utility with the exclusive right and obligation to serve customers in a specific territory."); *see also* UE 433, Order No. 24-447, *In re. PacifiCorp Request for General Rate* Revision at 114 (Dec. 19, 2024) ("While PacifiCorp is correct that there are limitations to its obligation to serve under ORS 757.020, the situation presented here would give PacifiCorp too much unilateral discretion, pose too large a risk of discrimination, and have too significant a consequence for the customer to be an appropriate general limitation on the obligation to serve."). The Attorney General has similarly opined that "any person that has received a territorial allocation . . . has a duty to serve all customers, including new customers, within the allocated territory." Or. Op. Atty. Gen. 6139, 1987 WL 278258, *4 (July 27, 1987).

[40] *See* ORS 469A.440 (reliability pause); ORS 469A.445 (cost cap).

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must be met with non-emitting resources today in order to accomplish HB 2021's mandate."[41] Yet neither any party nor the Commission suggests a pause on load growth from any customer other than LEUFs in order to meet HB 2021's clean energy targets. As PGE explained in its testimony and briefing, the LEUF-only interconnection queue in and of itself would require it to "treat data center large load customers differently than other retail customers—an outcome that would amount to discriminatory treatment and was never anticipated or allowed by HB 2021."[42]

2. The Order changes statutory law by shifting HB 2021 utility obligations onto customers.

Relatedly, the Order erred by shifting the responsibility to meet HB 2021 obligations from PGE to LEUF customers as a condition of service. By law, PGE, not its customers, is responsible for meeting HB 2021's clean energy targets.[43] Yet the Order's LEUF-only interconnection queue requirement appears to place the onus on the customer to procure certain HB 2021-compliant generation to rise in the queue and obtain service. PGE foresaw this issue. In its testimony, PGE stated that based on the parties' interconnection queue proposal, it appeared that "new large load customers should effectively ensure PGE's compliance with HB 2021 or that PGE should be prevented from serving such customers unless it can guarantee achievement with HB 2021 emissions goals." Moreover, PGE testified that an interconnection queue would "require a change in HB 2021 law" as the law "applie[s] to the generation and power purchases serving all of PGE's load" and it does not "distinguish between loads."[44] Just as PGE explained and the Commission has confirmed, HB 2021 is a utility obligation, and it does not authorize PGE or the Commission to shift that obligation to customers.

[41] UM 2377, Order No. 26-154 at 64.
[42] UM 2377, Rebuttal Testimony, PGE/200, Ferchland – Barrow /38.
[43] ORS 459A.410; *see* UM 2225, Order No. 23-061at 10 ("We note that the emission reduction framework described in HB 2021 is legally binding on utilities, and utilities must meet the targets subject to the exceptions outlined in the legislation.").
[44] UM 2377, PGE Rebuttal Testimony, PGE/200 Ferchland – Barrow/38.

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B. The LEUF-Only Interconnection Queue Should be Reconsidered in Light of New Commission and FERC Orders.

1. The Commission's UM 2024 Direct Access Order No. 26-153 Appears in Tension with the Order's Finding that Direct Access Provides an Option for LEUF Service.

The Order specifies that LEUF customers will "have the ability to move forward through the queue by establishing a plan of service[,]" and that the "customer would be able to utilize load flexibility, special contracts, VRET, direct access service, and onsite generation to avoid waiting for the higher queued project."[45] As such, the Order contemplates that PGE's direct access program is a viable option to move out of the interconnection queue with HB 2021 compliant sources obtained through an Electricity Service Supplier ("ESS").

Given that PGE's direct access program has limited availability unlikely capable of accommodating more than one LEUF,[46] ADS understands the Order to mean that a waiver of the direct access cap would allow LEUFs to move out of the interconnection queue and be energized. However, Order No. 26-153—issued the same date as the Order, concerning the direct access program—appears to place the practical application of that option in question.[47]

Order No. 26-153 provides that while the direct access cap remains, a customer may request the cap is waived.[48] Specifically, the Order establishes for both preferentially curtailable customers and non-curtailable customers that a waiver may be granted if the customer's ESS has demonstrated compliance with "binding state or regional resource adequacy requirements," such as Western

[45] Order No. 26-154 at 64.
[46] UM 2377, Coalition Opening Testimony, Coalition/100 Souder/43 (citing *In the Matter of Alliance of Western Energy Consumers, Petition for Investigation Into Long-Term Direct Access Programs*, UM 2024, AWEC Opening Testimony, AWEC/100, Kaufman/2 (May 2, 2025)).
[47] Because the Commission had yet to issue Order No. 26-153 at the time of the UM 2377 proceeding, it constitutes both new evidence that was essential to the Order but unavailable before June 7, 2026 and a change in the Commission's policy relating to an issue essential to the decision.
[48] UM 2377, Order No. 26-153.

