

## Senate Bill 318

### Testimony of the Northwest & Intermountain Power Producers Coalition on Proposed Resource Adequacy Legislation

February 11, 2021

The Northwest and Intermountain Power Producers Coalition (“**NIPPC**”) appreciates this opportunity to submit testimony to the Senate Committee on Energy and Environment regarding proposed Senate Bill 318 (2021), relating to resource adequacy. NIPPC and its members – which include most of the active non-utility Electricity Service Suppliers (“**ESS**”) that serve electric load in Oregon through direct access as well as independent power producers – can support ensuring the Oregon Public Utility Commission (the “**Commission**”) has the authority to develop resource adequacy standards to be imposed on all electric load serving entities in order to maintain a reliable electric grid in Oregon. NIPPC believes that specific resource adequacy requirements to be imposed on electric load serving entities are best determined through traditional stakeholder processes at the Commission and implemented through regulation.

NIPPC fully supports ensuring that all electric load serving entities, including investor-owned utilities and ESSs, meet appropriate and well-designed resource adequacy requirements to ensure safe, efficient, and reliable operation of the electric grid. Any such requirements should apply fairly to all load serving entities, avoid creating duplicate obligations, and be cost efficient to the maximum extent practical. Such requirements should also be flexible enough to allow for modifications based on the changing regional resource mix, new technologies, demand response programs, and other system-wide changes (such as shifting climate and extreme weather patterns) that may affect resource adequacy requirements. Since NIPPC supports a resource adequacy program that would obligate both investor-owned utilities and ESSs to meet compliance mandates, and since these providers compete with one another to serve customers within the same markets, it is essential that the resource adequacy program be designed to support and foster competition without providing advantages to one entity over the other.

As was referenced during the Senate Committee on Energy and Environment's February 11 hearing regarding S.B. 318, the Commission has an "Investigation into Resource Adequacy in Oregon" underway in Docket OPUC UM 2143, with a goal to develop "a transparent, robust, holistic regulatory planning process for ESSs and regulated utilities."<sup>1</sup> Prior to the initiation of UM 2143, "significant and robust participation at the [UM 2024] RA workshop" had already taken place.<sup>2</sup> Through this process, the Commission has identified numerous points of potential agreement among disparate interests, and identified some of the complex and fact-specific issues that must be further evaluated. Along with NIPPC, representatives from the regulated utilities, Citizens' Utility Board, Renewable Northwest, the Alliance of Western Energy Consumers, NW Energy Coalition, the Northwest Power and Conservation Council, and a variety of other parties are actively engaged in this regulatory process. NIPPC submitted a straw proposal to the Commission before the initiation of the docket outlining the principles and program elements that it believes will ensure resource adequacy in Oregon.<sup>3</sup>

In addition to the stakeholder engagement at the Commission where these Resource Adequacy topics are being vetted, several of the same parties are also actively engaged in the regional approach to resource adequacy led by the Northwest Power Pool ("**NWPP**"), which is focused on the development of a regional resource adequacy program. This regional program is expected to begin with an initial implementation phase in mid-2021, with a binding forward-showing phase tentatively scheduled to begin in late 2022 for a seasonal requirement in 2023.<sup>4</sup> NIPPC submits (and believes that virtually all participants concur) that a properly developed regional approach would be in Oregon's best interest.

Furthermore, NIPPC believes that a properly developed and well-designed regional approach should offer a primary means of compliance with any state-level

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<sup>1</sup> OPUC Order No. 21-014, Docket UM 2143, January 13, 2021

<sup>2</sup> OPUC Order No. 21-014, Docket UM 2143, January 13, 2021

<sup>3</sup> OPUC Order No. 21-014, Docket UM 2143, January 13, 2021, Appendix A, 11-14

<sup>4</sup> OPUC Order No. 21-014, Docket UM 2143, January 13, 2021

approach. NIPPC is an active participant in the NWPP Resource Adequacy stakeholder advisory committee and is constructively engaged to help create a successful program.

NIPPC submits that these ongoing Oregon specific and regional efforts are the most appropriate fora to evaluate specific resource adequacy requirements.

If the Legislature believes that additional clarifying authority is necessary for the OPUC to develop a well-designed resource adequacy program, any such legislation should serve to clarify the authority that already exists for OPUC action. Specifically, ORS 757.649<sup>5</sup> provides that no entity may act as an ESS without certification from the Commission, and specifies that “the Commission, by rule, shall establish standards for certification” as an ESS. The statute goes on to provide that the rules for certification which must address, at a minimum, the ability of the person or entity to meet the person’s or entity’s obligation to provide electricity services pursuant to direct access. The Commission requires this certification to be renewed on an annual basis. NIPPC believes that it would be appropriate for the Commission to include compliance with a resource adequacy requirement as part of the ESS certification process. If the Legislature or Commission believe that the Commission’s authority is not clear, NIPPC recommends the Legislature modify Section 757.649(1) accordingly by stating that the certification rules may address resource adequacy requirements.

NIPPC notes that several provisions in S.B. 318 as introduced direct prescriptive resource adequacy requirements without the benefit of the Commission’s investigative processes or flexibility for potential modification in the future. For example, NIPPC and other parties in UM 2143 and the NWPP initiative have identified a need to rely on physical resources as part of an overall capacity construct including a form of power purchase agreement common today that relies on financial penalties usually described as “liquidated damages” for failure to deliver contracted power. Addressing existing long-term “LD” contracts is an important part of any new RA obligation, a topic that UM 2143 is well situated to explore.

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<sup>5</sup> <https://www.oregonlaws.org/ors/757.649>

Similarly, one proposal under discussion in UM 2143 is whether there is a need, and if so, in what form, for a utility “backstop” mechanism to acquire resources for ESSs that fail to secure those resources in time. NIPPC does not support mandating such a mechanism, as S.B. 318 as introduced does, nor details of how such a mechanism would function, as proposed Amendment -1 does, before the facts have been established in the investigation already underway before the Commission.

NIPPC also notes that during the hearing, comparisons were drawn to the ongoing RA deliberations in California, both at the California Public Utilities Commission and the California Independent System Operator. RA deliberations in California are nothing new and indeed RA market design has been an evolving program in CA since its inception with the passage of Senate Bill 380 in 2005. The limited rolling blackouts that occurred last August have accentuated the need to ensure that region wide markets are working optimally to ensure reliability. The fact that both direct access and community choice aggregation are decreasing the amount of load being served by the investor-owned utilities is an important consideration in those discussions, and can be instructive to the Oregon and NWPP resource adequacy discussions, but it must be noted that the level of retail choice in California is vastly greater at this time than what exists in Oregon, and therefore comparisons to California-specific RA challenges should be made cautiously and carefully.

NIPPC is prepared to engage further with Chairman Beyer, the Committee, and the Legislature to provide more detailed feedback on S.B. 318 and on a constructive legislative path forward that avoids being prescriptive. NIPPC welcomes the focused attention of legislators and regulators to improve resource adequacy in Oregon during this critical transition of the electric power system.