

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2108

In the Matter of

PACIFICORP d/b/a PACIFIC POWER

Application for an Order Approving Queue
Reform Proposal.

THE INTERCONNECTION
CUSTOMER COALITION'S
APPLICATION FOR REHEARING OR
RECONSIDERATION OF ORDER
NO. 20-268

I. INTRODUCTION

Pursuant to ORS 756.561, the Renewable Energy Coalition (the "Coalition"), the Northwest & Intermountain Power Producers Coalition ("NIPPC"), and the Oregon Solar Energy Industries Association ("OSEIA") (jointly, the "Interconnection Customer Coalition") respectfully request that the Oregon Public Utility Commission (the "Commission") grant Rehearing or Reconsideration of Order No. 20-268 (the "Order"). The Order contains several errors of law in its effect upon certain qualifying facilities ("QFs") under the state and federal Public Utility Regulatory Policies Act ("PURPA"). The Interconnection Customer Coalition respectfully requests that the Commission grant reconsideration and either 1) correct the errors of law; or 2) specify the Commission's conclusions of law. The second option is crucial to facilitate the Interconnection Customer Coalition in appealing any uncorrected legal errors to the appropriate tribunal without delay and without endangering the undisputed aspects of the Commission's Order.¹ When an administrative agency order does not specify the findings of

¹ The Interconnection Customer Coalition reserve their rights to appeal to an Oregon court or to the Federal Energy Regulatory Commission ("FERC"), which shares jurisdiction under PURPA with states and state agencies.

fact or conclusions of law, Oregon courts may remand or void the decision.² The Interconnection Customer Coalition may wish to challenge certain portions of the Order, but do not wish to have the Order voided in this case because it could delay the implementation of components of the Order that are not in dispute in this Application for Rehearing or Reconsideration. The Interconnection Customer Coalition is also concerned that PacifiCorp's piecemeal, inconsistent, and confusing Application, and the Order's lack of clear conclusions of law and fact will make it difficult for any court to understand what the Order means and what impact it will have on the power purchase agreement ("PPA") contracting process.³ All parties, including the Commission, will benefit from the court having a clearer understanding of the Order, therefore the Commission should, at minimum, clarify its Order regarding the issues raised in this Application for Rehearing or Reconsideration.

The Interconnection Customer Coalition emphasizes that this Application for Rehearing or Reconsideration is extremely limited in scope. PacifiCorp's proposal to delay PPA execution with QFs ("PacifiCorp's QF Proposal") is a small but significant part of PacifiCorp's application

² See, e.g., *Bekins Moving & Storage Co. v. Public Utility Comm'r*, 19 Or App 762, 769 (1974) ("Concisely stated, the courts will not review the orders of public administrative bodies that have failed to comply with statutes requiring findings of fact and conclusions of law, but will hold orders made without meeting these requirements void.") (quoting *Mitchell Bros. Truck Lines v. Hill*, 227 Or 474, 481 (1961)); see also ORS 756.558; but see ORS 183.484(5) (stating that a court "shall remand" if an agency action is inconsistent with agency action and the inconsistency is unexplained or if the agency action violates a statutory or constitutional provision; but also stating that a court shall either remand or "set aside" an agency order if the order is not supported by substantial evidence). The Interconnection Customer Coalition anticipate that a reviewing court would only remand the Order to the Commission, but the risk of the Order being voided—however minor that risk may be—is concerning.

³ The Interconnection Customer Coalition understands most of the lack of clarity in the Order is not to any fault of the Commission, but, simply stated, orders at public meetings are typically less clear, especially when they approve filings that are revised multiple times and include both Staff recommendations and oral directions from the Commission.

to reform its interconnection queue process (“Queue Reform Proposal” or “QRP”). Despite not agreeing with many other aspects of the Commission’s Order, the Interconnection Customer Coalition is *not* seeking rehearing or reconsideration of the Order in regard to any changes to the interconnection process. This Application for Rehearing or Reconsideration is specifically limited to the Commission’s Order insofar as it affects PacifiCorp’s QF contracting process for QFs that are eligible for standard contracts.⁴ The Interconnection Customer Coalition hopes that the legal errors are not due to a fundamental disagreement or misunderstanding of the law but are due to the limited time in which the Commission had to review PacifiCorp’s expansive QRP. As explained in this filing, the law is clear, and the Commission can easily and quickly rectify these errors by focusing on the narrow issues presented in this Application for Rehearing or Reconsideration.

The legal errors in the Order that are in dispute in this Application for Rehearing or Reconsideration concern both PacifiCorp and the Commission’s legal obligations. State and federal law obligate utilities like PacifiCorp to execute PPAs with QFs in a specified and timely manner. For QFs eligible for standard PURPA contracts, the Commission-approved process in PacifiCorp’s Schedule 37 should take approximately 3 to 4 months.⁵ PacifiCorp proposed in this

⁴ Specifically, QFs eligible for PacifiCorp’s standard contracts are those 10 MWs or smaller in size. *See In Re PacifiCorp Application to Reduce the QF Contract Term and Lower the QF Standard Contract Eligibility Cap*, Docket No. UM 1734, Order No. 16-130 at 1, 5 (Mar. 29, 2016). While Schedule 37 only applies to a subset of these QFs, PacifiCorp’s statutory PURPA obligations apply to all QFs, including those who are not eligible for standard contracts.

⁵ *In Re Investigation Into QF Contracting And Pricing*, Docket No. UM 1610, PAC/1000, Griswold/8:10-14 (May 22, 2015) (“[T]he timeline in the Company’s Commission-approved Schedule 37 . . . is typically a 90 to 120-day process”). The Interconnection Customer Coalition recognize that PacifiCorp changed the name of Schedule 37, but most in the industry continue to refer to PacifiCorp’s current schedule (as well as Schedule 38, for larger QFs) by the old name.

proceeding to extend the process to take at least 5 to 17 months. This is inconsistent with Schedule 37, which PacifiCorp did not propose to amend. Further, PacifiCorp proposed to prevent a QF from completing the contracting process unless the QF first obtains an interconnection study (the Cluster Study), which is inconsistent with both Schedule 37 and PacifiCorp's legal obligations under PURPA. Despite these inconsistencies, the Commission approved PacifiCorp's QF Proposal.

In addition, the Commission's approval is inconsistent with the Commission's obligations. ORS 756.040 vests the Commission with power and jurisdiction to "supervise and regulate" Oregon's utilities, and ORS 756.160 requires the Commission to enforce the laws of the State of Oregon governing regulated utilities. ORS 756.160 also empowers the Commission, with the aid of the Attorney General, to "diligently prosecute" any person when there is reasonable cause to believe the person is violating any law, regulation, or order of the Commission. Further, Oregon's PURPA expressly states that it is Oregon's policy to "increase the marketability of electric energy produced by qualifying facilities located throughout the state for the benefit of Oregon's citizens; and create a settled and uniform institutional climate for the qualifying facilities in Oregon."⁶

In approving PacifiCorp's QF Proposal to act inconsistently with the Oregon and federal PURPA statutes, the Commission's rules and orders, and Schedule 37, the Commission acted inconsistently with its obligations to regulate PacifiCorp, enforce the laws, and promote the development of QFs. Although the Commission has broad quasi-legislative authority, courts in Oregon have agreed that the Commission "does not have discretion to misinterpret or misapply

⁶ ORS 758.515.

the law.”⁷ Even if the Order was consistent with the law (which it is not), the Commission did not explain its departure from multiple prior orders and its rules, as required by Oregon administrative law. As a result, the Commission’s Order contains multiple errors of law that must be corrected. But for these errors, the Commission would have issued a different Order that required PacifiCorp to comply with its statutory obligations.

II. CONTEXTUAL BACKGROUND

Although the errors of law discussed in this filing could be viewed in isolation, the Interconnection Customer Coalition believes that understanding the broader QRP is helpful to evaluate the Commission’s decision-making process and resulting Order. For that reason, this section describes the contextual background underpinning PacifiCorp’s QRP and the Order.

A. PacifiCorp Failed to Manage a Traditional Serial Queue

As an entity that owns and maintains a transmission and distribution system, PacifiCorp has an obligation to provide interconnection services for generators to access that system.⁸ FERC and the states share jurisdiction to regulate PacifiCorp’s interconnection activities. States have jurisdiction over QF interconnections that sell all of their net output to their interconnected utility, including the small QF customers at issue in this Application for Rehearing or Reconsideration.

Historically, PacifiCorp has provided service to both FERC-jurisdictional and state-jurisdictional interconnection customers through a Serial Queue approach.⁹ This first-come,

⁷ *Chang v. Pub. Util. Comm’n of Or.*, 256 Or App 151, 162 (2013), *cited with approval in Util. Reform Project v. Pub. Util. Comm’n of Or.*, 277 Or App 325, 341 (2016).

⁸ *E.g.*, OAR 860-029-0030(3) (stating Oregon utilities have an obligation to interconnect QFs).

⁹ *See generally* Application for an Order Approving Queue Reform Proposal at 9-10 [hereinafter PacifiCorp Application] at 9-10.

first-served approach allowed PacifiCorp to accept interconnection requests throughout the year. A higher-queued customer would have priority in obtaining a study and being interconnected; each study would assume the higher-queued customers were interconnected. If a higher-queued customer withdrew, lower-queued customers typically needed to be re-studied as a result. Although this system was not perfect, customers could be studied for interconnection at any time, and they could review higher-queued customer study results to gain a rough understanding of potential requirements and costs to interconnect.

In recent years, PacifiCorp failed to manage its interconnection queue. The Interconnection Customer Coalition believes that PacifiCorp bears much of the responsibility for the interconnection queue problems, but at least part of the problem can be attributed to a significant increase in the number of interconnection requests that PacifiCorp received. PacifiCorp was unable to produce interconnection studies quickly enough to meet the higher demand. As a result, a backlog formed. According to PacifiCorp, a major cause of this backlog was the serial nature of the queue and cascading restudies for many lower-queued customers if a higher-queued customer withdrew.¹⁰ Notably, PacifiCorp struggled to maintain the queue due to the high number of FERC-jurisdictional customers, not due to QFs.¹¹

B. PacifiCorp's QRP for FERC-Jurisdictional Customers

In the summer of 2019, PacifiCorp began engaging with stakeholders to reform the FERC-jurisdictional process, but not the state-jurisdictional process. On January 31, 2020, PacifiCorp filed an application with FERC to replace the Serial Queue process with a Cluster

¹⁰ *Id.* at 11-14.

¹¹ *Id.* at 11-12.

Study approach.¹² Importantly, a Cluster Study occurs once a year, whereas Serial Queue Studies occurred at all times of the year.

Stakeholders expressed uncertainty about how PacifiCorp would address state-jurisdictional interconnections for QFs.¹³ PacifiCorp refused to provide clarity about the impact on state-jurisdictional facilities in its FERC-jurisdictional queue reform process or its filing with FERC. On March 6, 2020, FERC issued a Deficiency Notice, requesting additional information from PacifiCorp, including an explanation of how PacifiCorp’s proposed changes would “interact with state interconnection procedures for QFs.”¹⁴ On March 13, 2020, PacifiCorp responded as follows:

PacifiCorp maintains a single interconnection queue for state- and FERC-jurisdictional generator interconnection requests, and it processes those requests in serial-queue order. This processing approach promotes consistency and ensures a fair interconnection process for all generators regardless of jurisdiction.

If the Commission approves PacifiCorp’s reforms in this proceeding, PacifiCorp intends to maintain a generally unified interconnection framework across all requests by shifting from serial order processing to cluster study processing for all state-jurisdictional generator interconnection requests as well. Maintaining the alignment between the core elements of the state and federal processes will continue to ensure fair and functional processing for all requests. If, for example, the FERC-jurisdictional, serial-queue process is replaced with a cluster study process as is proposed in this proceeding, it would be entirely impractical—if not impossible—for PacifiCorp to reasonably administer a separate state-jurisdictional queue running on a serial basis.

In addition, the company intends to transition both federal- and state-jurisdictional interconnection customers to a cluster study process on the same timeline and largely subject to the same requirements (with the exception of the readiness requirements, discussed below). Because the proposed Transition Process must align across jurisdictions, PacifiCorp intends to apply the January 31, 2020

¹² PacifiCorp, FERC Docket No. ER20-924, PacifiCorp Open Access Transmission Tariff Queue Reform Filing (Jan. 31, 2020).

¹³ *E.g.*, FERC Docket No. ER20-924, Joint Comments of the Coalition and CREA at 7 (Feb. 21, 2020) (describing the likely impacts of the QRP upon QFs).

¹⁴ FERC Docket No. ER20-924, FERC Deficiency Notice at 1-2 (Mar. 6, 2020).

Transition Close Date across all queued requests—small and large FERC-jurisdictional, small and large state-jurisdictional—to ensure the queue can be effectively cleared out and no one type of generator has an unfair advantage over another type of generator.

It is the Interconnection Customer Coalition’s understanding that the above was PacifiCorp’s first written statement that it intended to seek to reform *state*-jurisdictional interconnection processes as well as the FERC-jurisdictional process. In contrast, PacifiCorp clearly stated as late as January 23, 2020 that it would not apply at least certain portions of the FERC QRP to state jurisdictional interconnections, as PacifiCorp explained that “I think we’re public that we intend to file at FERC for approval by the end of this month, but that would never – that would not apply to QFs, which are state-jurisdictional, and we have never suggested it would apply to QFs that are state-jurisdictional.”¹⁵ There was no clarity about what PacifiCorp would propose to apply to state jurisdictional QFs until PacifiCorp filed its Oregon QRP.

¹⁵ Washington Utilities and Transportation Commission, Public Meeting at 2:07:49-2:08:51 (Jan. 23, 2020), available at <https://wutc.box.com/v/OpenMeetings> (“We are proposing to a serial [sic] queue processing approach where you take a certain amount of projects and you put them in a cluster study and you study them all at the same time. That’s the best I can do with that. And to be eligible to that cluster you would have to have certain commercial viability criteria satisfied. You couldn’t come into the interconnection cluster study with just a hope and a prayer. You’d have to be able to say, yeah I have a term sheet, I have a power purchase agreement, I’ve committed to purchase certain turbines, blah, blah, blah, showing that you’re really a viable project and you need to be studied for interconnection. If that were adopted, which it has not even been — we have not even decided yet, and we haven’t filed anything — I think we’re public that we intend to file at FERC for approval by the end of this month, but that would never – that would not apply to QFs, which are state-jurisdictional, and we have never suggested it would apply to QFs that are state-jurisdictional . . .”).

On May 12, 2020, FERC issued an order accepting PacifiCorp’s QRP subject to certain conditions not relevant here.¹⁶ On the question of treatment of state-jurisdictional QFs, FERC found the concerns to be outside of the scope of its proceeding.¹⁷ In short, how PacifiCorp should treat QFs was not resolved by the FERC proceeding.

C. PacifiCorp’s QRP for State-Jurisdictional Customers

In comments to FERC, OPUC Staff noted that PacifiCorp’s queue backlog had negatively affected PacifiCorp’s 2017 Request for Proposals (“RFP”), and that Staff’s support for the FERC-proposed reforms was “predicated on PacifiCorp’s intention to have interconnection queue reform align with PacifiCorp’s planned 2020 [RFP].”¹⁸ Staff also noted that they were “relying on PacifiCorp to take appropriate actions to ensure the timing of its 2020 RFP and Interconnection Queue Reform align.”¹⁹ On the treatment of state-jurisdictional interconnections, Commission Staff stated that “[t]he OPUC Staff anticipates that the OPUC will address whether and how the Queue Reform Proposal should apply to state-jurisdictional

¹⁶ FERC Docket No. ER20-924, Order on Tariff Revisions, 171 FERC ¶ 61,112 (May 12, 2020), *reh’g granted*, Order Granting Rehearings for Further Consideration (June 15, 2020), *aff’d on reh’g*, Order Denying Clarification and Addressing Arguments Raised on (Oct. 5, 2020).

¹⁷ *Id.* at P. 169 (“Regarding the comments requesting clarification on PacifiCorp’s treatment of state-jurisdictional QFs, we note that although PacifiCorp plans to process state jurisdictional QFs as part of this same process, state-jurisdictional QFs are not governed by these Tariff provisions. Therefore, concerns about the treatment of state-jurisdictional QFs are outside the scope of this proceeding. We remind all parties, however, that PURPA requires non-discriminatory access for all QFs.”).

