BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 335

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Request for General Rate Revision	)))))))	NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION REPLY BRIEF – DIRECT ACCESS

I. INTRODUCTION

The Northwest Intermountain Power Producers Coalition ("NIPPC") files this Reply Brief in accordance with the Administrative Law Judge's August 14, 2018 Ruling establishing a schedule related to the direct access issues raised in this case. This brief addresses the Opening Briefs filed by the parties to this case, and specifically responds to the Opening Briefs of Portland General Electric Company ("PGE") and, the Oregon Citizens' Utility Board ("CUB"). NIPPC does not reiterate its arguments from its Opening Brief, and instead only responds to certain issues raised by the above-mentioned parties that should be further addressed.

II. ARGUMENT

A. The Stipulation Appropriately Maintains the Status Quo with Respect to the Transition Adjustment.

As described in NIPPC's Opening Brief, the Commission is charged by Senate Bill ("SB") 1149 to allow for a viable means for non-residential customers to access the competitive electricity market to meet their loads.[1] NIPPC supports the adoption of the Stipulation on direct access in this case because it preserves the existing direct access framework, and prevents the

1 NIPPC's Opening Brief at 1-3 (October 19, 2018).

deterioration of PGE's direct access program that would have occurred under PGE's initial proposals. PGE points this out as well, explaining that the Stipulation maintains all of the major components of the program that have been in place for many years.[2] Importantly, the program currently in existence has not been shown to result in unwarranted cost shifting. For this fundamental reason, the retention of the transition adjustment as currently structured is warranted, and the Commission should reject CUB's proposal to double the length of the transition adjustment.

As noted previously, NIPPC did not sign the Stipulation out of deference to the industrial customers, who argue for the removal of unnecessarily low caps placed on customer participation in direct access.[3]

B. The Record Does Not Support Adoption of CUB's Proposal to Double the Term of the Transition Adjustment.

Multiple parties observed that that CUB's proposal to extend transition costs for ten years is not founded upon any analytical evidence showing that five years of adjustment fees result in cost shifts to cost of service customers, and there is no such evidence in the record. In response, CUB's primary argument in its Opening Brief is to again point to PGE's initial filing. CUB cites PGE's statements that "[a]llowing ten years of fixed costs will help protect remaining [cost-of-service] customers from undue cost shifting when large nonresidential customers choose to opt out of [cost-of-service] on a long-term basis."[4] CUB's resort to PGE's statements do not constitute evidence of any unwarranted cost shifting. Instead, it represents only a repetition of an assertion that PGE never supported, and which it has backed away from in this proceeding.

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2 PGE's Opening Brief – Direct Access Issues at 7-8 (Oct. 19, 2018).

3 NIPPC's Opening Brief at 2, 9-10.

4 CUB's Opening Brief – Direct Access Issues at 3 (Oct. 19, 2018) (citing PGE/1300, Macfarlane – Goodspeed/40).

Moreover, as discussed in NIPPC's Opening Brief and throughout testimony by NIPPC, Staff, the Association of Western Energy Consumers, and Calpine Solutions in this case, there is significant evidence that any increase in the term of the transition adjustments would be unwarranted, and serve to unnecessarily burden customers' ability to access the competitive market as was prescribed by SB 1149.[5] This would be directly contrary to the Commission's statutory obligation to develop policies to eliminate barriers to the development of a competitive retail market structure.[6]

In its Opening Brief, CUB also takes issue with parties' statements that it has not supported its proposal with independent evidence. In making its case, CUB points to testimony it offered that PGE's loads are decreasing due to energy efficiency, and that the primary source of growth in PGE's system is anticipated to be in the industrial class.[7] CUB asserts that this is "sufficient evidence . . . . to support the claim that a ten-year transition charge is necessary . . . ."[8]

CUB's claims do not follow, however. CUB can point to no evidence that shows there is a connection between PGE's residential customer load growth and the transition charge that warrants a doubling of the period over which it should apply. And, CUB's assertions continue to be based on a "theory" that is has not supported. That theory is reiterated in CUB's Opening Brief, with references only to its own testimony.[9] In short, CUB's argument is that SB 1149's direct access program was enacted upon a premise that "monotonic increasing load growth

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5 NIPPC's Opening Brief at 5, 11-12.

