

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY,)	UE 335
)	
)	CALPINE ENERGY SOLUTIONS,
Request for a General Rate Revision)	LLC's REPLY BRIEF ON DIRECT ACCESS ISSUES

INTRODUCTION AND SUMMARY

Calpine Energy Solutions, LLC (“Calpine Solutions”) hereby submits its Reply Brief on Direct Access Issues to the Public Utility Commission of Oregon (“Commission”). Calpine Solutions continues to request that the Commission approve the Partial Stipulation Regarding Direct Access Issues (“Stipulation”) filed on August 20, 2018, by Portland General Electric Company (“PGE”), Staff, Fred Meyer Stores and Quality Food Centers, Divisions of The Kroger Co., Albertsons Companies, Inc., and Calpine Solutions (collectively, the “Stipulating Parties”). Calpine Solutions refers the Commission to Calpine Solutions’ Opening Brief for detailed background and argument, and this Reply Brief is limited to a short response to arguments made by the Citizens’ Utility Board (“CUB”). The Commission should not adopt CUB’s proposal to convert the five-year program to a 10-year program because CUB’s arguments are without merit.

ARGUMENT

1. The Stipulation’s Calculation Methodology Is Reasonable

The record compels approval of the Stipulation’s preservation of the five-year transition charge in the same basic form as has existed for 15 years. Yet CUB continues to mistakenly argue that 10 years of transition charges are necessary to protect residential customers. Most of

CUB's arguments have already been addressed in Calpine Solutions' Opening Brief, as well as the briefing by the Commission Staff, the Northwest and Intermountain Power Producers Coalition ("NIPPC"), and the Alliance for Western Energy Consumers ("AWEC"). However, a few points in CUB's briefing warrant additional response.

CUB incorrectly argues that it has submitted substantial evidence of the need for a 10-year transition charge to protect against unwarranted cost shifting to residential customers. The sole evidence CUB points to is testimony that "PGE's residential load is declining due to energy efficiency (EE) measures," which according to CUB was "not sufficiently rebutted by NIPPC or Calpine." *CUB's Opening Direct Access Br.* at 4-5. CUB is wrong. The record contains extensive evidence supporting a conclusion that PGE can adjust its planning and portfolio to avoid any cost shifting from occurring after a five-year transition period.

Calpine Solutions submitted unrebutted evidence that PGE's *overall* generation resource needs are growing, due in significant part to retiring plants and expiring long-term supply contracts. *See* Calpine Solutions/200, Higgins/4. Specifically, PGE's March 2018 IRP Update indicates a capacity need of 225.7 MW in 2024, growing to 824.7 MW in 2028. *Id.* This data incorporates the residential energy efficiency use cited by CUB. PGE's planning and cost data also lead to the conclusion that the additional movement of load to the five-year direct access program will allow PGE to avoid incremental generation acquisition costs of \$41.77 per megawatt-hour in 2024. *Id.* In other words, but for the additional direct access elections that would be allowed under the Stipulation, PGE's rates charged to residential customers would in fact increase.

Moreover, the Stipulation would only allow 64 average megawatts ("aMW") of additional existing load into the five-year program. *See id.* at 5. Given that PGE is facing the

need to acquire new resources to replace expiring contracts and retiring plants, the new resource acquisitions can be avoided due to the direct access elections of up to 64 aMW. Therefore, even if CUB is correct that residential loads may be declining due to energy efficiency, that isolated fact is not evidence of cost-shifting because direct access will allow PGE to avoid acquiring costly generation over the five-year transition period that would otherwise increase rates for residential customers.

Indeed, CUB acknowledges the validity of Calpine Solutions' argument before changing the topic in its brief to irrelevant issues. CUB concedes as follows: "Calpine's point that 64 aMW of enrollment opportunity beneath the direct access cap remains is well taken." *CUB's Opening Direct Access Br.* at 7. Then CUB falls back on an assertion "that the Commission recently established a new load direct access (NLDA) program with a cap entirely separate from the existing direct access program." *Id.* But CUB's reliance on the NLDA program is irrelevant.