¹⁸ FERC Docket No. ER20-924, Comments of the Oregon Public Utility Commission Staff at 2 (Feb. 21, 2020); *see also In Re PacifiCorp RFP of an Independent Evaluator to Oversee the RFP Process*, Docket No. UM 1845, Order No. 18-178 at 11 (May 23, 2018) (“We share the frustration of the IE and the participants that the bid selection process ended up being limited to selection of only those projects with favorable queue positions.”).

¹⁹ *Id.* at 3.

interconnections when PacifiCorp makes a filing at the OPUC, which the OPUC anticipates in late February or early March 2020.”²⁰ PacifiCorp did not file in February or March 2020.

It was not until June 15, 2020 that PacifiCorp filed its Application for an Order Approving Queue Reform Proposal with the Commission.²¹ PacifiCorp did not engage state-jurisdictional stakeholders prior to filing, and the Interconnection Customer Coalition is not aware of PacifiCorp providing notice to any Oregon state-jurisdictional interconnection customers prior to filing. PacifiCorp asked the Commission to approve the application by July 15, 2020, 30 days after it was filed.²² Following three two-hour stakeholder workshops on June 26 and July 6 and 7, 2020, Commission Staff issued its proposed next steps on July 12, 2020.²³ Staff proposed that stakeholders file comments by July 17, 2020, exactly one week later.²⁴ Staff indicated that it would present its recommendation to the Commission at the August 11, 2020 Public Meeting.²⁵

Procedurally relevant here, stakeholders requested additional time to evaluate PacifiCorp’s QRP and its potential effects on QFs.²⁶ The Interconnection Customer Coalition

²⁰ FERC Docket No. ER20-924, Comments of the Oregon Public Utility Commission Staff at 4 (Feb. 21, 2020).

²¹ PacifiCorp Application at 1 (June 15, 2020).

²² PacifiCorp, *6/18/2020: REVISED Notice of PacifiCorp’s Queue Reform Workshop*, OASIS, <https://www.oasis.oati.com/ppw/> (last visited Oct. 12, 2020) (“Approval of PacifiCorp’s request will align its Oregon interconnection procedures with the reforms recently approved by the Federal Energy Regulatory Commission. The Company has requested approval of its queue reform proposal by July 15, 2020, so that the Company can implement its Oregon reform in time for the first Cluster Studies, which will be performed later this year.”).

²³ Staff Notice: UM 2108 Next Steps at 1 (July 10, 2020).

²⁴ *Id.*

²⁵ *Id.*

²⁶ Comments of NIPPC at 1 (July 17, 2020); Joint Comments of the Coalition, Community Renewable Energy Association, and OSEIA at 4 (July 17, 2020) [hereinafter Comments

proposed that the Commission suspend the QRP and launch an investigation while allowing state-jurisdictional customers the option to participate in a Cluster Study.²⁷ Commission Staff stated that:

Staff understands the QF Parties' disappointment with the lack of opportunity to conduct a more robust stakeholder process for this docket. OPUC urged PAC to align its queue reform with the 2020 RFP, making this difficult timeline necessary to ensure that Oregon generators were not left behind. The Company has demonstrated that it is better for Oregon generators to join this process than allow Oregon generators to wait until November 2021 to begin seeing the benefits of queue reform.²⁸

The Commission did not provide additional time but approved PacifiCorp's QF Proposal on August 12, 2020.²⁹

Substantively relevant here, stakeholders raised concerns about how PacifiCorp's QRP would negatively impact the QF contracting process.³⁰ As evidenced by this filing, the QF development community continues to have these concerns.

D. The Commission's Order Silently Approved PacifiCorp's Contracting Delays

The Commission's Order approving PacifiCorp's QRP with modifications is much broader in scope than the issues raised in this Application for Rehearing or Reconsideration. On PacifiCorp's QF Proposal, the Order adopted Staff's recommendations, which provided no

of the Interconnection Customer Coalition]; Comments of NewSun Energy and OSEIA at 1 (July 17, 2020).

²⁷ Comments of the Interconnection Customer Coalition at 4 (July 17, 2020).

²⁸ Staff Report at 26-27 (Aug. 3, 2020).

²⁹ Order No. 20-268 at 2 (Aug. 12, 2020); Transcript of August 11, 2020 Public Meeting at 3:4-7 (statement of Chair Decker) ("I think we recognize that some don't regard this public meeting process as an ideal way to consider these changes, and all I can say here is that this forum is our best option under the circumstances today.").

³⁰ Comments of NIPPC at 2 (July 17, 2020); Comments of the Interconnection Customer Coalition at 24-33 (July 17, 2020); Comments of NewSun Energy and OSEIA at 5, 11 (July 17, 2020).

modifications. The Order acknowledges PacifiCorp’s QF Proposal to not execute PPAs with QFs until after PacifiCorp provides interconnection studies to the QFs, but the Order does not state any findings of fact or conclusions of law on this issue.³¹ To minimize any confusion, the relevant decision language is provided below from Staff’s Report, the Order, and the Commission’s oral decision at the August 12, 2020 Special Public Meeting.

1. Relevant Language in Staff’s Report

The Commission adopted Staff’s recommendations in the Order.³² Staff’s treatment of the issue of PacifiCorp delaying PPA execution with QFs is reproduced in its entirety below:

Issue #7: Interactions with the QF Power Purchase Agreement Process

The QF Parties are concerned PAC’s Proposal will eliminate generators’ ability to time requests for PURPA power purchase agreements (PPAs) to take advantage of favorable avoided cost rates. The QF Parties assert that the Commission “allows frequent and unpredictable avoided cost price changes” by approving out-of-cycle avoided cost updates and rate changes repeatedly.

The QF Parties note that PAC requires that a QF obtain a completed interconnection study before the QF can execute a PPA. If PAC’s proposal is adopted, QF generators in may have to wait through multiple avoided cost price changes before they can obtain a legally enforceable obligation to sell to PAC. QFs may not know their avoided cost rate until after the time that

³¹ Order No. 20-268 at 3; *but see* ORS 756.558; *Pac. Nw. Bell Tel. Co. v. Katz*, 116 Or App 302, 305 (1992) (“Whether or not we agree with PUC’s inferences or reasoning, we will uphold PUC’s order if it discloses a rational relationship between the facts and the legal conclusion reached. The order, however, must contain sufficient findings and conclusions to enable us to determine that the reasoning is rational and that PUC acted within its grant of power.”); *but see, e.g., Bekins*, 19 Or App at 769 (“[T]he courts will not review the orders of public administrative bodies that have failed to comply with statutes requiring findings of fact and conclusions of law, but will hold orders made without meeting these requirements void.”); *but cf. In Re WorldCom Inc and AT&T Petition Relating to Posting Service Quality Reports*, Docket No. DR 29, Order No. 01-1084 at 24-25 (Dec. 21, 2001) (explaining ORS 756.558 did not apply to an order that “opens an investigation ... maintaining the status quo in the meantime,” but in this case Order No. 20-268 changed the status quo for QFs significantly).

³² Order No. 20-268 at 1.

they are required to make commitments in the Cluster Study process that carry withdrawal penalties and impact other generators. The QF Parties recommend that the Commission prevent PAC from requiring QFs to execute an interconnection agreement before securing a PPA.

Further, QF Parties express uncertainty about the impact of the Cluster Study on interconnection timelines and fear that they will fail to meet Commercial Operation Date (COD) requirement in the PPA for reasons beyond their control. The QF Parties recommend that PAC grant QFs additional flexibility to terminate the PPA within 30 days of receiving the Cluster Study Report and modify the COD up to five years to correspond with the Cluster Study or Facilities Study. PAC argues that its contracting procedures are outside of the scope and would more appropriately be addressed in AR 631. PAC asserts that the added certainty of the Cluster Study process will do more to help generators with these issues than harm.

Staff response: Staff understands the QF Parties' concerns regarding the intersection of interconnection and PURPA implementation. However, Staff disagrees with the underlying premise that the current serial queue process is a preferable alternative to PAC's proposal. Staff believes the Cluster Study offers QF developers more certainty with respect to timing of the interconnection process than the current serial process. The Cluster Study process is far more likely to eliminate the log jam in PAC's interconnection queue and possibly, will allow QFs to mitigate their interconnection costs through sharing.

Staff also disagrees with the premise that a process in which a QF can obtain a PPA before knowing if it can afford to interconnect and when it can interconnect is superior to PAC's current process. Staff believes allowing QFs to enter into PPAs with no idea whether they will actually be able to interconnect necessarily results in speculative contracting. The Joint Coalition's proposal to allow QFs to enter into PPAs prior to obtaining an interconnection study and then let the QFs refresh their scheduled CODs to a later date accommodate interconnection ignores the potential harm to ratepayers associated with stale avoided cost prices.

To the extent the QFs' concern with PAC's queue reform proposal relates to the uncertainty of avoided cost price changes, the timing of avoided cost price changes is within the Commission's control. Under the Commission's current process, avoided cost prices are updated on May 1 of each year, after IRP acknowledgement, and in out-of-cycle updates if certain criteria are satisfied. To the extent a QF believes an out-of-cycle update is inappropriate because of PAC's queue reform process, it can make that argument in opposition to the out-of-cycle update.

Furthermore, Staff agrees that the timing of the Transitional Cluster does not align with the May 1, 2021, avoided cost update. There is particular value in helping QFs make the most informed choice to commit to the Cluster Study process in this first time through. Therefore, Staff recommends that PAC move its May 1, 2021 avoided cost update to October 1, 2021.³³

2. Relevant Language in the Commission's Order

In addition to adopting Staff's recommendation (above), the Commission provided the following guidance on the issue of PacifiCorp delaying PPA execution with QFs:

We note that the decision windows for interconnection customers are relatively short throughout the study process and that this could create a QF contracting backlog, pressuring decisions to move forward in the cluster. In light of this, and to avoid facilities dropping out of a cluster, we strongly encourage PacifiCorp to work proactively and diligently with qualifying facilities participating in a cluster study to avoid this outcome.³⁴

The Commission's language above approves, rather than rejects, PacifiCorp's QF Proposal to delay PPA execution with QFs. First, the Commission specifies QF contracts, which demonstrate that this language is not about interconnection customer contracts generally (e.g., an interconnection study agreement). Second, the Commission recognizes the possibility of a QF

³³ Order No. 20-268 at App. A, 24-26 (internal citations omitted). Staff's treatment of stakeholder comments, including those from the Interconnection Customer Coalition, should in no way be understood as an adoption of Staff's summary language as a replacement for the original comments. Notably absent from Staff's summary of stakeholder comments is stakeholders' explanation that PacifiCorp's QF Proposal to delay executing PPAs was inconsistent with PacifiCorp's legal obligations. *See, e.g.*, Comments of the Interconnection Customer Coalition at 28 (July 17, 2020) (discussing the inconsistency between PacifiCorp's QF Proposal to delay PPA execution with QFs and PacifiCorp's legal obligations). Similarly, Staff's summary omits that PacifiCorp acknowledged it was "reassessing this contracting practice [to delay contracting with QFs until after a QF obtains an interconnection study] in light of FERC's recent PURPA rulemaking order." PacifiCorp Reply Comments at n.100 (July 24, 2020) (citing *QF Rates and Requirements Implementation Issues Under the Pub. Util. Regul. Policies Act of 1978*, 172 FERC ¶ 61,041 (July 16, 2020)).

³⁴ Order No. 20-268 at 2.

contracting *backlog*, but a backlog could not exist without delays to the contracting process. Finally, the Commission recognizes the backlog would be tied to the “decision windows” for customers, which occur after PacifiCorp provides an interconnection study.³⁵ If PacifiCorp executed PPAs with QFs without requiring the QF to first have an interconnection study, there would be no issue of a “QF contracting backlog” during the customer decision windows. Therefore, the Commission’s discussion of a contracting backlog demonstrates: 1) the Commission knew that PacifiCorp would not execute PPAs with QFs until after PacifiCorp provides the QFs an interconnection study; and 2) under the QRP as approved by the Commission, PacifiCorp would delay executing PPAs with QFs for as long as 17 months, and potentially longer.

3. Relevant Discussion at the Two-Day Special Public Meeting

The discussion at the Special Public Meeting where the Commission decided to approve PacifiCorp’s QRP with modifications further confirms that the Commission acknowledged and approved PacifiCorp’s QF Proposal to delay PPA execution with QFs. The Interconnection Customer Coalition obtained a transcription of the two-day hearing, which is quoted and cited below.³⁶

Stakeholders raised the inconsistency of PacifiCorp’s QF Proposal to delay executing PPAs with QFs with PacifiCorp’s legal obligations at the meeting. For example, Mr. Irion Sanger, counsel for REC and NIPPC, stated that:

PacifiCorp’s proposal, in our mind, clearly violates FERC precedent. FERC has explained that requiring the completion of a utility controlled study process gives the utility far too much control

³⁵ *E.g.*, PacifiCorp Compliance Filing at Att. 1, at 30, 33 (Aug. 31, 2020) (indicating deadlines for large interconnection customers to make decisions).

³⁶ The complete transcripts are also attached to this filing as Attachments A and B.

over the contracting and legally enforceable obligation ability. This hands it over to the utility and defeats the purpose of the legally enforceable obligation. It is inconsistent with PURPA.³⁷

Commissioner Thompson asked several questions in response about the QF contracting practice. First, he asked Mr. Sanger about PacifiCorp's current contracting practice.³⁸ Mr. Sanger explained that PacifiCorp's "Schedule 37 ... basically says that you need to provide an update about the status of interconnections, you don't have to get an interconnection study complete."³⁹ However, Mr. Sanger noted, PacifiCorp disagrees with that interpretation because PacifiCorp's practice is to:

require you to provide a system impact study and show that you can come online within three years of the date you sign your contract. So if you -- if you can get a system impact study and give that to PacifiCorp and it says that your COD is within three years, then PacifiCorp will sign a contract. If you can't get a system impact study or the system impact study comes back saying you can't get online after three years, then they won't sign the contract.⁴⁰

³⁷ Transcript of August 11, 2020 Public Meeting at 104-105 (statement of Irion Sanger, counsel for REC and NIPPC); *see also* Transcript of August 11, 2020 Public Meeting at 125 (statement of Greg Adams, counsel for NIPPC and CREA) ("You know, you've got a real timing problem if they're going to not even start talking to you about a PPA or execute a PPA until after you get out of the cluster, you're really compressed in like a 30 day period of time to get all of that done. And, you know, the FERC's been pretty clear, too, that like Mr. Sanger mentioned in his comments that this is -- this is not a lawful precondition to getting a PPA under PURPA.").

³⁸ Transcript of August 11, 2020 Public Meeting at 122-123.

³⁹ Transcript of August 11, 2020 Public Meeting at 123 (statement of Mr. Sanger).

⁴⁰ *Id.* at 123-124 (statement of Mr. Sanger); *see also* Transcript of August 11, 2020 Public Meeting at 125 (statement of Jake Stephens, NewSun Energy) (noting that PacifiCorp has refused to execute PPAs unless a QF has a Facilities Study, the study after a System Impact Study); Transcript of August 12, 2020 Public Meeting at 95 (statement of PacifiCorp's counsel confirming that it is PacifiCorp's practice to require a QF to have an interconnection study indicating an achievable COD before PacifiCorp will execute a PPA).

Second, Commissioner Thompson asked for the Interconnection Customer Coalition’s proposal for when PacifiCorp should execute PPAs with QFs, and Mr. Sanger explained that:

Our proposal was that a QF could enter into a PPA at any time. I think that you have discretion . . . to require a QF to have made a interconnection study application, I don’t think you have the discretion to say that they need to get the results of that. But our proposal is they should be able to enter into a contract at any time, but I do think it’s lawful for you to require them to at least submit . . . the initial interconnection study [request].⁴¹

Finally, Commissioner Thompson asked if this disagreement regarding PacifiCorp’s obligations and practices was currently being litigated.⁴² Mr. Sanger explained it was not being litigated, although it is an issue that might arise in Docket No. AR 631; Staff confirmed.⁴³ Docket No. AR 631 is a rulemaking intended to address the “procedures, terms, and conditions associated with QF standard contracts.” The proceeding was opened in July 2017, but has not yet begun.⁴⁴ Based on similar prior rulemakings and investigations, the Interconnection

⁴¹ Transcript of August 11, 2020 Public Meeting at 126.