6 See ORS 757.646(1) ("The duties, functions and powers of the Public Utility Commission shall include developing policies to eliminate barriers to the development of a competitive retail market structure.").

7 CUB's Opening Brief – Direct Access Issues at 4-5.

8 Id. at 4.

9 Id. at 6.

would continue."[10] CUB asserts that because "[m]uch has changed in Oregon's electric sector since SB 1149 was passed in 1999,"[11] including a flattening of loads due to energy efficiency, that this somehow constitutes evidence that the transition fee's period should be fully doubled. Under any standard, this does not constitute evidence sufficient to justify a Commission decision to drastically modify what all parties would acknowledge is a "major component" of the direct access program's implementation.[12]

Furthermore, CUB's assertions do not directly address NIPPC's and other parties' points that a five year transition period is long enough for PGE to plan for load shifts, and avoid overcommitting to resources.[13] CUB's assertions likewise fail to take into account the record that demonstrates that PGE is actively retiring existing generation resources, and its current integrated resource plan shows a need for capacity in the near-term that can be avoided by loads moving to direct access.[14] Although CUB acknowledges these points in its brief, it offers no real rebuttal other than its theory about load growth being the premise upon which the adjustment charge is based.[15] These points about resource retirements and near-term capacity needs are more topical and shed more light on the actual situation with respect to cost shifting than CUB's theory and the evidence that PGE's loads are flattening out due to conservation efforts.

C. CUB and PGE Draw Inappropriate Conclusions From the Commission's Recent Decisions on New Load Direct Access.

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10 Id.

11 Id.

12 See, e.g. PGE's Opening Brief at 7 (October 19, 2018) (noting that the Stipulation maintains all major components of the direct access program).

13 See, e.g. NIPPC/100, Fitch-Fleischmann/11-12; Calpine Solutions/100, Higgins/15-16.

14 See, e.g. Staff/800, Kaufman/41-42; Calpine Solutions/200, Higgins/4-5. See also Calpine's Opening Brief – Direct Access at 12 (Oct. 19, 2018).

15 CUB's Opening Brief – Direct Access Issues at 6-7.

In their Opening Briefs, both PGE and CUB cite the Commission's recent determinations regarding New Load Direct Access ("NLDA"), and imply that this decision means there is, or will be, cost shifting related to direct access.[16] Both parties apparently raise this argument to try to convince the Commission that the cap on direct access should be maintained, as is provided for in the Stipulation.[17] Both parties' assume something not in the record, however, by implying that the NLDA transition charge is not sufficient to prevent unwarranted cost shifting. This is certainly not established in the Commission's recent order and, in fact, the Commission expressly found that the evidence in the case did not establish that there were costs and risks that would warrant a transition charge different than adopted.[18] And, the Commission established a completely separate 'soft' cap applicable to the NLDA program.[19] There is no merit to CUB's or PGE's assertions on this point, and NIPPC urges the Commission to reject these newly raised arguments because they are as lacking in evidence as CUB's current proposal to double the transition charge out of concern for unproven cost shifting.

III. CONCLUSION

For all the reasons described above and in NIPPC's Opening Brief, the Commission should adopt the Stipulation in this case that resolves issues related to the direct access program. The Stipulation preserves the modest access that some customers have to a competitive electricity market in the state. The Commission should reject CUB's proposed modifications to the Stipulation as unsubstantiated and inappropriate.

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16 CUB's Opening Brief – Direct Access Issues at 7; PGE's Opening Brief at 12.
17 Id.
18 In Re Rulemaking Related to a New Large Load Direct Access Program, Docket No. AR 614, Order No. 18-341 at 3 (Sep. 14, 2018).
19 Id. at 7.

Dated this 26th day of October 2018.

Respectfully submitted,

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