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Resource Adequacy Program (WRAP).[49] Regarding this requirement, the Commission stated it "understand[s] and accept[s] that it is likely not possible for ESSs to demonstrate their participation in a binding regional RA program at this time" because no such program exists yet, "but believe[s] that it will be possible in the future."[50] This would appear to mean that for the present purposes, waiver of PGE's direct access caps would be limited to those ESS's complying with a "binding state" RA program, placing in doubt whether direct access is a currently viable option for LEUF customers to use to progress out of the interconnection queue.

Based on the limitations within the direct access program, the Commission should reconsider whether there are sufficient methods for a customer to access HB 2021-compliant resources to be energized in a timely manner.

2. The Order is in Tension with FERC's More Recent Show Cause Orders Issued to Regional Transmission and Independent System Operators.

On June 18, 2026, FERC issued show cause orders to six regional grid operators requiring them to either justify their existing tariff provisions governing large load interconnection or identify reforms needed to ensure data centers and other large energy users with non-discriminatory access to the transmission system.[51] FERC's orders are not directed at PGE and recognize the division between state and federal jurisdiction. But the issuance of the show cause orders addresses a foundational issue—non-discriminatory grid access to large energy use facilities—that is an issue essential to the Order.

With respect to the federal transmission system, FERC is required to ensure that FERC-jurisdictional rates, terms and conditions charged or received by a public utility, and the rules and

[49] UM 2024, Order No. 26-153 at 23.
[50] *Id*. (emphasis added).
[51] *See, e.g.*, California Independent System Operator Corporation, 195 FERC ¶ 61,214 at ¶ 5 (2026); *see also FERC Launches Aggressive Targeted Action to Speed Large Load Interconnection*, F.E.R.C. (June 18, 2026), https://www.ferc.gov/news-events/news/ferc-launches-aggressive-targeted-action-speed-large-load-integration.

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regulations implementing those rates, terms and conditions are "just and reasonable."[52] FERC has investigative powers to ensure the "just and reasonable" standard is met.[53] FERC used this authority to issue the six show cause orders and to require the regional transmission operators evaluate, justify, and potentially reform their rates, terms, and conditions of service available to large load customers. In its show cause orders, FERC acknowledges that "resolution of issues related to large loads" requires the engagement of both federal and state entities, including state public utility commissions, but that certain authority to address those issues falls within its jurisdiction.[54]

For example, FERC's show cause order issued to the California Independent System Operator Corporation ("CAISO") ("CAISO show cause order"), explains that "electricity demand in the United States is expected to grow" which is "driven in part by increasing quantities of large commercial and industrial load," seeking to connect to the transmission grid."[55] FERC notes this presents novel challenges; however, there is an "urgent need" "to ensure that large loads are 'able to connect to the transmission system in a timely, orderly, and non-discriminatory manner.'"[56] Among others actions, the CAISO show cause order makes a "preliminary finding" that CAISO's tariffs may be "unjust and unreasonable because they lack provisions that address, with sufficient clarity and consistency, how CAISO … will timely study … the provision of transmissions service" that is used by large loads.[57] To address this preliminary finding, FERC directs CAISO to "explain whether [its] tariffs remain just and reasonable without an application process, study procedures, and ongoing operational requirements that

[52] Section 205, Federal Power Act ("All rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates and charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared unlawful.").
[53] 16 U.S.C. § 824e.
[54] *See e.g.*, California Independent System Operator Corporation, 195 FERC ¶ 61,214 at ¶ 43 (2026).
[55] *Id*. at ¶ 6.
[56] *Id*. at ¶ 7.
[57] *Id*. at ¶ 38.

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address the unique characteristics and challenges of providing transmission service to" large load customers, "or to propose appropriate tariff revisions."[58]

FERC's show cause orders reflect a federal commitment to ensuring that "rates are just and reasonable" and not "unduly discriminatory or preferential" for access to and service on the federally-regulated transmission system.[59] The orders question whether the regional transmission operators' standard practices are sufficient in this respect. Moreover, regardless of the unique characteristics of a customer's load, customers that engage with entities subject to FERC jurisdiction have a right to fair treatment and to "just and reasonable" rates.

FERC's recent actions reflect increasing regulatory concern with tariff structures affecting large loads that may be unjust, unreasonable, unduly discriminatory, or preferential. Like FERC, the Commission has a statutory obligation to ensure that rates, terms and conditions applicable to PGE's service to LEUF customers are "fair, just and reasonable"[60] and not unduly discriminatory.[61] The Commission should strive to harmonize state and federal law to ensure that the utilities and LEUFs experience a cohesive regulatory environment that optimizes the electric grid and generating resources. The Commission should also recognize that it has a statutory obligation to ensure all customers, regardless of their load characteristics, have a right to service on fair, just and reasonable terms.

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[58] *Id*. at ¶ 40.
[59] *Id*. at ¶ 44.
[60] ORS 757.210(1)(a).
[61] ORS 757.325.

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V. CONCLUSION

For the reasons articulated herein, the Commission should grant rehearing or reconsideration of Order No. 26-154 and remove the direction for PGE to establish an LEUF-only interconnection queue.

Respectfully submitted this 6th day of July, 2026.

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