⁴² *Id.* at 127-128.

⁴³ *Id.* at 128:3-13 (statement of Mr. Sanger) (“That is not being litigated before the Commission as far as I’m aware of. . . . Although, actually -- sorry – I think that issue was going to come up in the AR 631 process on QF contract forms, and I think that it’s possible, I don’t know for certain, but Ms. Andrus stated at some point that that might be one of the issues in which she prepares contract language on. So it’s possible that it might be adjudicated there in the future.”); *id.* at 128:15-16 (statement of Stephanie Andrus, Sr. Assistant Attorney General for the Commission) (“This is Stephanie Andrus, that’s correct.”).

⁴⁴ *See Procedures, Terms, & Conditions Associated with QF Standard Contracts*, Docket No. AR 631, Staff Report at 1, 4 (July 22, 2019) (“The second rulemaking would focus on development of standard contract terms and conditions. Parties have commented that more standardized contracts across utilities could be beneficial. Staff has seen instances where the definitions and process may differ across utilities, leading to many complaints. A standardized contract could simplify the process, and eliminate those complaints. Note too, this process could also benefit from the work done in the current UM 1987 docket, PGE’s update of its standard contract. Staff would hold informal workshops, and put out a standardized contract strawman for parties to comment on. Eventually rules would be proposed to adopt these standard terms and conditions.”); *see also In Re PGE Request to*

Customer Coalition does not expect a Commission order in AR 631 until late 2021 at the earliest.⁴⁵

Neither Chair Decker nor Commissioner Tawney asked any questions regarding PacifiCorp's contracting on August 11, 2020. On August 12, 2020, Chair Decker stated early on that:

I really think that, you know, parties have raised some reasonable, practical concerns about the sort of timing crunch if there's no action whatsoever in contracting before the results of the cluster study are received. I would suggest that we not, you know, try, given all that's on our plate today, to address the question of what is allowable in terms of -- or what's the right policy for what PacifiCorp should be able to require particularly in this new environment before, you know, executing a PPA. And so I would suggest that, you know, we recognize that that question is, I think presented or going to be presented in AR 631, having to do with PURPA rule making and, you know, we may want to have some discussion around those issues. But I also recognize that, you know, making that alignment

Update its Schedule 201 and Standard Power Purchase Agreements, Docket No. UM 1987, Staff Status Report at 1-2 (July 28, 2020) ("Staff has not yet prepared draft rules but is continuing to work on them. Staff's delay is primarily due to the press of other work. Also, Staff has been waiting to see if the Federal Regulatory Commission (FERC) would issue its Final Rule regarding Qualifying Facility Rates and Requirements Implementation Issues Under the Public Utility Regulatory Policies Act of 1978 in FERC Docket No. RM19-15. It issued its Final Rule on July 16, 2020. Staff intends to release a proposal for updated PURPA contract terms in Docket No. AR 631 by the end of September 2020."). As of October 12, 2020, Staff has not yet released a proposal in Docket No. AR 631.

⁴⁵ The most recent PURPA rulemaking, Docket No. AR 593, lasted approximately three years. *Compare Petition to Amend OAR 860-029-0040, Relating to Small QFs*, Docket No. AR 593, Petition of Obsidian Renewables LLC for Rulemaking (Nov. 13, 2015), with Docket No. AR 593, Order 18-422 (Oct. 29, 2018). Similarly, the two most recent generic PURPA-related investigations, Dockets No. UM 1610 and UM 1129, lasted approximately 8 years and 3.5 years, respectively. *Compare Investigation Related to Elec. Util. Purchases from QF*, Docket No. UM 1129, Staff Report (Jan. 20, 2004), and UM 1610, Notice of Events (June 29, 2012), with Docket No. UM 1129, Order No. 07-428 (Oct. 5, 2007), and Docket No. UM 1610, Order No. 20-203 (June 24, 2020).

work isn't something that we have to, you know, get right today from my perspective.⁴⁶

Further discussion of the contracting issue on August 12, 2020 largely focused on: 1) understanding PacifiCorp's reasoning;⁴⁷ and 2) providing guidance to Staff as they work on Docket No. AR 631.⁴⁸ The Commissioners specifically discussed that the issue would not be an item in the order.⁴⁹

Several stakeholders noted that the contracting issue is a problem, including in the short-term before Docket No. AR 631 launches. Mr. Stephens with NewSun Energy stated that:

I think providing some basic guidance here that the utilities shouldn't be, you know, preventing the contracting and pricing process, you know, before interconnection studies are done, although I think filing an application is a reasonable request, would -- would be very helpful in the near term and also provide guidance to go into the AR 631 process.⁵⁰

Similarly, in closing comments, counsel for NIPPC and the Coalition stated that:

[O]n the PURPA contracting stuff, the -- this is one of the -- one of the worst things that's happened in a long time, from my client's perspective, and it's likely going to put a stop to PURPA contracting with PacifiCorp in Oregon for a while.⁵¹

In summary, it is the understanding of the Interconnection Customer Coalition that, during the two-day Special Public Meeting, the Commission: 1) acknowledged that PacifiCorp would not execute PPAs with QFs until the QFs received an interconnection study from

⁴⁶ Transcript of August 12, 2020 Public Meeting at 23-24 (statement of Chair Decker).
⁴⁷ *Id.* at 95-96 (statement of Adam Lowney, counsel for PacifiCorp) (explaining the utility's view that the company needs to perform "basic due diligence" before executing a contract and that this includes confirming that the QF's chosen COD is achievable and therefore "it's actually a real PPA").
⁴⁸ *Id.* at 93-106.
⁴⁹ *Id.* at 104, 105 (statements of Chair Decker)
⁵⁰ *Id.* at 102 (statement of Mr. Stephens).
⁵¹ *Id.* at 159 (statement of Mr. Sanger).

PacifiCorp (specifically, the Cluster Study); 2) heard from stakeholders that PacifiCorp's actions would be inconsistent with PacifiCorp's legal obligations and would be harmful to QF development in Oregon; and 3) approved PacifiCorp's QF Proposal without modification . The Commission also acknowledged that PacifiCorp would implement this policy.

III. LEGAL STANDARD

The legal standard for granting an Application for Rehearing or Reconsideration is whether the applicant can show any one or more of the following:

- (a) New evidence that is essential to the decision and that was unavailable and not reasonably discoverable before issuance of the order;
- (b) A change in the law or policy since the date the order was issued relating to an issue essential to the decision;
- (c) An error of law or fact in the order that is essential to the decision; or
- (d) Good cause for further examination of an issue essential to the decision.⁵²

The Interconnection Customer Coalition asserts that there are one or more errors of law in the Commission's Order that were essential to the Commission's decision. Specifically, the Commission's decision to approve PacifiCorp's QF Proposal to delay executing PPAs with QFs is legally inconsistent with PacifiCorp and the Commission's legal obligations. But for these legal errors, the Commission would have rejected, not approved, PacifiCorp's QF Proposal to delay QF contracting.

IV. ARGUMENTS

The Commission, as a government entity, and PacifiCorp, as a regulated entity, both have certain legal obligations which the Order overlooks. The Order incorrectly authorizes PacifiCorp to avoid its obligations under state and federal law as well as under Commission policy. In so authorizing, the Order does not satisfy the Commission's obligation to ensure PacifiCorp's

⁵² OAR 860-001-0720(3).

compliance with the law and to enforce the law. Further, because PacifiCorp’s QF Proposal harms QF development, the Order did not comply with the Commission’s obligation to encourage QF development. Finally, the Order is inconsistent with the Commission’s obligation under PURPA to adopt a workable standard for when a QF may establish a legally enforceable obligation (“LEO”). These oversights are each an error of law, which, if recognized, would have required the Commission to issue a different order, one that prohibited PacifiCorp from avoiding its statutory obligations to contract with QFs.

A. The Order is Inconsistent with PURPA

PacifiCorp’s Commission-approved proposal is inconsistent with PacifiCorp’s and the Commission’s obligations under the state and federal PURPA. PacifiCorp has a legal obligation to contract with QFs, and the Order authorizes PacifiCorp to delay the contracting process by requiring QFs to first produce a Cluster Study before PacifiCorp will execute a QF PPA. In addition, the Commission has an obligation to create a workable standard for when QFs can form LEOs, and the Order creates an unworkable standard. These inconsistencies are legal errors that need to be corrected.

1. PacifiCorp Cannot Delay PPA Execution by Requiring QFs to First Obtain an Interconnection Study from PacifiCorp

Both the federal and Oregon state PURPA provide Oregon QFs the option to sell power at a utility’s avoided cost price, which is determined and locked in at the time the QF obligates itself to sell to the utility.⁵³ Oregon’s PURPA, and FERC’s rules implementing the federal PURPA, requires that each “electric utility shall offer to purchase energy or energy and capacity

⁵³ ORS 758.525(2); 16 USC 824A-3(b) (requiring FERC to promulgate rules governing the rates for purchasing QF energy); 18 CFR 292.304(d) (setting forth FERC’s rules).

... from a qualifying facility.”⁵⁴ In addition, the QF may select a purchase price that is determined at the time a QF obligates itself to sell.⁵⁵ This obligation is referred to as a LEO, and it is similar to a contract but may precede a written agreement.⁵⁶ The Commission’s Order violates the law because it prevents the QF from being able to obtain a PPA or form a LEO for months and potentially years after the QF is ready to commit itself. This means that the prices are not set at the time the QF elects to obligate itself but at some undetermined time of the utility’s choosing.

FERC has indicated that when a LEO exists is a question of state law, but the state standard must be consistent with the federal PURPA.⁵⁷ FERC has issued guidance on this question, which the Interconnection Customer Coalition included in prior comments. First, as a general matter, FERC has explained that the phrase “legally enforceable obligation” is intended to prevent a utility from avoiding its PURPA obligations by refusing to sign a contract or delaying the signing of a contract so that a later and lower avoided cost is applicable.⁵⁸ Second, FERC has stated that a LEO is formed when a QF unequivocally commits itself to sell to the utility, regardless of whether a utility has accepted the commitment.⁵⁹ Third, and most relevant here, FERC has explained that a QF may form a LEO and lock in avoided cost prices without first obtaining an interconnection study or a fully executed interconnection agreement from the

⁵⁴ ORS 758.525(2); 18 CFR 292.304(d); *see also* OAR 860-029-0030(1).

⁵⁵ *See Snow Mountain Pine Co. v. Maudlin*, 84 Or App 590, 599-600 (1987), *rev. den.*, 303 Or 591 (1987) (“To permit a utility to delay the date to be used to calculate the purchase price simply by refusing to purchase energy would expose qualifying facilities to risks that we believe Congress and the Oregon Legislature intended to prevent.”).

⁵⁶ 18 CFR 292.304(d).

⁵⁷ *West Penn Power Co.*, 71 FERC ¶ 61,153 at P. 61,495 (1995).

⁵⁸ *Cedar Creek Wind, LLC*, 137 FERC ¶ 61,006 at P. 36 (2011).

⁵⁹ *See id.* at P. 35.

utility.⁶⁰ This is because such a requirement allows the utility to control whether and when a LEO exists, which is contrary to the purpose of a LEO.⁶¹

In a recent PURPA-related rulemaking, FERC provided guidance that is directly on point and should resolve any uncertainty the Commission may feel about its PURPA obligations. On the issue of a LEO, FERC affirmed its holdings from prior cases and affirmed the purpose of a LEO generally.⁶² FERC noted:

Several commenters requested that the Commission require QFs to do more than just file an interconnection application; instead, for example, suggesting requiring completion of system impact study, interconnection or transmission feasibility study. We disagree. The approach taken here recognizes the need for a QF to demonstrate that its project is more than mere speculation, such that it is reasonable for a utility to consider the resource in its planning projections. A QF that has submitted an application for interconnection, as well as having taken meaningful steps to obtain site control and has applied for all relevant permits, while not a guarantee that the project will be completed, are all objective and reasonable indicators that the QF developer is seriously pursuing the project and has spent time and resources in developing the project to show a financial commitment.. As numerous commenters have explained, QFs need a LEO in order to obtain financing to complete the project, and we find that, as an illustrative example, requiring the submission of an interconnection request (as opposed to the completion of a system impact study or transmission feasibility study) as one criteria strikes an appropriate balance between the competing needs.

Moreover, it bears remembering that the concept of a LEO was specifically adopted to prevent utilities from circumventing the mandatory purchase requirement under PURPA by refusing to enter into contracts. The Commission thus has found that . . . *requiring the completion of a utility-*

⁶⁰ *FLS Energy*, 157 FERC ¶ 61,211 at P. 26 (2016).

⁶¹ *Id.* at P. 23; *see also Snow Mountain*, 84 Or App at 599-600.

⁶² *QF Rates and Requirements Implementation Issues Under PURPA*, FERC Docket No. RM19-15, Order No. 872, 172 FERC ¶ 61,041, P. 684-695 (July 16, 2020), *reh'g granted*, Notice of Denial Of Rehearings by Operation of Law and Providing for Further Consideration at 1 (Sept. 17, 2020).

*controlled study places too much control over the LEO in the hands of the utility and defeats the purpose of a LEO and is inconsistent with PURPA.*⁶³

The above quotation also squarely addresses the concern of speculative QF contracting. The Interconnection Customer Coalition understands PacifiCorp’s QF Proposal, and Staff’s support, to be based on a fear of speculative QF contracting.⁶⁴ However, FERC has clearly outlined what states can and cannot do to discourage speculative contracting without violating PURPA. Requiring QFs to obtain an interconnection study prior to forming a LEO or entering into a PPA, as PacifiCorp and the Commission have done, is not a lawful way to discourage speculative contracting. Further, the focus should not be on avoiding speculation as it would be rare for any energy development—whether PURPA or not—to not be speculative at some point; project developers all take a high degree of risk in investing in projects. PURPA was specifically designed to encourage investment different technologies by eliminating some degree of speculation through the mandatory purchase obligation and LEO concept.

In addition, requiring QFs to obtain an interconnection study and prove the QF’s selected commercial operation date (“COD”) is achievable before PacifiCorp will execute a PPA is also inconsistent with PacifiCorp’s obligations under the Commission’s administrative rules. OAR 860-029-0120 provides QFs the right to select a COD “anytime within three years from the date of agreement execution” or “anytime later than three years after the date of agreement execution if the qualifying facility establishes to the utility that a later scheduled commercial on-line date is

⁶³ *Id.* at P. 694-695 (internal citations omitted) (emphasis added), *reh’g granted*, Notice of Denial Of Rehearings by Operation of Law and Providing for Further Consideration at 1 (Sept. 17, 2020).

⁶⁴ Transcript of August 12, 2020 Public Meeting at 95-96 (statement of A. Lowney, counsel for PacifiCorp) (describing PacifiCorp’s understanding of its due diligence requirements); Staff Report at 25 (Aug. 3, 2020).

reasonable and necessary and the utility agrees.”⁶⁵ PacifiCorp is refusing to execute QF PPAs with CODs that, *in PacifiCorp’s sole judgment*, are either unsupported or unachievable. This denies QFs their right to select a COD under OAR 860-029-0120. Certainly, a QF may wish it knew whether a given COD was achievable before executing a PPA, but choosing a COD and entering into a PPA is a QF’s *right*, not PacifiCorp’s choice. Notably, PacifiCorp does not have a *choice* whether to contract with QFs; it is PacifiCorp’s legal *obligation* to do so.⁶⁶

2. The Commission’s Order Creates an Unworkable LEO Standard

In addition to approving a utility proposal that is inconsistent with the utility’s obligations under PURPA, the Commission’s Order approves a proposal inconsistent with its own LEO standard and inconsistent with the PURPA requirements for a LEO standard.

This Commission has articulated its standard for when a LEO exists as follows:

[A] LEO exist[s] when a QF signs a final draft of an executable standard contract that includes a scheduled commercial on-line date and information regarding the QF's minimum and maximum annual deliveries, thereby obligating itself to provide power or be subject to penalty for failing to deliver energy on the scheduled commercial on-line date.

We acknowledge, however, that problems may delay or obstruct progress towards a final draft of executable contract, such as failure by a utility to provide a QF with required information or documents on a timely basis. In the event of a dispute between a QF and a utility during the contracting process, we adopt Staff’s proposal that we determine, on a case-by-case basis, when a LEO is formed for the purpose of establishing an avoided cost price. A QF should alert us of a dispute by filing a complaint.⁶⁷

⁶⁵ OAR 860-029-0120(4).