First of all, CUB identifies no evidence in the record that the NLDA program will somehow affect the lawful measure of transition charges for existing customers. Nor does CUB provide any legal argument for how the NLDA program could impact the lawful measure of transition charges for existing customers in the long-term direct access program. In contrast to existing customers, the NLDA program was designed for *new* customers so large (at least 10 average megawatts) that PGE does not include them in load forecasts. *See generally In the Matter of Rulemaking Related to a New Large Load Direct Access Program*, Docket Nos. AR 614 & UM 1837, Order No. 18-031 at Appendix A (Jan. 30, 2018) (distinguishing new large loads from existing loads for purposes of calculating transition charges). The Commission already concluded that there are significantly reduced stranded costs of previously acquired generation for such new customers. *In the Matter of Rulemaking Related to a New Large Load*

Direct Access Program, Docket No. AR 614, Order No. 18-341 (Sept. 14, 2018) (adopting final NLDA rules). Therefore, the NLDA program has no relevance to whether the five-year transition charge in the Stipulation adequately protects from cost-shifting when 64 aMW of PGE's existing customer load commits not to use PGE's generation assets.

Next, CUB lumps direct access in with the "green tariff program" as another service alternative through which CUB argues that industrial customers may shift costs to residential customers. *CUB's Opening Direct Access Br.* at 8. This argument is also irrelevant, in addition to being highly speculative. PGE's proposed green tariff program is still unapproved and subject to ongoing contested case proceedings in Docket No. UM 1953. Calpine Solutions agrees with CUB that PGE's green tariff program should be carefully scrutinized by the Commission to prevent cost shifting, and Calpine Solutions has itself submitted testimony in Docket No. UM 1953 to ensure that the green tariff program is properly designed. However, CUB's speculation about PGE's unapproved green tariff program has no relevance here, and CUB should direct its complaints regarding that program in Docket No. UM 1953.

In short, CUB has identified no rational basis to extend the five-year period of transition charges to 10 years, and the Commission should therefore deny CUB's request.

2. The Commission Would Need to Approve Capacity Credits for a 10-Year Charge If It Adopts CUB's Request to Reject the Stipulation

In addition to being unsupported by the record, CUB's arguments also overlook that rejecting the Stipulation's five-year transition charge is not a simple matter of extending the current charge for an extra five years. As we explained in our Opening Brief, the record in this case would require that a capacity credit be included in any such 10-year charge. *See Calpine Solutions' Opening Direct Access Br.* at 10. CUB provides no convincing evidence to the

contrary. A 10-year charge with a properly calculated capacity credit may well result in a lower overall transition charge than the Stipulation's five-year charge.

Furthermore, as a procedural matter, rejecting the Stipulation may require reopening the record to allow for the opportunity for a hearing on the proper calculation of the capacity credit, along with other issues that might arise with a 10-year charge. On this point, the Stipulation provides:

If the Commission rejects all or any material part of this Stipulation, or adds any material condition to any final order that is not consistent with this Stipulation, each Stipulating Party reserves its right: (i) to withdraw from the Stipulation, upon written notice to the Commission and the other Parties within five (5) business days of service of the final order that rejects this Stipulation, in whole or material part, or adds such material condition; (ii) pursuant to OAR 860-001-0350(9), to present evidence and argument on the record in support of the Stipulation, including the right to cross-examine witnesses, introduce evidence as deemed appropriate to respond fully to issues presented, and raise issues that are incorporated in the settlements embodied in this Stipulation; and (iii) pursuant to ORS 756.561 and OAR 860-001-0720, to seek rehearing or reconsideration, or pursuant to ORS 756.610 to appeal the Commission's final order.

Stipulating Parties/501 at 4-5. The Commission would likely have to provide further process on the calculation of a 10-year charge, as well as whether the Stipulating Parties would each still support the 300-aMW cap in the case of a 10-year charge. The Commission could not simply adopt CUB's proposal to double the length of the ongoing valuation calculation without any modifications or further process on the rest of the concessions contained in the Stipulation.

CONCLUSION

In sum, the Stipulation comprehensively resolves numerous complicated direct access issues to result in direct access programs that are just and reasonable. Although some parties have challenged isolated aspects of the Stipulation, the overall settlement proposal is reasonable and should be approved by the Commission.

DATED this 26th day of October 2018.

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