

Senate Bill 978-1 – Utility Business Model Study Bill

This legislation would require the Oregon Public Utility Commission (OPUC) to complete a study of whether the regulatory compact, which is the basis of investor-owned electric utility business model should be modified to achieve lower cost and more reliable electricity services for consumers. This comprehensive review needs to occur promptly because the utilities plan to soon acquire enormous amounts of new, expensive utility owned generation.

The investor-owned electric utility business model is based on a regulatory compact in which utilities are granted a monopoly electric service territory and authorized to recover all their prudently incurred costs, including a “reasonable” return on their investments. In exchange, the OPUC acts as an economic regulator to ensure the utilities provide adequate service at fair, just and reasonable prices.

This more than century-old regulatory compact perversely encourages utilities to acquire more expensive company owned generation resources to boost the capital asset base upon which they are compensated. As a result, lower cost and lower risk power plants developed and owned by independent power producers (IPPs) are passed over. The utilities’ bias to own generation has long been recognized by the OPUC but the utilities in pursuing profit do not contract long term with IPPs because there is no financial incentive for them to do so.

Oregon law and regulatory policy have failed to adequately protect retail electric consumers against electric utility wholesale and retail market abuses, anticompetitive practices, and the regulatory and economic incentives to electric companies that have resulted in utilities refusing to purchase power from independent suppliers. Since 2008, approximately 95% of the electric capacity additions through the OPUC’s approved request for resource acquisition process have been utility owned, including Portland General Electric’s gas-fired Carty Power Station, which has put PGE ratepayers at risk for its \$150 million cost overrun.

In a piecemeal fashion, the legislature has initiated a variety of actions to require utilities to better serve ratepayers and fulfill Oregon’s energy policy goals. These include adopting a public purpose charge and greenhouse gas reduction goals, requiring the independent management of utility conservation programs, and permitting nonresidential customers to purchase electricity from entities other than their distribution utility and all customers to sell distributed generation. In addition, the legislature has removed the costs of future coal fired generation from rates, required investments in renewable energy, community solar, electricity storage and transportation electrification, and modified utility resource planning and procurement.

None of these ambitious policy changes address the fundamental regulatory and economic incentives that drive utility resource acquisition decisions. If enacted, SB 978-1 would require the OPUC to conduct a study to comprehensively review whether the state’s wide variety of energy laws and policies (which still provide utilities with an incentive to own all generation resources) are sufficient to ensure end use consumer rates are fair, just and reasonable. The results of the study could encourage the OPUC to re-write the regulatory compact to meet Oregon’s energy policy goals at least cost and least risk to the utilities’ captive customers.

The legislature needs to act now because Portland General Electric Company and PacifiCorp are planning significant new capital investments in new electric generation in the near term. Without immediate action, Oregon ratepayers may continue to shoulder unnecessary and high cost utility owned generation for decades to come.