⁶⁶ *See, e.g., Snow Mountain*, Or App at 598-599 (“[A utility’s] obligation is not governed by common law concepts of contract law; it is created by statutes, regulations and administrative rules. . . . [T]he obligation to purchase power is imposed by law on a utility; it is not voluntarily assumed.”).

⁶⁷ Docket No. UM 1610, Order No. 16-174 at 27-28 (May 13, 2016).

Under this standard, a QF can establish a LEO by either executing an executable PPA or demonstrating that a utility caused a delay in providing an executable PPA. Further, the Commission clarified in a recent contested case proceeding that a LEO could be established without the utility or QF first resolving interconnection and transmission issues.⁶⁸

The Order prevents a QF from establishing a LEO until after the QF obtains a Cluster Study. A QF will not obtain an executable PPA without first obtaining a Cluster Study, which is prohibited by PURPA. Further, a QF cannot demonstrate that PacifiCorp is causing delay when PacifiCorp will be acting pursuant to the Commission's Order. By approving PacifiCorp's QF Proposal to delay providing an executable, or executing a, PPA, this Commission has made it impossible for a QF to establish a LEO until it obtains a Cluster Study, which, as previously mentioned, is inconsistent with FERC's policy on when a LEO can be established.

Combined, these two legal errors mean that a QF can neither obtain a PPA nor establish a LEO before first obtaining an interconnection study from PacifiCorp. Predicating the QF's LEO upon utility action is counter to PURPA. These legal errors must be corrected.

B. The Commission Has Not Justified Its Departure from Prior Decisions

Even if the Commission's new LEO standard did not violate PURPA (which it does), the Order would still violate Oregon's administrative law requirements. ORS 183.484(5) provides that a court *must* remand an administrative order back to the agency if the court finds that the decision is “[i]nconsistent with an agency rule, an officially stated agency position, or a prior agency practice” and “if the inconsistency is not explained by the agency.”⁶⁹ Here, the

⁶⁸ *Blue Marmot V LLC et al. v. PGE*, Docket No. UM 1832, Order 19-322 (Sept. 30, 2019).
⁶⁹ ORS 183.484(5)(b)(B); *see also Gordon v. Bd. of Parole & Post-Prison Supervision*, 343 Or 618, 634-637 (2007) (discussing administrative agencies' obligations to provide “a

Commission’s Order is inconsistent with multiple Orders and at least one agency rule (each discussed in prior sections), and the Commission has not explained the inconsistencies. The omission of an explanation constitutes a legal error, and the Commission must correct this error.

The Interconnection Customer Coalition also recognizes that it is possible a court might find that the Order is inadequate under other provisions of ORS 183.484. First, a court may find that the agency “erroneously interpreted a provision of law,” although the Interconnection Customer Coalition believe the legal errors in dispute in this filing are the result of the Commission’s failure to interpret applicable laws rather than an erroneous interpretation.⁷⁰ Second, a court may find the Order is not supported by “substantial evidence,” at least in regard to PacifiCorp’s QF Proposal.⁷¹ These are important outcomes to consider, because a court may choose to “set aside” the Order, rather than remanding it, if it makes either finding.⁷² The Interconnection Customer Coalition anticipate that a reviewing court would remand the Order to the Commission, but the risk of the Order being set aside—however minor that risk may be—is concerning. Although the Interconnection Customer Coalition disagrees with many other aspects of the Commission’s Order, it does not wish for undisputed aspects to be set aside and their implementation thereby delayed.

C. The Commission’s Order Incorrectly Authorizes PacifiCorp to Avoid its Obligations Under the Applicable Commission-approved Tariff

The Order incorrectly authorizes PacifiCorp to avoid its obligations under the applicable Commission-approved Schedule 37 in two ways. First, under the Commission’s Order,

⁷⁰ rational, fair, or principled explanation” for inconsistencies with prior decisions or agency practices and remanding a case due to an agency’s failure to do so).
⁷¹ ORS 183.484(5)(a).
⁷² ORS 183.484(5)(c).
⁷² ORS 183.484(5)(a)(A), (c).

PacifiCorp may require QFs to produce a PacifiCorp Transmission-produced interconnection study before PacifiCorp will execute a standard PPA. However, Schedule 37 allows PacifiCorp to require that QFs provide information about the “status of interconnection” before PacifiCorp must execute a PPA, but it does not require that QFs provide an interconnection study.⁷³ Second, under the Commission’s Order, PacifiCorp will only provide such an interconnection study once each year. In contrast, Schedule 37 requires PacifiCorp to respond to QF requests in a timely manner, which PacifiCorp has explained ordinarily is a 90-120 day process.⁷⁴ PacifiCorp did not request to amend Schedule 37, nor did the Commission approve any amendments, therefore PacifiCorp’s QF Proposal and the Commission’s Order are inconsistent with Schedule 37. As a result, the Order to approve PacifiCorp’s QF Proposal must contain one or more errors of law.

A brief review of the history and purpose of Schedule 37 may be informative. When the Commission approved the use of standard contracts for eligible QFs, the Commission simultaneously ordered the utilities to supplement their PURPA-related tariffs with information, including “full details about the process to enter into a standard contract.”⁷⁵ Like the standard contracts themselves, the tariffs are intended to “remove transaction costs associated with QF contract negotiation, when such costs act as a market barrier to QF development.”⁷⁶ In short, Schedule 37 is intended to aid eligible QFs in obtaining a PPA pursuant to PURPA.

⁷³ PacifiCorp, Oregon Standard Avoided Cost Rate at 11-12 (effective Feb. 26, 2020), available at https://www.pacificpower.net/content/dam/pcorp/documents/en/pacificpower/rates-regulation/oregon/tariffs/purpa/Standard_Avoided_Cost_Rates_Avoided_Cost_Purchases_From_Eligible_Qualifying_Facilities.pdf [hereinafter PacifiCorp Schedule 37].

⁷⁴ *Id.* at 10; Docket No. UM 1610, PAC/1000, Griswold/8.

⁷⁵ Docket No. UM 1129, Order No. 05-584 at 58 (May 13, 2005).

⁷⁶ *Id.* at 16.

PacifiCorp’s apparent position that it can require a *completed* interconnection study before executing a QF PPA is inconsistent with the plain language of Schedule 37 as well as the established industry standard. In 2005, following the Commission’s order cited above, PacifiCorp filed the original Schedule 37 for approval.⁷⁷ Although the Commission ordered subsequent revisions to other parts of PacifiCorp’s original filing, the original Schedule 37 contained the same language as PacifiCorp’s current Schedule 37 regarding a timely response and “status of interconnection” arrangements.⁷⁸ As a result, the relevant requirements at issue have been in place and unchanged for almost 15 years.

As stated at the Commission’s Public Meeting in this proceeding, the Interconnection Customer Coalition’s position is that Schedule 37’s reference to providing the “status of interconnection” requires a QF to provide its *status*, i.e., a statement whether or not it has applied for interconnection service and, if it has, where it is in the process.⁷⁹ The Interconnection Customer Coalition believes the Commission *may* require QFs to apply for interconnection without violating PURPA, but this is *not* the current requirement in PacifiCorp’s Schedule 37.⁸⁰ This distinction is important because a QF may apply for interconnection service at any time, but PacifiCorp will only provide a completed interconnection study at a certain time of the year, under the new process approved by the Order.

The Commission’s Order authorized PacifiCorp to act in a manner inconsistent with PacifiCorp’s obligations under the Commission-approved Schedule 37. This result indicates an error of law in the Order regarding PacifiCorp’s obligations. The Interconnection Customer

⁷⁷ Docket No. UM 1129, PacifiCorp Application at 1 (July 12, 2005).

⁷⁸ *Compare id.*, with PacifiCorp Schedule 37.

⁷⁹ Transcript of August 11, 2020 Public Meeting at 126 (statement of Mr. Sanger).

⁸⁰ *Id.*

Coalition respectfully requests that the Commission amend the Order to clarify that PacifiCorp remains obligated to comply with the process in Schedule 37, which does not require a QF to produce a completed interconnection study before they may obtain a fully executed PPA.

D. The Commission’s Order Incorrectly Overlooks the Commission’s Obligation to Oversee PacifiCorp’s Compliance with its Statutory Obligations

The Commission’s Order authorizing PacifiCorp to act in a manner inconsistent with state and federal law and the Commission’s prior Orders is inconsistent with the Commission’s statutory obligations.⁸¹ Specifically, in approving PacifiCorp’s QF Proposal to act inconsistently with Schedule 37 and PURPA, the Commission’s Order does not “enforce the laws” nor “diligently prosecute” PacifiCorp for violating them.⁸² Far from encouraging QF development, the Commission’s Order subjects QFs to the harms of PacifiCorp’s unlawful actions.⁸³ As a result of these inconsistencies, the Order must contain one or more errors of law.

The Commission’s Order appears to recognize the inconsistency in PacifiCorp’s actions and obligations, but it postpones resolution until a future rulemaking, Docket No. AR 631.⁸⁴ Here the status quo ante was that federal and Oregon law as well as Commission policy and

⁸¹ ORS 756.040 vests the Commission with power and jurisdiction to “supervise and regulate” Oregon’s utilities, and ORS 756.160 requires the Commission to enforce the laws of the State of Oregon governing regulated utilities. ORS 756.160 also empowers the Commission, with the aid of the Attorney General, to “diligently prosecute” any person when there is reasonable cause to believe the person is violating any law, regulation, or order of the Commission. Further Oregon’s laws include the state’s PURPA statute, which recognizes that it is the policy of the State of Oregon to “increase the marketability of electric energy produced by qualifying facilities located throughout the state for the benefit of Oregon’s citizens; and create a settled and uniform institutional climate for the qualifying facilities in Oregon.” ORS 758.515.

⁸² ORS 756.040; ORS 756.160.

⁸³ ORS 758.515.

⁸⁴ *E.g.*, Transcript of August 12, 2020 Public Meeting at 23-24 (statement of Chair Decker).

Schedule 37 allowed a QF to enter into a PPA without completing an interconnection study, but PacifiCorp was taking unlawful actions refusing to execute a PPA until the QF obtained a System Impact Study. Absent the filing of a complaint or declaratory ruling request by a QF, it may have been permissible for the Commission to elect not to proactively remedy PacifiCorp's unlawful conduct. Here, instead of directing PacifiCorp to remedy the issue, the Commission approved changes to the status quo ante which both specifically approved PacifiCorp's violations and made them more harmful to QF development.⁸⁵

A QF today is legally entitled to a QF PPA with PacifiCorp, but the Commission's Order allows PacifiCorp to deny that QF its PPA until after PacifiCorp produces the first Cluster Study, which is expected to occur next March or April at the earliest. The delay will likely result in a PPA with lower avoided cost rates; the delay and uncertainty will also likely impact a QF's ability to secure financing and proceed with development. Further, Docket No. AR 631 is in its early stages, and there may not be a resolution for months if not years.⁸⁶

Although the Commission has broad quasi-legislative authority, courts in Oregon have agreed that the Commission "does not have discretion to misinterpret or misapply the law."⁸⁷ The Interconnection Customer Coalition respectfully requests that the Commission amend the Order to enforce PacifiCorp's legal obligations, pursuant to the Commission's own obligations.

⁸⁵ Docket No. DR 29, Order No. 01-1084 at 24-25 (Dec. 21, 2001) (explaining ORS 756.558 did not apply to an order that "opens an investigation ... maintaining the status quo in the meantime," but in this case Order No. 20-268 changed the status quo for QFs).

⁸⁶ *See infra* n.44.

⁸⁷ *Chang*, 256 Or App at 162.

E. But for these Errors of Law, the Commission Would Have Issued a Different Order

The Interconnection Customer Coalition asserts that the Order contains one or more legal errors, because, had the Commission determined that the law requires PacifiCorp to comply with PURPA and Schedule 37 and that the law requires the Commission to enforce those obligations, the Commission would have issued a different order. But for the legal errors, the Commission would have ordered PacifiCorp to comply with PURPA and Schedule 37 by providing QFs executable PPAs without requiring completed interconnection studies. Therefore, the legal errors were “essential to the decision” *not* to require PacifiCorp to change its QF contracting proposal.

The Interconnection Customer Coalition recommends that at minimum the Commission order PacifiCorp to provide executable PPAs and to execute PPAs without first requiring interconnection studies. This brief, simple mandate would suffice to remedy the legal errors.

However, the Commission could go further and address practical issues. In this docket, the Interconnection Customer Coalition proposed a solution which is consistent with the Commission’s regulations and past orders. As explained above, the current administrative rules allow a QF a unilateral right to pick a COD one year from contract execution and a one year cure period.⁸⁸ If the Commission makes no other changes in its policies, then this would likely allow many QFs to pick a COD sufficiently far enough out to allow them to be constructed after the Cluster Study results. In addition, QFs can also request an even later COD if reasonable, and the potential additional delays related to the Cluster Study process warrant allowing QFs to choose a COD more than three years out. However, it appears probable that, under PacifiCorp’s QRP, a

⁸⁸ OAR 860-029-0120.

greater number of QFs seeking to contract with PacifiCorp will need a reasonably later COD than has historically been the case. To reduce the practical and administrative burdens on these QFs (and on PacifiCorp), the Interconnection Customer Coalition proposed a modification to this approach. Specifically, the Interconnection Customer Coalition maintains their earlier recommendation that:

the Commission should allow a QF to select a COD in their PPA, but then have the right to change their selected COD based on the Cluster Study results. The Cluster Study results could indicate that interconnection by the scheduled COD would be impossible. For QFs that obtain an Informational Study before executing a PPA, PacifiCorp should be required to provide an estimated COD with a Feasibility or Informational Study. This would mean that any changes in COD related to interconnection matters is based on information outside the control of the QF. Therefore, QFs should have the right to execute a PPA with a COD subject to modification if the Cluster Study results and/or Facilities Study suggest a different date for actual interconnection completion.

This policy would be similar to that proposed by PacifiCorp itself to address QFs that are located in load pockets, which is an analogous circumstance of unknown transmission costs existing at the time of PPA execution. In the case of load pockets in UM 1610, PacifiCorp proposed, and the Commission recently approved, a PPA provision that allows the QF to terminate the PPA within a limited period of time after learning that the load pocket transmission issue will impose costs on the QF.⁸⁹ The issue presented there was how to treat QFs seeking PPAs for generators in areas that may or may not be a load pocket area. If the area is a load pocket, PacifiCorp's approach is to charge the QF for any additional transmission necessary to wheel the QF's power; these costs can be prohibitive for QFs. Therefore, PacifiCorp proposed to allow QFs to enter PPAs but later terminate them based on whether additional transmission is needed. In PacifiCorp's own words, "QFs are also provided with the option to terminate the PPA if the determination that a load pocket and associated need for [long-term firm point-to-point] transmission is necessary without further obligation to PacifiCorp."⁹⁰

Similarly, in PacifiCorp's recent request for proposal, PacifiCorp proposed a PPA provision in the pro forma PPA where PacifiCorp could unilaterally

⁸⁹ See PacifiCorp's Standard Contract.

⁹⁰ Docket No. UM 1610, PacifiCorp Application for Approval of Compliance Filing at 7 (July 12, 2019).

terminate the PPA if the network upgrades cost determined in the Cluster Study process exceed a certain level (which would be paid by PacifiCorp in that case).⁹¹

Therefore, the same treatment should apply here. The Commission should require that PacifiCorp furnish draft PPAs and enter into executed PPAs with QFs without regard to the status of their interconnection studies, but allow such QFs the right to terminate the PPA within a limited time after receiving the Cluster Study or Facilities Study, or to amend the scheduled commercial operation date to be consistent with the interconnection timeframe in the Cluster Study. Additionally, given that PacifiCorp's interconnection studies tend to estimate many years to complete the interconnection process, the Commission should allow the scheduled commercial operation date to exceed three years after the PPA's Effective Date where necessary based on PacifiCorp's interconnection study.⁹²

Adopting the above recommendation would address a barrier to QF development.

Therefore, it would be consistent with Oregon's official policy to "[i]ncrease the marketability of electric energy produced by qualifying facilities located throughout the state for the benefit of Oregon's citizens."⁹³ As such, the Interconnection Customer Coalition maintains that it would be a beneficial policy for the Commission to adopt. The Commission may investigate this recommendation in a future proceeding, such as Docket No. AR 631, if it so chooses. However, the Commission should not delay correcting the legal errors in its Order.

