

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UE 335**

In the Matter of )  
 )  
PORTLAND GENERAL ELECTRIC )  
COMPANY, )  
 )  
Request for a General Rate Revision. )  
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REPLY BRIEF  
OF THE  
OREGON CITIZENS' UTILITY BOARD

October 26, 2018



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OF OREGON**

**UE 335**

In the Matter of	)	
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PORTLAND GENERAL ELECTRIC	)	REPLY BRIEF OF THE OREGON
COMPANY,	)	CITIZENS' UTILITY BOARD –
	)	DIRECT ACCESS ISSUES
Request for a General Rate Revision.	)	
	)	

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**I. INTRODUCTION**

Pursuant to Administrative Law Judge (ALJ) Moser’s August 14, 2018 Ruling, the Oregon Citizens’ Utility Board (CUB) hereby submits its Reply Brief on Direct Access issues in the above-captioned proceeding. In this Brief, CUB reaffirms its position that the Direct Access settlement reached between Staff of the Oregon Public Utility Commission (Staff), Albertsons, Fred Meyer, Calpine Solutions (Calpine), and Portland General Electric (PGE) (collectively, the Stipulating Parties) should be rejected. CUB continues to believe that the five year transition adjustment charge contained in paragraph two of the Direct Access Stipulation (DA Stipulation)<sup>1</sup> is insufficient to hold

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<sup>1</sup> UE 335 – Stipulating Parties/501/Kaufman – Waidelich – Bieber – Higgins – Macfarlane/1.

existing cost-of-service customers harmless.<sup>2</sup> While CUB's position has not wavered, we use this opportunity to respond to other parties' positions on this issue raised in Opening Briefs. CUB includes the substantive arguments raised in its Opening Brief here by reference.

CUB respectfully requests that the Public Utility Commission of Oregon (Commission) modify paragraph 2 of the DA Stipulation to reflect ten years of transition adjustment charges for long-term direct access (LTDA) customers. In the alternative, CUB requests that the Commission reject the DA Stipulation because it does not contain sufficient protections to hold existing cost-of-service customers harmless. Rejecting the stipulation aligns with Staff's desire to largely retain the status quo to allow for additional time to review direct access issues holistically in other proceedings such as a forthcoming new load direct access (NLDA) rulemaking and PGE's green tariff proposal.<sup>3</sup> CUB looks forward to future engagement in those proceedings, and will continue to advocate for reasoned, tempered approaches to direct access that protect cost-of-service customers consistent with the Commission's statutory mandate to do so.<sup>4</sup>

## **II. ARGUMENT**

### *A. NIPPC and Calpine's Arguments*

In its Opening Brief, the Northwest and Intermountain Power Producers Coalition (NIPPC) continues to advocate for the Commission to adopt the DA Stipulation and to reject CUB's request to retain Portland General Electric Company's (PGE) initial request

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<sup>2</sup> UE 335 – CUB/400/Jenks/6.

<sup>3</sup> UE 335 – Staff's Opening Brief at 7.

<sup>4</sup> ORS 757.607.

to move to ten years of transition adjustment charges.<sup>5</sup> NIPPC states that CUB’s proposal would “drastically roll back the clock on the state’s modes direct access program.”<sup>6</sup> CUB cautions against this inflammatory rhetoric. Given that PacifiCorp is currently able to recover ten years of fixed generation costs in five years of transition adjustments,<sup>7</sup> CUB’s proposal (and, indeed PGE’s initial proposal) in this proceeding is not too far afield.

NIPPC argues that the evidentiary record in this proceeding is insufficient for the Commission to render a decision in CUB’s favor, and that there is no demonstration of unwarranted cost shifting with the transition charges set at five years.<sup>8</sup> NIPPC cites to testimony provided by its witness and Mr. Higgins on behalf of Calpine to reiterate the evidence the two parties have put on the record to date. This evidence, NIPPC posits, demonstrates that moving to ten years of transition adjustment charges is unwarranted and, even if it was warranted, LTDA customers should be given a credit to reflect avoided fixed generation costs.<sup>9</sup>

Calpine reiterates similar arguments, but notes specifically that rejecting CUB’s proposal is necessary because ten years of transition adjustment charges would violate the Commission’s statutory directive to remove obstacles to continued development of the competitive retail market.<sup>10</sup> Calpine asserts that CUB’s proposal would require compelling evidence to overcome the presumption of reasonableness accorded to the

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<sup>5</sup> UE 335 – NIPPC’s Opening Brief at 2.

