

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 UE 335

4 In the Matter of

5 PORTLAND GENERAL ELECTRIC  
6 COMPANY

7 Request for a General Rate Revision

STAFF’S REPLY BRIEF – DIRECT ACCESS

8 **I. INTRODUCTION**

9 Staff of the Public Utility Commission of Oregon (Staff) hereby submits its Reply Brief  
10 in support of the Direct Access Stipulation pursuant to Administrative Law Judge Moser’s  
11 August 14, 2018 Ruling. Staff continues to recommend that the Commission adopt the Partial  
12 Stipulation Regarding Direct Access Issues (Direct Access Stipulation or Stipulation), as also  
13 advocated for in opening briefs submitted by Portland General Electric Company (PGE), Fred  
14 Meyer Stores and Quality Food Centers, Divisions of The Kroger Company (Fred Meyer),  
15 Albertsons Companies, Inc. (Albertsons), Calpine Energy Solutions, LLC (Calpine Solutions),  
16 and the Northwest Intermountain Power Producers Coalition (NIPPC).

17 Consistent with its objections and testimony in this proceeding, the Alliance of Western  
18 Energy Consumers (AWEC) supports the Stipulation, with the exception of the continuation of  
19 the participation cap, and urges the Commission to adopt the remainder of the Direct Access  
20 Stipulation. The Oregon Citizens’ Utility Board (CUB), on the other hand, urges the rejection of  
21 the Stipulation in its entirety due its inclusion of five years of transition charges for long-term  
22 direct access (LTDA) customers.

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## II. ARGUMENT

**(1) The Commission should approve the Direct Access Stipulation as filed, as it achieves a just and reasonable result and allows for meaningful consideration of direct access issues as a whole.**

As stated in its Opening Brief and testimony in support of the Stipulation, Staff joined the Direct Access Stipulation because it is a relatively short-term resolution that will allow continuation of the status quo (with minor modification) while further investigation and consideration of larger policy and design questions takes place. To be clear, it is not Staff's position that the issues and questions raised by CUB and AWEC are not valid, but merely, that they are interrelated with other issues that are not the subject of objections to the Stipulation. Accordingly, Staff encourages the Commission not to make changes to single aspects of LTDA as advocated by AWEC and CUB in this case. The Commission should benefit from the comprehensive investigation and recommendations from PGE, Staff and other stakeholders on PGE's LTDA program as a whole.

**(A) The Commission should reject AWEC's proposal to modify or eliminate the participation cap.**

AWEC argues that the Commission can only reach one of two mutually exclusive conclusions regarding participation caps—"[e]ither: (1) the current long-term opt-out program that the Partial Stipulation would preserve causes unwarranted cost-shifting to non-participating customers; or (2) it doesn't."<sup>1</sup> AWEC argues that if the Commission concludes that PGE's current program does cause cost-shifting to non-participating customers, then the participation caps merely create an outer bound as to what is unwarranted.<sup>2</sup> On the other hand, if PGE's current program does not cause unwarranted cost-shifting, then AWEC argues the participation caps merely serve to discriminate against otherwise eligible customers by eliminating their

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<sup>1</sup> AWEC's Opening Brief on Direct Access Issues at 2.

<sup>2</sup> *Id.*

1 ability to participate in PGE’s LTDA program.<sup>3</sup> AWEC concludes that “[t]his is the fundamental  
2 problem with the Partial Stipulation. The Participation Caps treat certain customers – those  
3 larger than the 64 aMW remaining under the cap – differently from all other customers that are  
4 eligible for the opt-out program but without any basis for treating those specific customers  
5 differently.”<sup>4</sup>

6 AWEC’s view is overly simplistic, in that it ignores the fact that the Commission could  
7 reach a third conclusion—that whether or not a LTDA program without participation caps would  
8 result in unwarranted cost-shifting has not been adequately addressed in this case. The  
9 participation caps are one tool to prevent unwarranted cost-shifting,<sup>5</sup> but PGE’s LTDA program  
10 *as a whole* must ensure that there are no unwarranted cost-shifts. If the participation cap is  
11 adjusted, for example, it begs questions as to whether there are implications to other aspects of  
12 PGE’s LTDA program, including PGE’s provider of last resort obligations, whether the  
13 calculation of transition adjustments should be revisited (including capacity credits), whether the  
14 current emergency and default service rates are adequate in the event that large loads return to  
15 PGE’s system, etc.<sup>6</sup> These questions are further complicated<sup>6</sup> by the fact that additional changes  
16 may be proposed to PGE’s LTDA program in future proceedings,<sup>7</sup> and with unknown effects of  
17 the recently approved, but not yet implemented, New Load Direct Access programs. AWEC’s  
18 testimony does not address these issues. In short, a larger scale program may need to be  
19 different from the PGE’s current LTDA program. Therefore, the Commission should adopt the  
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22 <sup>3</sup> *Id.*

23 <sup>4</sup> *Id.*

24 <sup>5</sup> Staff also disagrees that the participation caps limit the amount of unwarranted cost-shifting  
25 that can occur; rather, Staff finds that the participation caps are intended to prevent cost-shifting  
26 that may rise to a level of being unwarranted.

27 <sup>6</sup> These issues were also a discussion point in AR 614. PGE in particular raised concerns about  
28 cost-shifting related to participation levels. *See e.g.* AR 614 - PGE’s June 18, 2018 Comments at  
29 13.

30 <sup>7</sup> *See e.g.* AWEC/500, Mullins/5. Further, it is unclear at this time whether the Commission will  
31 order changes to PGE’s direct access programs as a result of its decision in PGE’s Green Tariff  
32 Program Docket, OPUC Docket UM 1953.

1 Stipulation and allow PGE, Staff and stakeholders to investigate these issues in a holistic  
2 manner.

3 **(B) The Commission should reject CUB’s proposal to adopt ten years of transition**  
4 **charges.**

5 CUB continues to argue that the Commission should adopt ten years of transition  
6 adjustments, as initially proposed by PGE in this proceeding. All other parties to the Direct  
7 Access Stipulation, as well as NIPPC, oppose CUB’s request. Similar to the question of  
8 participation caps, Staff again finds that the question of transition charges should be evaluated in  
9 consideration of PGE’s direct access program as a whole. Further, as Staff stated in its Opening  
10 Testimony, PGE did not provide sufficient or convincing evidence that cost-shifting is currently,  
11 or will in the future, take place, but suggested that a workshop would help to further develop and  
12 address these issues.<sup>8</sup> As such, Staff finds CUB’s reliance on PGE’s position and evidence to be  
13 misplaced.

14 **III. CONCLUSION**

15 In Staff’s view, it is premature to make conclusions about whether and to what extent  
16 there is currently unwarranted cost-shifting (as CUB argues) or no unwarranted cost-shifting  
17 such that there should be no limit to participation (as AWEC argues). Given the introduction of  
18 the new load direct access program, criticisms of existing direct access programs in this and  
19 other proceedings, including PGE’s green tariff program, the Commission should reserve its  
20 judgment on what constitutes an unwarranted cost-shift for PGE’s LTDA program in this case.  
21 Rather, Staff continues to recommend that the Commission adopt the Direct Access Stipulation

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<sup>8</sup> Staff/800, Kaufman/39.

1 in its entirety, which will afford the parties additional time to investigate and consider these  
2 issues and others in meaningful and holistic manner.

3 DATED this 26<sup>th</sup> day of October, 2018.

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Respectfully submitted,

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