V. CONCLUSION

For the foregoing reasons, the Interconnection Customer Coalition respectfully requests that the Commission grant this narrow Application for Rehearing or Reconsideration and either correct the legal errors in the Order or state the Commission's conclusions of law so that the Interconnection Customer Coalition can expediently pursue an appeal before the appropriate tribunal.

⁹¹ See PacifiCorp RFP Pro Forma Resource-Only PPA at § 4.2, Docket No. UM 2059.

⁹² Comments of the Interconnection Customer Coalition at 31-33 (July 17, 2020).

⁹³ ORS 758.515(3).

Dated this 12th day of October 2020.

Respectfully submitted,

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**Interconnection Customer Coalition's Application for
Rehearing or Reconsideration of Order No. 20-268**

Attachment A

Transcript of August 11, 2020 Public Meeting

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 2108

In the Matter of
PACIFICORP, dba PACIFIC POWER,
Application for an Order Approving Queue
Reform Proposal.

**TRANSCRIPT
OF
AUGUST 11, 2020
PUBLIC MEETING**

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1 *AUTOMATED OPERATOR: This conference is being*
2 *recorded. Only the main conference is recorded.*

3 CHAIR DECKER: Good morning, everyone. This is
4 Megan Decker, Chair of the Oregon Public Utility
5 Commission. And this is our regular public meeting for
6 August 11th, 2020.

7 Commissioner Letha Tawney, are you present?

8 COMMISSIONER TAWNEY: I am. Good morning.

9 CHAIR DECKER: And Commissioner Mark Thompson.

10 COMMISSIONER THOMPSON: Yes, I'm here.

11 CHAIR DECKER: Thank you. So all Commissioners
12 are present. And I'll verify that we have Commission
13 counsel Jason Jones?

14 MR. JONES: Yes, I'm here. Thank you.

15 CHAIR DECKER: And Chief Administrative Law
16 Judge, Nolan Moser.

17 CHIEF ALJ MOSER: Yes, I'm on the line. Thank
18 you.

19 CHAIR DECKER: Great. Okay. Before we get
20 started this morning, I want to just remind everyone
21 that you can help us by making sure to keep your phone
22 on mute if you're not speaking. If we do end up with
23 background noise, then Christie will have to mute you
24 from the system. If you find that you've been muted,
25 then *6 is the way to unmute yourself to make a comment.

1 Before we get into our agenda today, we reserved
2 some time for general public comment on issues
3 notwithstanding on the agenda for discussion. Does anyone
4 wish to provide such comment this morning?

5 *(No audible response)*

6 CHAIR DECKER: Okay. Not hearing anyone, we
7 will move to the consent agenda.

8 *(Commission's adoption of consent agenda and*
9 *discussion regarding Avion Water Company discussed)*

10 CHAIR DECKER: Okay. We'll move to the second
11 item on our agenda, which is Pacific Power, docket
12 number UM-2108.

13 And before we get started here, I just have a
14 couple of opening comments about this matter and kind of
15 where we're headed procedurally this morning.

16 You know, obviously we, in this item, are
17 considering a very significant paradigm shift toward an
18 outcome that promises to improve conditions around
19 interconnection for everyone, and we need this shift as
20 the Oregon Commission and a place that's, you know,
21 perhaps not entirely controlled, but certainly driven by
22 FERC approved changes to PacifiCorp's OATT process. And
23 we're seeing in this consideration some challenges and
24 disruptions arise with the transition path for state
25 jurisdictional projects, but also in interconnection

1 customers' views about how those state jurisdictional
2 projects should fit in kind of once we arrive at the
3 destination.

4 I think we recognize that some don't regard this
5 public meeting process as an ideal way to consider these
6 changes, and all I can say here is that this forum is
7 our best option under the circumstances today. We've
8 structured this to have ample time this morning for
9 listening and engaging with parties, and we've reserved
10 time tomorrow afternoon for continued deliberation,
11 perhaps continued questions, and to give us a chance to
12 reach decisions in this complex matter that are as
13 considered and clear as possible.

14 So, today we'll start, as always, with Staff.
15 We'll go to PacifiCorp and we'll be interested in both
16 their opening remarks and some, you know, responses to
17 what's been filed in the last few days. We'll hear from
18 some project developers and then engage with the
19 Interconnection Customer Coalition comments.

20 I think that before we get there, I just want to
21 make sure that I have an accurate picture of who's on
22 the line and hoping to comment this morning. So, I'm
23 going to read through that and then I'm just going to
24 ask anyone else who might be on the line and hoping to
25 comment to speak up and let me know that I need to add

1 you to my list.

2 So, representing PacifiCorp, we have Adam Lowney,
3 who's going to make some opening comments, and then
4 Karen Kruse, Rick Vail, and Kris Bremer available for
5 questions.

6 We have Irion Sanger representing Renewable
7 Energy Coalition and Northwest & Intermountain Power
8 Producers Coalition to make comments.

9 We have John Lowe from Renewable Energy
10 Coalition.

11 We have Ken Kaufmann representing Sunthurst
12 Energy.

13 And then we have Greg Adams representing CREA.

14 Is there anyone else on the line whose name I did
15 not read who wishes to comment today?

16 MR. STEPHENS: Yes. Chair Decker, this is Jake
17 Stephens with NewSun Energy, and I believe Marie Barlow
18 is also on the line with NewSun.

19 CHAIR DECKER: Okay.

20 MS. CROWLEY-KOCH: And this is Angela Crowley-
21 Koch with OSEIA, I'd like to comment as well. Thanks.

22 CHAIR DECKER: Okay. Anyone else?

23 *(No audible response)*

24 CHAIR DECKER: We received comments from Energy
25 of Utah and Lacombe Irrigation District, is anyone from

1 either of those on the line?

2 *(No audible response)*

3 CHAIR DECKER: Okay. All right. I think I have
4 got everyone.

5 So, as I said, we'll start with Staff, but before
6 I turn it over to Caroline Moore, I want to just thank
7 all the parties for their thoughtful written comments,
8 and especially thank Staff for a clear and comprehensive
9 analysis of why overall they see this transition as the
10 right direction, and for recommending certain
11 adjustments and sort of going forward, expectations and
12 practices that they think will improve the experience
13 for Oregon jurisdictional customers. I know that Staff
14 has really continued to express a commitment to stay
15 engaged on these issues through the transition and
16 beyond, and I thank you for that work.

17 So, with that, I'll, I guess, pass it over to
18 Caroline Moore for Staff.

19 MS. MOORE: Okay. Thanks, Chair Decker.

20 Good morning Chair Decker, Commissioners Tawney
21 and Thompson.

22 For the record, I am Caroline Moore, representing
23 OPUC Staff, and I am joined by Staff counsel, who should
24 be on the line, Stephanie Andrus.

25 As detailed in our Staff report, and as just

1 mentioned by the Chair, I'm here today to recommend that
2 the Commission adopt PacifiCorp's Queue Reform Proposal
3 with modifications.

4 To give some background, at the highest level,
5 states have jurisdiction over the interconnection of QFs
6 under PURPA, while FERC has jurisdiction over the rest
7 of the in front of the meter interconnections.

8 Until recently, PacifiCorp's transmission
9 function processed these interconnection applications
10 for federal and state jurisdictional generators together
11 in a serial queue, and I'll note that Oregon is the only
12 state that PAC serves that chose to adopt different
13 interconnection procedures for state jurisdictional
14 interconnections than the FERC interconnection
15 procedures.

16 So, in 2009, OPUC adopted its own Small Generator
17 Interconnection Procedures, or SGIP, as administrative
18 rules, and its Large Generator Interconnection
19 Procedures, or LGIP, in the following year which took
20 the form of an order adopting a redline to the FERC
21 LGIP.

22 So, as we've discussed in several dockets over
23 the past few years, generators seeking to interconnect
24 with PAC have suffered a stagnation in processing
25 interconnection requests along with a range of

1 additional costs, certainty, and procedural challenges.
2 As of February 2020, as PAC states in its filing, over
3 200 interconnection requests that impact queue equaling
4 just under 40,000 megawatts of generators awaiting
5 interconnection. So, for scale, PAC says this is more
6 than three times the amount of energy demand on the
7 company's system.

8 And then also for some perspective from the
9 Oregon side, roughly 14 percent of the total generators
10 impact queue are located in Oregon, and then less than
11 one percent of that total 40,000 megawatts of generators
12 have indicated Oregon jurisdictional interconnection.
13 So, in other words, the vast majority of generators and
14 the vast majority of the backlog are FERC
15 jurisdictional.

16 In 2019, PAC initiated a Queue Reform Process to
17 remedy the issues that caused its queue to breakdown
18 like this. The company conducted an informal
19 stakeholder process consisting of workshops and some
20 written comments, then in January of 2020, PAC filed a
21 Queue Reform Proposal with FERC requesting approval to
22 transition from a first come first served serial
23 interconnection process to a first ready, first served
24 cluster study process. And by first ready, we mean that
25 the generators will be required to meet a certain level

1 of readiness and make certain commitments before they
2 can hold a place in the queue.

3 So, many Oregon stakeholders participated in this
4 process that included REC, CREA, NIPPC, Renewable
5 Northwest, and NewSun. FERC approved PAC's Queue Reform
6 Proposal with conditions on April 12th, 2020, and then
7 under the timeline and process approved by FERC, the
8 first cluster study will begin like October/November,
9 which is meant to align with PAC's 2020 Request for
10 Proposal, then make sure that there's a robust amount of
11 generators to qualify for that.

12 And so roughly a month after FERC's approval, PAC
13 filed its FERC approved queue reform with the Oregon
14 PUC. So PAC's Oregon filing seeks Commission approval
15 to modify the SGIP and the LGIP here in Oregon so that
16 the company can include Oregon jurisdictional generators
17 in the cluster study process with FERC generators.

18 So, their filing includes a few changes to the
19 first come, first serve serial queue process. First,
20 they would be studying interconnection requests together
21 in clusters under a fixed annual process that runs
22 roughly April to November, but they'd also begin with a
23 transition cluster process to clear out the existing
24 backlog of generators, and that begins October/November
25 of this year.

1 The cluster study process also includes cost
2 sharing between generators in the clusters, both sharing
3 study costs and upgrade costs.

4 And then to facilitate the first ready, first
5 serve, and create more certainty and efficiency in the
6 clusters, PAC's proposed heightened sight control
7 requirements, a modified deposit structure, and
8 withdrawal penalties, but these are for large Oregon
9 jurisdictional generators only.

10 After making the filing, PAC hosted three
11 stakeholder workshops. Following the workshop, NIPPC,
12 CREA, Oregon Solar Energy Industry Association, NewSun,
13 and REC filed comments on the company's proposal, and
14 wherever possible just for efficiency, I'll refer to
15 them as QF parties. And then a week later PAC submitted
16 reply comments responding to the QF parties' comments.
17 And then I will note that we received a few more
18 extensive comments after Staff's report came out last
19 Wednesday, including some from additional stakeholders,
20 Lacomb Irrigation District and Energy of Utah and
21 Sunthurst Energy.

22 So, you know, overall Staff is grateful for the
23 rigorous dialog in this docket and the flexibility that
24 parties have shown in abiding by the accelerated
25 procedural schedule, which ensure that Oregon generators

1 would be accounted for in the first cluster study and
2 align with the 2020 RFP.

3 So, I can stop here and ask if the Commission has
4 any questions or comments on the background before I
5 move on to summarizing our analysis.

6 CHAIR DECKER: None from me.

7 Commissioner Tawney, Commissioner Thompson, it
8 sounds like Ms. Moore has more to say on the specifics,
9 but any kind of background you want to probe?

10 COMMISSIONER TAWNEY: None from me.

11 COMMISSIONER THOMPSON: None from me at this
12 time either. Thanks.

13 CHAIR DECKER: Go ahead.

14 MS. MOORE: Okay. Great.

15 So, Staff's analysis in this docket focused on
16 the fundamental decision before the Commission, which is
17 whether to include Oregon-jurisdictional generators in
18 the FERC cluster study process. The timeline and the
19 process adopted by FERC is happening, so if the
20 Commission decides to adopt PAC's proposal, then Oregon
21 generators would be placed in the clusters with FERC and
22 subject to the same timelines and process that FERC
23 approves, and that includes the process by which folks
24 who are existing generators and don't participate in a
25 transition cluster would be removed from the queue and

1 they would have to come back for a subsequent cluster.

2 If the Commission decides not to adopt PAC's
3 proposal, then each individual Oregon generator will be
4 positioned in the serial queue with the FERC clusters.
5 So, the FERC clusters would hold a queue position and
6 then Oregon generators would hold like sequential queue
7 positions and be processed in between the clusters,
8 which would be like one queue position. And then
9 because of the timing of the transition cluster that
10 ends right before the first, what PAC's calling
11 prospective cluster, starts in April of next year,
12 Oregon generators would begin to be studied after that
13 first prospective cluster wraps up, which is around
14 November 2021.

15 So overall, in Staff's review, we found that the
16 efficiency and certainty in cost sharing benefits of the
17 cluster should outweigh the loss of flexibility that
18 parties participating in a (*inaudible*) cluster process
19 might have. And we also think that it's valuable to
20 keep all the generators on equal footing.

21 There are some tradeoffs with this process, as
22 with any, but Staff is having a hard time understanding
23 how QFs are going to be worse off as participants in the
24 cluster than processed individually between clusters
25 from a certainty cost and efficiency standpoint.

1 The QF parties are concerned that the rigidity in
2 the cluster process is going to burden Oregon generators
3 more than help. And we agree that there might be some
4 initial adjustment period, but the clusters would
5 ultimately increase the predictability and certainty and
6 speed that interconnection requests and serial order
7 don't provide.

8 PAC's process would also -- we want to note like
9 the QF parties stated in their last round of comments
10 that the serial process would allow customers to obtain
11 an interconnection study at any time. The Staff would
12 like to clarify that you can apply at any time, but you
13 know, functionally and presumably going forward, the
14 processing timeline that you would receive your study in
15 serial is dependent on studying and restudying and all
16 of the decisions of the higher queue generators. So, we
17 think that this process actually provides more
18 predictability and certainty and speed and folks will
19 know exactly when they'll get their studies back. And
20 that there's also -- there are opportunities to adjust
21 and test options and withdraw, and those occur during
22 and before that customer engagement window that comes
23 between the cutoff to apply for the cluster and the
24 cutoff to execute cluster system impact study agreement.

25 So, related to that, Staff also understands the

1 QF parties' concerns regarding the intersection of this
2 interconnection process and the other PURPA
3 implementation processes, because the fixed timing of
4 the clusters, the QF parties recommend that the
5 Commission not allow PAC to require QFs to have an
6 interconnection study before securing a PPA, and they
7 also recommend the Commission not allow PAC -- or allow
8 QFs to refresh their scheduled CODs to later dates to
9 accommodate whatever the outcome of their
10 interconnection might be.

11 Staff believes that a cluster study offers QF
12 developers more certainty to align interconnection and
13 contracting, and that this QF proposal counteracts
14 efforts to reduce speculation and processes and could
15 potentially harm ratepayers with stale avoided cost
16 prices.

17 In addition, QF parties are concerned about the
18 potential for certain generators to bear higher costs in
19 the cluster process. And our understanding, the QF
20 parties are hoping that by remaining serial, the cluster
21 participants would fund any major upgrades needed to
22 accommodate them and they could kinda slide in. This
23 could be the case or the generators or some generators
24 could be individually assigned extensive upgrades
25 without access to cost sharing, which is kind of how the

1 serial queue works now, but practically speaking,
2 there's a higher likelihood, under the cluster process,
3 that expensive upgrades will actually get funded, so
4 Staff expects that to lower cost barriers across the
5 board.

6 And then I also want to note that the QF parties
7 raise an important point about the treatment of network
8 upgrades for FERC versus Oregon generators. This is
9 important to consider and it's currently under
10 investigation in UM 2032, so Staff believes it's
11 important to get that docket wrapped up before the
12 transitional cluster studies are returned, which is
13 anticipated in March. So we plan to work with parties
14 to move that docket along expeditiously. We agree with
15 the QFs that there's important considerations there.