<sup>6</sup> *Id.*

<sup>7</sup> OPUC Order No. 15-060.

<sup>8</sup> UE 335 – NIPPC’s Opening Brief at 11.

<sup>9</sup> *Id.* at 11-12.

<sup>10</sup> UE 335 – Calpine’s Opening Brief on Direct Access Issues at 11, citing ORS 757.646(1).

Commission-approved current methodology.<sup>11</sup> As noted in our Opening Brief, CUB has provided evidence, and the current methodology warrants revisiting due to the uncertain factors that will influence Oregon’s direct access program in an era in which residential load growth is generally flat, and industrial load growth is increasing. What was considered to be reasonable fifteen years ago should not be presumed to be now—as we noted, the energy landscape has changed dramatically since SB 1149 was passed.<sup>12</sup>

CUB continues to believe that the proper lens through which to view the current transition adjustments is not whether they have allowed cost shifting in the past, or even are doing so currently. Rather, it should be whether they *will* in the future. PGE estimates this future harm in years 6-10 will be around \$76 million to unsubscribing cost-of-service customers.<sup>13</sup> With the uncertain interplay of other direct access related dockets that may impact the LTDA participation cap discussed in the DA Stipulation,<sup>14</sup> CUB recommends that the Commission take an approach that will adequately protect existing cost-of-service service customers going forward at a time when industrial customers are continuing to go beyond the utility’s system to meet their needs. The utility will continue to acquire resources during this time to meet RPS and load growth needs. CUB continues to believe that ten years of transition adjustment charges will go a long way to ensure cost-of-service customers will be protected from unwarranted cost shifting.

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<sup>11</sup> *Id.* at 12.

<sup>12</sup> UE 335 – CUB’s Opening Brief at 6.

<sup>13</sup> UE 335 – PGE/1300/Macfarlane – Goodspeed/40-41.

<sup>14</sup> UE 335 – Stipulating Parties/501/2.

## B. AWEC's Arguments

The Alliance of Western Energy Consumers (AWEC) requests that the Commission modify paragraph 4 of the DA stipulation to either eliminate the participation cap or increase it so that all eligible customers may participate.<sup>15</sup> AWEC supports the remainder of the DA Stipulation. AWEC argues that the record contains no evidence that cost-shifting is occurring from direct access customers to cost of service customers.<sup>16</sup> AWEC also attacks an assertion made by CUB and PGE that the five-year transition period was based on an assumption that the Company's load would grow to offset lost direct access load.<sup>17</sup> AWEC notes that CUB provided excerpts from old PGE IRPs to demonstrate this expected load growth, but AWEC argues that this evidence is unavailing because the IRP excerpts do not reference direct access or transition adjustments.<sup>18</sup>

AWEC confuses CUB's intent in providing the load growth evidence from PGE's older IRP's. The information regarding load growth forecasts in PGE's IRPs around the time when SB 1149 was passed was not designed to demonstrate that PGE's IRP contemplated proper transition adjustments for LTDA programs. Nor should an IRP do so. Rather, CUB's evidence was meant to provide a snapshot of the load growth expectation at the time the five year transition charges were enacted, since the IRP forecasts came from the time frame when SB 1149 was passed. The load growth anticipated at that time in the residential sector has not occurred. CUB does not refute AWEC's position that maintaining a load/resource balance is a dynamic effort by PGE

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<sup>15</sup> UE 335 – AWEC's Opening Brief at 2.

<sup>16</sup> *Id.* at 9-10

<sup>17</sup> *Id.* at 10.

<sup>18</sup> *Id.*

that takes into consideration many shifting variables.<sup>19</sup> However, AWEC does not dispute that projected load growth is indeed one of those variables.

CUB's argument that the changing landscape since SB 1149 was enacted demonstrates the need for ten years of transition adjustments remains unchanged.<sup>20</sup>

### III. CONCLUSION

For the foregoing reasons, and those addressed elsewhere on the record, CUB continues to respectfully urge the Commission to modify paragraph 2 of the DA Stipulation to reflect PGE's initial position that ten years of transition adjustment charges are necessary to protect cost-of-service customers from unwarranted cost shifting, consistent with the Commission's mandate. In the alternative, CUB requests that the Commission reject the DA Stipulation to retain the status quo as parties—including CUB—continued to address issues that may affect PGE's direct access program in other, related, contemporaneous dockets.

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

Respectfully submitted,



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<sup>19</sup> *Id.* at 11.

<sup>20</sup> UE 335 – CUB's Opening Brief at 7.

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