16 And while Staff ultimately recommends moving the
17 FERC cluster to the FERC cluster study process, there
18 are modifications and additional conditions that we
19 think can improve the transition FERC process for Oregon
20 generators.

21 So, first Staff recommends treating all Oregon
22 generators up to 20 megawatts as small generators. So,
23 this would provide some additional protection through
24 those 10 to 20 megawatt projects, but it would also put
25 all the generators in that cluster on equal footing,

1 'cause that is in alignment with how FERC considers
2 small and large generators.

3 We're also learning -- we're continuing to learn
4 with comments that came in Friday, that there is some
5 confusion and uncertainty about PAC's queue reform among
6 the Oregon QF community, so Staff is proposing that PAC
7 make sure that they are providing notice and all QFs
8 that are currently in queue are aware of this change and
9 that they're given enough time to indicate participation
10 in the transition cluster. And that's a bit of a tight
11 window, but we're recommending giving them a month
12 longer to transition.

13 Because of the requirements that make first
14 ready, first serve to make that approach work, we also
15 think it's really important that PAC makes sure that
16 generators are able to anticipate upgrade costs and find
17 suitable locations and project designs before the
18 cluster request window closes, before they're required
19 to make some of these major commitments. And we
20 encouraged PAC to do as much as possible in that regard,
21 including taking interconnection requests at any time
22 and then posting the informational interconnection
23 studies publicly. And I'll also note that there's two
24 times at which PAC will post a draft cluster process and
25 then they'll kinda post -- or draft clusters and then

1 they'll post like final clusters after the customer
2 engagement window.

3 And then finally, this docket has revealed that
4 generators would benefit from clarity on a range of
5 other topics that are -- some that are and some that
6 aren't changing under queue reform, so we're asking that
7 PAC commit these to writing in this docket as part of a
8 compliance with the Commission's order.

9 And then before I wrap up, I do want to note one
10 more thing. So, we support a workshop process to review
11 PAC's power flow analysis. We think that this, along
12 with several other issues raised by the QF parties that
13 aren't directly related to the cluster, but important
14 for Oregon generators, should be addressed under UM
15 2111, which is the general interconnection reform
16 docket.

17 So, in conclusion, Staff recommends that the
18 Commission adopt PAC's proposal to transition Oregon
19 generators to their first ready, first served cluster
20 study process, but with some modifications that we think
21 will help make this transition work for Oregon.

22 So with that, I thank you, and Stephanie and I
23 are available to your questions.

24 CHAIR DECKER: Great. Thank you for that
25 summary.

1 I guess we'll just start. Commissioner Tawney,
2 do you have any questions for Staff at this point?
3 Anything that you want --

4 COMMISSIONER TAWNEY: No.

5 CHAIR DECKER: -- her to clarify before we move
6 down the -- move down the line here?

7 COMMISSIONER TAWNEY: No. The questions I had
8 after reading the materials were answered in the
9 summary. So, I'm all set. Thank you.

10 CHAIR DECKER: All right. Commissioner
11 Thompson.

12 COMMISSIONER THOMPSON: Thanks. I don't have
13 any questions for Staff right now. Thanks.

14 CHAIR DECKER: Okay. I'm sure we'll engage on
15 Staff's perspective on a few different things as we move
16 through this, but for now let's move to PacifiCorp for
17 some opening comments.

18 And as I said in the beginning, in particular,
19 among other things I think it would be helpful to hear a
20 response in particular to how the company has been
21 working with existing projects trying to go through the
22 interconnection process while this transition has been
23 underway.

24 MR. LOWNEY: Thank you, Chair Decker, this is
25 Adam Lowney.

1 CHAIR DECKER: Yes. Go ahead, Mr. Lowney.

2 MR. LOWNEY: Okay. Thank you.

3 Good morning. For the record, my name is Adam
4 Lowney, appearing today on behalf of PacifiCorp.

5 The company appreciates the opportunity to appear
6 today in support of its proposal to implement reforms
7 through its interconnection study process.

8 PacifiCorp thanks Staff for its thorough and
9 comprehensive assessment of the Queue Reform Proposal.
10 And the proposed reforms which were outlined by Staff
11 both in the written comments and this morning would
12 largely align PacifiCorp's Oregon interconnection
13 procedures with those approved by FERC. Together,
14 reforms at the state and federal level are expected to
15 streamline the interconnection process and resolve the
16 development community's frustration over the burdensome
17 nature of the serial study process.

18 Using cluster studies for all generators is
19 expected to provide greater certainty regarding study
20 timelines and provide a clear path for interconnecting
21 QFs that are commercially viable. Cluster studies by
22 their nature create an opportunity for generators to
23 share in the cost of common network upgrades. The
24 company's proposal also have important protections for
25 small QFs that are not unreasonably impacted by the

1 cluster study process.

2 PacifiCorp has proposed an orderly transition
3 process that allows the company to clear the queue
4 backlog and allow commercially viable projects to move
5 forward, transitioning all generators, large and small,
6 state and FERC jurisdictional, and the same process
7 ensures equitable and non-discriminatory treatment for
8 all generators, both QFs and non-QFs. Taken together,
9 the company's reforms create a fair and functional
10 interconnection process for Oregon QFs and all
11 generators across the company's system.

12 For years the development community, including
13 many of those appearing today, have complained about the
14 burdensome study process necessitated by the serial
15 queue. Studies were conducted individually and in
16 sequential order, so they took longer. Restudies were
17 common because of the frequent changes or withdrawals of
18 higher queue generators, and those restudies were also
19 performed individually and in sequential order, causing
20 further delay and uncertainty.

21 At FERC, Mr. Sanger argued on behalf of NIPPC
22 that PacifiCorp's proposed interconnection queue reform
23 would, "directionally represent an improvement over the
24 status quo. As detailed in its filing, PacifiCorp is
25 essentially unable to process customer requests for

1 interconnection let alone at any commercially reasonable
2 timeline.”

3 PacifiCorp's Queue Reform Proposal (*inaudible*)
4 concerns, which is why it was largely supported by the
5 development community in both the stakeholder process
6 and at FERC. Indeed, NIPPC was a stalwart supporter of
7 the cluster study process. Mr. Sanger further argued to
8 FERC that NIPPC, “concur[s] with PacifiCorp that effective
9 queue reform would be best achieved by PacifiCorp in
10 cluster study process to both state and FERC
11 jurisdictional interconnection requests.”

12 The majority of the interconnection requests that
13 were clogging the serial queue were FERC jurisdictional
14 generators that will presumably be cleared out by FERC's
15 approved reforms. But implementing comparable reforms
16 at the state level is critical to ensuring a level
17 playing field among all interconnection customers so
18 that no one group receives preferential treatment at the
19 expense of others.

20 Staff has recommended several proposed
21 modifications and conditions. Generally, PacifiCorp
22 does not object to Staff's recommendations, but we would
23 offer two clarifications this morning:

24 First, Staff recommends that PacifiCorp change
25 the deadline to indicate participation in the transition

1 cluster from August 15th to September 15th, 2020. The
2 company does not object to this modification, but
3 PacifiCorp encourages QFs wanting to participate in the
4 transition cluster to not wait until September 15th,
5 because doing so will significantly limit their
6 opportunity to cure potentially deficient requests that
7 participate in the transition cluster.

8 Second, Staff recommends that the company provide
9 detailed criteria for defining a cluster area and update
10 the Commission with a filing to this docket that the
11 process or criteria are refined over time. Again, the
12 company does not object to this recommendation, but the
13 initial criteria that will be submitted before the
14 transition cluster will necessarily be high level. The
15 cluster study areas will be largely dictated by the
16 generators included in the study, and PacifiCorp will
17 not know at the time it makes its complied filing in
18 this docket. Therefore, the company cannot define
19 cluster areas with precision before knowing which
20 generators will be studied.

21 In addition, PacifiCorp offers one additional
22 modification to the reform proposal. Based on
23 conversations with the only interconnection customer
24 that would be effected, PacifiCorp agrees to extend the
25 deadline for securing late stage status under the Queue

1 Reform Proposal to April 30th, 2020 [sic]. This would
2 mean that any project that had executed a facility
3 studies agreement by April 30th, would be eligible to
4 proceed as a late stage project. This change would
5 enable one additional project to achieve late stage
6 status and proceed serially if they choose.

7 I would also note for the record that there are
8 no other projects in Oregon that have executed a
9 facility studies agreement, and so effectively every
10 project in Oregon that has executed a facility study
11 agreement will be able to proceed serially if they so
12 choose.

13 Next, I would like to briefly respond to several
14 of the new comments that were filed in response to
15 Staff's public meeting memo.

16 First, two commenters, the Lacomb Irrigation
17 District and Energy of Utah, expressed concern over the
18 lack of notice of the proposed reforms. I would note
19 that according to the Renewable Energy Coalition's
20 website, Lacomb Irrigation District is a member of that
21 trade organization, and REC has been involved in the
22 queue reform since nearly the beginning.

23 I would also clarify for the record that as an
24 existing interconnection customer, Lacomb will be
25 unaffected by queue reform, because existing customers

1 are studied in isolation unless they propose a change to
2 their project like an increase in size, which is then
3 considered a new request. The company made this clear
4 at the workshops in response to direct questions from
5 REC and also clarified this in their reply comments.
6 Staff has proposed as a modification or a condition of
7 approving queue reform, that the company commit this
8 policy to writing and PacifiCorp has no objection to
9 doing so.

10 Energy of Utah's claimed lack of notice is also
11 questionable. Not only is Mr. Vrba, the president of
12 Energy of Utah, developing FERC jurisdictional projects
13 that have been closely tracking and making various
14 inquiries to PacifiCorp related to the new queue reform
15 rules, but he participated and filed comments of
16 PacifiCorp's queue reform stakeholder process through
17 his other company called VK Clean Energy Partners.

18 In response to the comments filed by REC, CREA,
19 NIPPC, OSEIA, and NewSun, the company previously
20 responded to their concerns in the comments that were
21 filed on July 24th. Given the time that we have today, I
22 will not restate those responses here, but I'm more than
23 willing to answer any questions to the extent there are
24 any in response to the concerns that were raised by
25 those parties.

1 So, thank you again for the opportunity to appear
2 today, and PacifiCorp's available to answer any question
3 that you may have in response to either the Queue Reform
4 Proposal itself, or any other comments that have been
5 raised by parties in response to that proposal.

6 Thank you.

7 CHAIR DECKER: Great. Thank you, Mr. Lowney.

8 I expect that we'll have, you know, a number of
9 detailed questions for the company as we work through
10 these things. But just as a little bit of a more
11 general question, I noticed in the comments from some of
12 the projects that have been working through
13 interconnection with PacifiCorp in the earlier part of
14 this year but don't qualify as late stage projects, even
15 under your amended timeline, you know, they sort of
16 allege that despite frequent communications with
17 PacifiCorp, they were not made aware of kind of the
18 paradigm shift that was coming. Do you have a different
19 view of the facts there? And if not, what's the
20 explanation for that?

21 MR. LOWNEY: Yeah. Thank you for that question.
22 I guess without -- I can speak generally to the specific
23 projects that have appeared today, so I could say -- and
24 some of this, this is not based on my personal
25 experience. I think others that have been more involved

1 on behalf of PacifiCorp could certainly add their own
2 comments here.

3 But, for example, you know, Sunthurst Energy is a
4 project that the company's been working with. You know,
5 Mr. Kaufmann, on behalf of Sunthurst, has been involved
6 in the stakeholder process in Oregon since the filing
7 was made, it was not, to my knowledge, ever kept secret,
8 it was openly discussed, and the accommodation that
9 we're making today was designed specifically to ensure
10 that they were able to move forward as a late stage
11 project.

12 You know, Lacombe Irrigation District made the
13 allegation that they were not told of queue reform, and
14 I guess my short answer to that is, as I noted in my
15 comments, they're unaffected by queue reform, and so I
16 would assume that the reason that they were not apprised
17 that queue reform was happening, if that was in fact the
18 case, was because it wasn't impacting the way that their
19 project was getting studied. As an existing project,
20 they're not required to go through the cluster study
21 process just like in the prior framework, they would not
22 have been required to submit a serial, you know, so they
23 didn't do interconnection request and go back into the
24 serial queue in order to get a replacement contract.
25 So, those are the two projects I think that appear

1 today.

2 I know Energy of Utah, as I indicated, you know,
3 Mr. Vrba has been in contact with the company on several
4 different projects related and that directly implicated
5 queue reform. So, and there was no secrecy around what
6 was going on with PacifiCorp's filings in any of those
7 communications with Energy of Utah.

8 So, I know the other handful of projects that
9 were submitted, I believe, after the April deadline were
10 from NewSun Energy, who again, has been involved with
11 queue reform at FERC since the beginning of that
12 process, if not before.

13 So, I guess I would -- to the extent there's
14 additional specific projects that have concerns or that
15 were generally felt like this is happening behind closed
16 doors, I would certainly invite more transparency on who
17 those parties are, and I think we can -- we can
18 determine if there was anything communicated, or if
19 there's something that should have been communicated and
20 wasn't. That was certainly not PacifiCorp's intent. I
21 mean, going back to the beginning of the stakeholder
22 process, the idea was full transparency for all
23 stakeholders involved.

24 You know, we use the Oasis website as our
25 clearinghouse, which is the best means that we have

1 available for communicating to prospective
2 interconnection customers about changes to the process.
3 So, I guess from the company's perspective, we use the
4 communication tools that we had available to us to sort
5 of broadly broadcast to the world what was going on, and
6 certainly could address more specific concerns if a
7 particular customer had those.

8 CHAIR DECKER: Okay. Thank you.

9 And I just want to also clarify, big picture,
10 that you indicated a willingness to accept Staff
11 recommendations for modification including treating
12 Oregon jurisdictional generators under 20 megawatts as
13 small and in conformance with the FERC definition, and
14 all the sort of things that would flow from that in
15 terms of charges and penalties and things like that.

16 MR. LOWNEY: Yes, Chair Decker, that's correct.
17 So we would agree with the recommendation to align the
18 size thresholds to those at FERC, and then what that
19 means is that any project under 20 megawatts in Oregon,
20 for example, would not have withdrawal penalties to the
21 extent they choose to back out of the cluster study
22 after receiving the study results.

23 CHAIR DECKER: Okay. So, I just -- I have a, I
24 guess, a couple other big picture questions, and I'll
25 give my colleagues a chance here. One relates to -- and

1 I recognize I'm bouncing around a little here, but one
2 relates to the issue that Staff raised toward the end of
3 their summary here that maybe wasn't in the written
4 Staff report about the state policy around refunding as
5 network upgrades as -- if Oregon jurisdictional projects
6 are sort of in a cluster and cost sharing with the FERC
7 jurisdictional projects, does that change PacifiCorp's
8 view of the appropriateness of, you know, making refunds
9 available for their share of network upgrades? And if
10 you can't answer that, at least please address sort of
11 Staff's comment that it's important that the Commission
12 reaches decision in that docket before certainly the
13 conclusion of any cluster studies that Oregon
14 jurisdictional projects participate in.

15 MR. LOWNY: So, thank you. Going back to your
16 initial question, from PacifiCorp's perspective, the use
17 of cluster studies does not change and should not change
18 the cost allocation policies that have been established
19 in Oregon going back to the genesis of the small
20 generator rules and the Order 10-132 for the large
21 generators. The fact that network upgrades will
22 potentially be shared, the cost of common network
23 upgrades will be shared between state and FERC
24 jurisdictional projects does not require any change in
25 how PURPA is implemented in terms of maintaining

1 customer indifference to the costs of network upgrades
2 that are imposed by qualified facilities in Oregon, nor
3 does it create an uneven playing field between FERC and
4 Oregon jurisdictional interconnection customers.

5 So, the bottom line on the initial sort of
6 threshold question, the company would disagree that the
7 change from serial to cluster studies necessitates any
8 corresponding change to how network upgrade costs are
9 allocated. Fundamentally, costs are allocated the way
10 that they are in Oregon to maintain customer
11 indifference, and that standard applies regardless of
12 how interconnection customers are studied.

13 The other observation I would make with respect
14 to that is, you know, that cost allocation policy that
15 was originally approved by the Commission in Order No.
16 10-132 that adopted the qualifying facility large
17 generator interconnection procedures and agreements,
18 that -- the QF LGIP in Oregon already allows cluster
19 studies to happen for large generators, and that fact
20 did not cause the Commission, at that time, to have any
21 concern over the allocation of costs. You know, I think
22 as the Commission correctly reasoned in that order,
23 customers need to be held indifferent and, therefore,
24 qualifying facilities needed to pay for the costs of
25 network upgrades, and that would have happened whether

1 the cluster study provision in the existing QF LGIP was
2 used, or whether the serial queue process was used.

3 Turning then to the second question, which is I
4 guess sort of a timing question. You know, I guess,
5 where there would be a concern is if -- if there is a
6 change to Commission policy and that change to
7 Commission policy would encourage projects to
8 potentially -- or no change to Commission policy,
9 frankly, would cause projects to withdraw from the
10 cluster study, from the transitional cluster study late
11 in that process, that would cause concern only because
12 that would potentially necessitate restudies in a
13 transition cluster. You know, I think that PacifiCorp
14 is going into this process with a clear understanding
15 that there could well be restudies required as part of
16 the transition, just by the nature of the process, but
17 we're going to do whatever we can to try to minimize
18 that likelihood to the extent that we can, because re-
19 studies cause delay and create uncertainty.

20 So, I would -- the concern that I would have is,
21 I think the timeline for resolution of the docket UM-
22 2032, where the Commission's investigating that cost
23 allocation policy, is scheduled to be resolved in the
24 spring, which would fall at the -- at hopefully the
25 tailend of that transitional cluster study process. But

1 to the extent there's a change in Commission policy,
2 that would then sort of necessitate restudies. We would
3 encourage the Commission to think carefully about
4 whether those types of changes would be -- would be
5 beneficial to Oregon QFs if they are going to make them
6 -- if they're going to make a change in UM 2032 somehow
7 either retroactively or concurrently applicable to the
8 transitional cluster study process.

9 And the other observation on there is if Oregon
10 QFs do not want to go into the transition cluster study
11 process because they want to wait for the outcome of UM
12 2032 to know with certainty sort of where the policy
13 lies, they can certainly just wait and go into the
14 prospective cluster in April of 2021, which will kick
15 off, you know, shortly after the, I believe, the
16 expected Commission decision, which would be made
17 public.

18 CHAIR DECKER: Okay. I understand your -- your
19 comments.

20 I have just one final question that I'd like you
21 to clarify before I turn it to my colleagues for
22 questions. And that is, you know, so there are, you
23 know, presumably Oregon jurisdictional generators, QFs
24 that aren't as far along in the process as the Sunthurst
25 project that you capture with the change from, you know,

1 April 1st to April 30th for the facilities study
2 agreement, what we're hearing from QF parties is that
3 they'd like more of those projects that are sort of, you
4 know, somewhere in the process, but not that far along,
5 to be given the opportunity to proceed in serial -- in a
6 serial manner, you know, before moving to the cluster
7 process, if that's what the Commission does. And their
8 argument is that there aren't very many of those and,
9 you know, it wouldn't be that big of a deal.

10 Can you give me your understanding of sort of
11 what would happen, how it would work, you know, would
12 they have sort of a, you know, presuming they took the
13 -- had taken certain steps by a timeline that we set
14 forth, they would have a sort of key position ahead of
15 that first cluster, and you -- the reason why you are
16 sticking to these earlier deadlines, you know, in
17 addition to your, you know, point of view that this was
18 sort of well known and shouldn't have been a surprise,
19 but also you're sort of trying to, I guess, prevent more
20 projects from sort of getting in that queue ahead of the
21 cluster, can you explain to me sort of how it would work
22 if more would be let in, and what are sort of the
23 downsides to that from the company's perspective?

24 MR. LOWNY: Sure. Now, I think there's --
25 there may be two questions there, so one would be what

1 would be the consequence if every project with a pending
2 request was allowed into a transitional cluster, and the
3 second question is, what would happen if every project
4 with a pending request was allowed to opt into a serial
5 queue process rather than having to go through the
6 cluster.

7 CHAIR DECKER: Yes.

8 MR. LOWNY: And so I -- I guess I'll take the
9 second one first, and that's the -- so, what are the
10 problems inherent with allowing projects that have not
11 reached the facility study stage to proceed serially?
12 And I guess the best way to address that is to sort of
13 go back to why did we pick that facility study as the
14 relevant threshold. And the key is, because by the time
15 that facility study agreement has been signed, we will
16 have completed a system impact study, that project will
17 have committed, by virtue of executing a facility study
18 agreement, to sort of moving forward under the terms of
19 that system impact study. What that means is that when
20 we go into the first transitional cluster, we know what
21 the requirements are to interconnect a customer that has
22 reached that facility study stage, and so we can assume
23 those requirements are in place as we go into the
24 cluster. So, it effectively allows us to assume that
25 those projects are in service, that the network upgrades

1 or whatever facilities are required to put that project
2 into service have been built or will be built. And so
3 we can appropriately prioritize the projects that have
4 received that facility study ahead of that first
5 transitional cluster.

6 If a project has not received a system impact
7 study and has not then reached that facility's study
8 agreement stage, we don't know what is going to be
9 required to allow that project to interconnect to the
10 system, and so we cannot have the cluster study begin
11 until we know what's required to interconnect those
12 studies that still opt to be conducted in a serial queue
13 manner. So as a practical matter, what that would mean
14 is, if there is -- let's say there's five projects in
15 Oregon that submitted interconnection requests that have
16 not received a system impact study and that want to
17 proceed serially rather than through the transition
18 cluster, we would need to study each one of those five
19 projects individually and sequentially consistent with
20 the serial queue process, and we would need to at least
21 get to the place where each of them has executed a
22 facility study agreement before we can begin the cluster
23 study process. And as a practical matter, what that
24 means is that cluster study process cannot begin for,
25 well in a perfect world, many, many months, because

1 we've got to run all of the Oregon serial studies first,
2 and so that would just create a delay on the
3 transitional cluster, which is not an acceptable option
4 both under the FERC transitional cluster process and,
5 frankly, from the stakeholders' perspective that wanted
6 that transition cluster to run to be sort of lined up in
7 time with the 2020 all source RFP.

8 And so that functionally is why the idea of
9 allowing any interconnection customer with a pending
10 request to opt into a serial process is, frankly, a
11 nonstarter from the company's perspective, because it
12 will allow -- excuse me, it will create a delay to the
13 transition cluster that could be quite substantial.

14 You know, the other option would be that we would
15 run the transition cluster, and those projects that
16 opted to continue serially would just get studied after
17 that first transitional cluster. But, frankly, it's
18 unclear how that would be advantageous to those projects
19 if that's what they chose to do. But that's what I
20 think from a practical perspective would have to
21 happen.

22 So turning then to the second question, which is,
23 what would happen if all of those projects with pending
24 interconnection requests were allowed into the
25 transitional cluster? And, you know, that outcome is

1 less harmful, frankly, because it doesn't create a
2 priority question between a serial queue and a cluster
3 study world. What it does, is it just allows more
4 projects into the transitional cluster, which is, as
5 FERC noted, designed in part to sort of clear that queue
6 out, and so it could end up being counterproductive if
7 projects enter that cluster right when we're trying to,
8 frankly, clean it out, clean the queue out.

9 CHAIR DECKER: So, let me clarify just what you
10 said there. So, if the January 31st date for eligibility
11 to enter the transition cluster were moved back, the
12 risk is that, you know, it kind of cycles back to
13 something you said earlier that you're trying to avoid,
14 which is bringing more projects into the cluster that
15 may withdraw and necessitate restudy. It's not --
16 that's the issue there.

17 MR. LOWNY: That's -- yes, that's the primary
18 issue is that if projects -- the more projects you put
19 into the cluster, the -- particularly projects that may
20 be early on in their development cycle. And it's also
21 important to recall, for Oregon QFs, we're not requiring
22 any sort of a readiness requirement. So, you know, they
23 will not -- you know, the readiness requirements for
24 FERC jurisdictional projects were, in part, designed to
25 -- I found out it's sort of a gating mechanism, so only

1 projects that are really ready and committed to move
2 forward and get into the cluster study. Without that
3 gating mechanism and for QFs, it's certainly possible
4 that more QFs could enter the cluster and then withdraw,
5 and to the extent that happens, that can necessitate re-
6 studies.

7 So, I think you captured our concern here.

8 CHAIR DECKER: Okay. Great.

9 All right. I am going to turn things over to, I
10 think, Commissioner Thompson here.

11 COMMISSIONER THOMPSON: Okay. Thanks, Chair
12 Decker. And thanks, Mr. Lowney, for the engagement on
13 that, those were some of the substantive questions I
14 wanted to hear a little bit more about as well.

15 I have two questions that are a little bit more
16 process oriented. And the first one, I'm looking at the
17 PacifiCorp reply comments, and I think the part that I
18 want to ask about was something that PacifiCorp provided
19 in response to arguments from some of the parties saying
20 that it was really unclear what the status of the rules
21 would be if we were to grant a waiver to PacifiCorp to
22 the extent required to implement the queue reform. And
23 so to try to provide clarity to that, I see, you know,
24 attachment one has redlines of the tier four
25 interconnection review rules, and I just wanted to get

1 clarity about what PacifiCorp's proposing there. I
2 think it's helpful because it may give an indication of
3 how the rules, you know, will not be implemented with
4 respect to PacifiCorp if this queue reform gets
5 approved, but it's also a little bit unclear because the
6 redlining shows, you know, some deletions as well as
7 some additions to the rules, and yet I understand that
8 PacifiCorp is not proposing that we change the rules.
9 So, what is the intent with that redline?

10 And then my question for you is just as a
11 practitioner going forward, how will somebody who, new
12 to the process a year or two or five down the road that
13 is looking at our tier four interconnection review
14 rules, how will they know, and how can they possibly
15 understand kind of the record with respect to compliance
16 with these rules when it comes to PacifiCorp's
17 interconnection process?

18 MR. LOWNY: Yes, thank you for those questions,
19 Commissioner Thompson.

20 I think going back to the intent of the redline,
21 that was something that the parties had specifically
22 asked for during the workshops, and so the idea there
23 was to show precisely which provisions of the tier four
24 interconnection study process would no longer apply.
25 And then when you couple that with the company's

1 application, which was effectively asking to sort of
2 fill those gaps with provisions taken from the large
3 generator interconnection rule -- or procedure process
4 for, for example, the cluster study process, those two
5 would sort of work together to fill the gaps that were
6 left by the fact that sections of the tier four
7 interconnection study process would no longer apply
8 under the Queue Reform Proposal.

9 So, the -- and as background, the reason that
10 PacifiCorp did not sort of do the rule making or propose
11 some sort of new rules and instead sought a waiver, was
12 because, you know, as we know, rules are sort of by
13 definition, generally applicable. You don't usually
14 make rules that are specific to one person, one party,
15 or one utility. And PacifiCorp is the only utility in
16 Oregon that has asked for a change to the study process
17 that is otherwise governed by Division 82 of the
18 Commission's rules. And so it didn't seem appropriate
19 to propose a new rule that would apply just to
20 PacifiCorp. And so we felt like it was more reasonable
21 to instead rely on the waiver provision that was already
22 included in those rules and then effectuate queue reform
23 in that manner.

24 I think, then turning to your second question,
25 and I -- I definitely appreciate that there's -- it's

1 going to be less -- less clear exactly what policies or
2 procedures are going to apply, to the extent that
3 PacifiCorp is using a process that's unique to
4 PacifiCorp and that is not applicable to the other
5 jurisdictional utilities in Oregon.

6 You know, I think one thing that PacifiCorp could
7 probably do, and I haven't asked my client this, so I
8 may be getting ahead of myself, is we could certainly
9 put together something that's akin to the small
10 generator interconnection procedures that we use at
11 FERC, that would put all of the applicable procedures in
12 one place for PacifiCorp and then interconnection
13 customers will get to interconnect with PacifiCorp,
14 would look at that single document. I think that that's
15 something that would be fairly straightforward to put
16 together. I think we -- you know, the reason that we
17 couldn't do that here is just because the Oregon process
18 relative -- or the Oregon rules relative to the FERC
19 framework is just a little bit different, and so we have
20 rules in Oregon which, again, are generally applicable
21 to more than just PacifiCorp, and so we didn't think it
22 appropriate to propose a whole new set of PacifiCorp
23 only rules.

24 But to the extent there is potential for
25 confusion going forward, I think we can -- we can

1 certainly resolve that by putting together a, you know,
2 a comprehensive single document that would provide the
3 framework for small generator interconnections under the
4 Queue Reform Proposal.

5 MS. KRUSE: This is Karen Kruse, I would just
6 weigh in quickly, if I may. I think the sentiment
7 underlying that suggestion kind of highlights an issue
8 that I faced when looking at the tier four rules, which
9 was that they kind of lack -- particularly if you
10 compare them to the level of detail on process of the
11 large generator interconnection procedures, or like Adam
12 said, the small generator interconnection procedures we
13 use for FERC jurisdictional generators -- they lack
14 specificity with regard to whether they use serial queue
15 processing as it stands today. And so when we examine
16 them to try to figure out what the proposal should look
17 like when shifting to clusters, it's almost like you
18 find little pieces of the rules that imply that serial
19 queue processing is used, but it's not explicit and not
20 comprehensive and detailed in that manner.

21 And so I would also have to check with my client
22 before I would make a commitment to, you know, shifting
23 to a utility specific small generator interconnection
24 process that's outlined separately from the rules, but I
25 definitely agree with kind of the idea, and I would just

1 offer that I think the shortcoming in specificity today
2 just as to serial, and it's not worse now that we're
3 shifting to cluster.

4 COMMISSIONER THOMPSON: Thank you for that. I
5 appreciate the discussion.

6 I guess just to repeat back what I'm hearing,
7 first off, just to agree this is kind of a weird
8 position to be in because we have rules, and then
9 there's a waiver from the rules. And I'm just thinking
10 about, like I said, you know, five years down the road
11 somebody trying to navigate this.

12 I think what I'm hearing from PacifiCorp is that
13 the redline that was offered was kind of intended to be
14 a breadcrumb as somebody tries to follow the trail to
15 figure out how to interpret the rules in light of the
16 waiver. You know, they won't necessarily have the force
17 of the rules, you know, on a word for word basis, but
18 they are indicative of the ways that there's going to be
19 a departure from the rules as we implement the cluster
20 study approach, and then if a party wants to understand
21 the cluster study approach, they'll be looking at the
22 LGIP and the agreements and the Commission's order on
23 this topic.

24 So it was really meant to be clarifying and kind
25 of to the extent PacifiCorp's crafted these redlines

1 just right and they're kind of indicative of the
2 departures from the rules, but we're not specifically
3 adopting that language, we're just adopting this as part
4 of the record to help somebody figure this out.

5 And then I also hear PacifiCorp saying that
6 they're open to going forward to providing more clarity
7 so that that trail is a little bit easier for someone to
8 navigate in the future. And I would just say, and I
9 appreciate that sentiment and that openness, and you
10 should respond probably more to the developer community,
11 as you work on that, more than to, you know, to me as a
12 Commissioner, but it's just something I wanted to get
13 clarity on in terms of kind of a record that would be
14 created after the fact, if we adopt PacifiCorp's
15 proposal.

16 Is there anything I said just there in my recap
17 that sounds contrary to your understanding?

18 MR. LOWNEY: No, Commissioner Thompson, I think
19 that captured what we were saying.

20 COMMISSIONER THOMPSON: Okay.

21 MS. KRUSE: I agree.

22 COMMISSIONER THOMPSON: Thanks.

23 So my second question also is a process question,
24 but it's maybe a little bit higher level. I think what
25 we're hearing from the interconnection customer group is

1 that, you know, this is just a massive shift in terms of
2 how -- how interconnection is done for PacifiCorp and --
3 and I think we're also hearing from them regardless of
4 the fact that there was a FERC proceeding. There's
5 still a lot to work on and there's still a lot of open
6 questions, and a lot of difficulty in understanding
7 exactly how all these details are going to -- how the
8 details are going to work going forward.

9 And so I understand their proposal, and they can
10 speak more to this later, but I understand their
11 proposal to be that, you know, if the Commission were to
12 adopt this application, and it sounds like they're kind
13 of open to that with some caveats and changes, but I
14 think what they're saying is if we were to adopt it, we
15 should do it on like a pilot basis, or we should be --
16 it should be done on an interim basis, or maybe we
17 should even open a separate concurrent proceeding to
18 figure out what changes need to be made to it.

19 And as I think about that proposal, I wonder, you
20 know, what would it mean to adopt this on a pilot basis
21 versus just adopting it and recognizing that the
22 Commission can always change implementation details as
23 we go forward as problems arise, or as ambiguities arise
24 that we could resolve disputes. And so I'm trying to
25 figure out if their proposal is really the same as just

1 recognizing that we can change things going forward, and
2 that's probably more for them to address, but I guess
3 the question for you is, how do you -- how do you
4 understand their request to do this on a pilot basis?
5 And, you know, do you also recognize that there might be
6 a host of disputes that come out of this? And do you
7 have any ideas for how the Commission can kind of more
8 quickly resolve those or, you know, take up some of
9 these outstanding issues in the future just to kind of
10 help with the fact that we're making such a big shift
11 and all the consequences aren't necessarily fully
12 understood right now?

13 MR. LOWNY: Thank you for that question. I
14 guess my first response would be, the company has
15 committed both to FERC and to this Commission that in
16 two years we'll file a report sort of outlining what
17 happened to the queue reform. And the reason that that
18 report is going to be prepared and filed with regulators
19 two years from the date that FERC approved it, was that
20 would give us basically opportunity to run a
21 transitional cluster and then run a prospective cluster
22 before that sort of assessment report was prepared, and
23 I think by that point we'll have a much better
24 understanding of how the cluster studies operate and how
25 the process ran and where there could be improvements to

1 the process. And the idea of that report is essentially
2 to allow an assessment of potential changes to the
3 cluster study either process or methodology that might
4 be warranted by the experience that would have occurred
5 by that point.

6 So -- so importantly, I think we are committed to
7 performing that sort of ongoing assessment of the
8 process both as we're doing in real time, and then after
9 the fact to, you know, figure out how to make this
10 process as good as it can be for both customers -- both
11 interconnection customers and PacifiCorp.

12 So in that respect, I'm not sure, you know,
13 calling it a pilot program or not -- substantively, I
14 guess it depends on what exactly is meant by that. You
15 know, when I hear something described as a pilot
16 program, my expectation is that at some point that
17 program, unless it's made permanent, will end. And I
18 think the concern is that if we call this a pilot
19 program in Oregon, the working assumption is that the
20 cluster study methodology will end at some point and we
21 will need to then reassess, going forward, what's going
22 to happen.

23 And so from my perspective, I think it just makes
24 sense to approve it as it was proposed, subject to the
25 modification and conditions that Staff recommended. And

1 with the understanding, I think, Commissioner Thompson,
2 you're right, that we can assess and adjust and modify
3 as needed down the road and that that assessment of the
4 process will certainly be aided once we prepare that
5 report after the first prospective cluster has
6 occurred.

7 You also touched upon the, you know, the
8 possibility that there could be disputes over the
9 interconnection study process that's going to occur
10 through the clusters. I think, you know, we
11 realistically understand, you know, there's disputes
12 under the serial queue process, there are certainly
13 going to be disputes under the cluster study process,
14 it's inherent in the nature of interconnections it
15 seems.

16 So, you know, we're cognizant of that fact, we
17 are certainly aware that that risk exists. It's, in our
18 minds, no different than the risk that exists under the
19 serial queue process, and we'll do our best to address
20 and resolve conflicts as they arise, but if we actually
21 need to turn to a regulator, you know, we'll do that.

22 MS. KRUSE: This is Karen Kruse. I have one
23 more observation I would make in response to that
24 question. Which is that when I think of going from
25 serial queue order to something that's called a pilot, I

1 immediately wonder how exactly you transition into that
2 pilot and how you transition out of that pilot, because
3 the experience that we've had over the last year
4 starting in the spring of 2019, really, is that
5 developing a new interconnection processing regime
6 almost takes as much time from a transition mechanism
7 perspective as it does to develop the prospective rules,
8 as we call them, because you are really trying so hard
9 to figure out what to do with those existing generators
10 in the queue and how to fairly treat them in a
11 transition.

12 So, if a pilot structure was implemented and that
13 meant lots of different transitions, I think that could
14 be a really resource intensive way to proceed versus,
15 like Adam mentioned, kind of a check-in, whether that's
16 at the two year mark or other marks or through other
17 dockets on necessary refinement that don't, you know,
18 kind of undo the whole program because it was just kind
19 of a temporary pilot.

20 COMMISSIONER THOMPSON: Okay. Thank you. I
21 appreciate those responses.

22 Chair Decker, those are the only questions I have
23 right now.

24 CHAIR DECKER: Okay. And Commissioner Tawney.

25 COMMISSIONER TAWNEY: Thank you. Those were

1 great discussions, and I appreciate that.

2 I wanted to explore and have a little deeper
3 understanding of the one percent floor for upgrade
4 costs, and what exactly is sort of pro rata versus per
5 capita. I see the interconnection parties talking about
6 using different words than Pacific Power, and wondered
7 if you could be specific about what you mean when you
8 say the pro -- or the per capita station upgrade costs
9 need to be borne by each project. And do those -- are
10 those network upgrade costs that the interconnection
11 parties imply they are, or are they a smaller subset of
12 costs as you envision them? Can you give me some flavor
13 around how you see that line?

14 MR. LOWNY: Yes. Thank you for that question.

15 So just on the -- to sort of answer your last
16 question first, the pro rata versus per capita and one
17 percent floor applied to network upgrades. So, the idea
18 is that if you are a customer and you have specific --
19 customer specific interconnection facilities that are
20 identified in a cluster study, those are not shared
21 amongst other generators, the idea being that those are
22 unique to your particular project, and but for your
23 project being in a cluster study, those costs would not
24 have been incurred. So, as a predicate matter, we're
25 talking about network upgrades.

1 So then going to the per capita versus pro rata
2 share of -- or the two different methods of allocating
3 those network upgrade costs, the pro rata approach,
4 which just takes a collective group of interconnection
5 -- or excuse me, network upgrade costs and just divides
6 it by the number of customers are really geared towards
7 those types of interconnection facilities and costs --
8 or excuse me, those types of network upgrades and costs
9 that are determined by the number of interconnection
10 customers, not in the size of the facility.

11 And we certainly have some experts on the phone
12 that can speak in more detail to these concepts and
13 provide some examples. I do know we provided a response
14 to one of Staff's discovery requests that was attached
15 to their memo that sort of outlined some of these issues
16 around the pro rata allocation of network upgrade costs.
17 But the idea being that if there was two generators, the
18 network upgrade costs are going to be twice as big as if
19 there's one generator. And for those types of network
20 upgrades then, it is reasonable to allocate them based
21 on the number of generators, not their relative size.

22 The other types of network upgrades that are
23 subject to the per capita allocation methodology based
24 on the relative capacity of the interconnection
25 customers are designed and geared to allocate those

1 costs of network upgrades that are dependent on the size
2 of the relative generators. So if you have a very small
3 generator, that network upgrade would have been smaller
4 and, therefore, they are paid a smaller proportion of
5 that network upgrade cost. So, that's the rationale.

6 I certainly welcome followup questions if you
7 want to get more specific, and we certainly have experts
8 that can talk in more detail on the types of upgrades
9 that might fall into each of those particular buckets.

10 Before we do that, though, I did want to touch
11 upon the one percent floor you also raised in your
12 question. And, again, that just applies to network
13 upgrade costs, and the principle behind that is that if
14 you're a small generator and your capacity represents
15 less than one percent of the entire capacity in a
16 cluster, you will not pay for any network upgrades. And
17 the idea behind that floor is just to protect small
18 generators from potentially adverse impacts associated
19 with their participation in the cluster study.

20 You know, as a practical matter, even if that
21 floor didn't exist, the per capita upgrades that would
22 be allocated to that customer is relatively small,
23 because again, they're going to be allocated based on
24 percentage capacity, so they would still be, you know,
25 less than one percent. But that's the rationale behind

1 the one percent floor. It was, frankly, an
2 accommodation just to try to protect the small
3 generators from potentially adverse impacts.

4 Although I would note as a sort of a closing
5 comment, that, you know, from the company's perspective,
6 we don't anticipate that any of the network upgrade
7 sharing mechanisms that are sort of inherent in the
8 cluster study process are going to be shifting costs to
9 Oregon generators, whether large or small. In fact,
10 it's quite possible that the opposite could happen,
11 because now generators can share in the cost of the
12 network upgrades. It's possible that the cost burden on
13 any particular generator may be lower than it would have
14 otherwise. And certainly I think Staff identified the
15 added benefit that potentially large network upgrades
16 that would have been cost prohibitive for a single
17 generator may well get built, which would then
18 facilitate actual interconnections important for many
19 generators.

20 So, with that, I will close my remarks and
21 welcome followup questions to the extent I didn't quite
22 answer your question, and I may invite the experts to
23 weigh in as well.

24 COMMISSIONER TAWNEY: Thank you. I think that
25 -- that helps -- that helps. So I think, unless the

1 experts would like to add something?

2 *(No audible response)*

3 COMMISSIONER TAWNEY: Okay. Thank you, Chair
4 Decker. Ready to move on.

5 CHAIR DECKER: Sure.

6 Yeah, I realized I have one more question before
7 we move on, and I'd like Mr. Lowney just to give me sort
8 of a short answer here, if possible.

9 One thing we heard in the comments is that, you
10 know, in the prospective future here, as well as the
11 transition, various windows are sort of too short to be
12 reasonable for kind of small projects to work with, you
13 know, 45 days to submit doesn't give enough time to
14 cure, 30 days after the cluster is not enough time to
15 sort of evaluate the study, decide and fund, you know.
16 And I guess the impression is that small generators may
17 be sort of differently situated here.

18 I don't want you to respond to that here, what I
19 really want to know is whether those dates were
20 specifically set in the FERC process and have to be --
21 would have to be changed at FERC from your perspective
22 in order to be longer and those changes would have to be
23 applicable to all parties, or is there, in your view,
24 space to essentially have, you know, different timelines
25 on those issues for Oregon jurisdictional or, you know,

1 small projects?

2 MR. LOWNEY: Yes, thank you.

3 I think the -- there are some timelines that can
4 be different, and I guess one of them, for example, is
5 that, you know, we have agreed to accept Oregon
6 applications sort of throughout the year instead of
7 during the cluster engagement window that is applicable
8 to jurisdictional generators. I think the -- I think
9 the timelines that are more -- that have drawn more
10 attention from the QF parties are, for example, the 30
11 day timeline to execute your facility study agreement.
12 And that timeline, as well as many of them that are
13 associated with the actual cluster study process, really
14 have to be uniform across jurisdictions because if --
15 for example, if Oregon customers have longer to review
16 the cluster study report and commit to a facility study,
17 that would mean that a FERC jurisdictional customer
18 would have to commit to a facility study before an
19 Oregon customer does, and then if that Oregon customer
20 withdraws, there might be a restudy and the FERC
21 customer would have already committed to moving forward
22 with the facility study.

23 And so, in order to make sure that all of those
24 customers, FERC or state jurisdictional, are held to the
25 same requirements, like that 30 day timeline is one that

1 has to be uniform, it frankly just can't work if one --
2 one group of customers has preferential treatment and a
3 longer time period to make a decision. And there are
4 others like that in the cluster study process, but
5 that's the one that I think got the most attention.

6 CHAIR DECKER: Yeah, understood. Okay. All
7 right.

8 So, I'd like to propose an order to go in for
9 comments from other stakeholders, but I want to, after I
10 announce that, leave some time for people to react to
11 that -- react to that and request that I change it.

12 So, what I'm going to propose is that we start
13 with sort of specific project developers, starting with
14 Sunthurst Energy, going to NewSun, and then moving to
15 industry group leadership with John Lowe from REC and
16 Angela Crowley-Koch from OSEIA. And then sort of dig in
17 with the counsel representing the coalition with
18 comments from Mr. Sanger and Mr. Adams on behalf of REC
19 and CREA.

20 I'm going to let you sit with that and if those
21 of you who are coordinating prefer it a different order,
22 please don't hesitate to let me know.

23 MR. STEPHENS: NewSun's good with that.

24 CHAIR DECKER: Okay. All right. Let's
25 start with Mr. Kaufmann then on behalf of Sunthurst

1 Energy.

2 MR. KAUFMANN: Good morning, Chair Decker and
3 Commissioners Tawney and Thompson. This is Ken Kaufmann
4 speaking on behalf of Sunthurst Energy.

5 Sunthurst has projects that is in the late stages
6 of the traditional Oregon SGIP queue, and, however,
7 under the existing proposed order would not qualify as a
8 late stage project because its system impact study was
9 not executed until after April 1st. Sunthurst has
10 discussed this issue with PacifiCorp and today I heard
11 PacifiCorp propose that it would change the eligibility
12 date for completion of the facility study from April 1st
13 to, I believe, April 30th or May 1st -- April 30th, I
14 think. And that would address Sunthurst's specific
15 concerns. Appreciate PacifiCorp's flexibility on that
16 issue, and I think it facilitates an equitable result
17 since the parties have been negotiating in good faith to
18 complete an interconnection agreement prior to the
19 transition phase.

20 I had not planned to say anything about notice,
21 but Mr. Lowney did invoke Sunthurst in its explanation
22 earlier about notice to QFs. I would just say that long
23 ago in a 20 -- I think it was in the UM 1129 era, the
24 Commission at one time did ask the utilities to notify
25 QFs who have pending contract applications, QF PPA

1 applications to notify them when -- individually when a
2 proposed rate -- avoided cost rate change was in the
3 works, and I think that was a good principle. I think
4 that's the right principle for making sure that affected
5 parties are notified. Sunthurst was not harmed by not
6 being notified because I did learn about this proceeding
7 timely enough that Sunthurst was able to intervene.
8 But a broadcast notice is not the same as a notice to
9 individual parties who are negotiating with a utility
10 about, you know, an interconnection or a PPA.

11 I had to go to considerable lengths to convince
12 my client that this was a proceeding that I needed to be
13 involved in because when it doesn't get a notice
14 directly, the implication is that maybe it's not that
15 important to them particularly.

16 So, I direct that just as a general comment to,
17 you know, what I think has worked well in the past and
18 is a good thing to strive for. But I don't in any way
19 mean to, you know, say that -- Sunthurst was not -- I
20 don't think Sunthurst was prejudiced by that, so it's a
21 general comment only.

22 With that, I just thank everybody for their
23 efforts on this, and I'll stop there, unless anybody has
24 any questions.

25 CHAIR DECKER: Thank you, Mr. Kaufmann. And one

1 of Staff's recommendations in this memo is that
2 PacifiCorp send a communication to all eligible Oregon
3 QFs to ensure they're aware of the changes and the
4 deadlines that we adopt. So, your general comment is
5 right in line there.

6 And I'll just ask Commissioners if there's any
7 questions for Mr. Kaufmann, although Sunthurst's issue
8 seems to be resolved here.

9 COMMISSIONER TAWNEY: None from me.

10 COMMISSIONER THOMPSON: Me neither. Thank you.

11 CHAIR DECKER: Okay. Thank you, Mr. Kaufmann.

12 Let's see, let's go to NewSun. I think Ms.

13 Barlow and Mr. Stephens are both on the line.

14 MR. STEPHENS: Yes. Thank you, Chair Decker.

15 This is Jake Stephens, the CEO of NewSun Energy.

16 I appreciate the opportunity to comment on this
17 extremely important topic that I think the heart of it's
18 going to affect the future of investment and competitive
19 power in Oregon for years to come, and really PAC's
20 approach as a precedent for the entire country is
21 relevant even here as we consider kind of the nature of
22 what's been proposed and what it means for the future of
23 market.

24 So what I would like to do is just kinda go, you
25 know, go through the overall backdrop and what that

1 means in terms of our market, market investment as it
2 relates to FERC industry, the scale, the impact, and
3 then how Staff reports relates to that and what an OATT
4 pertains to and what its goals are, specific issues that
5 we have concerns with, and then a discreet set of
6 solutions that we've proposed for this.

7 I think at the outset I want to sort of summarize
8 that I think the core of -- while we think there's a lot
9 of things that PAC and Staff has desirably clarified or
10 addressed in these, I think the core overall impact and
11 its sort of primary effect on the market and how it will
12 affect investments in Oregon and the effect on QFs and
13 that market really has not been primarily engaged, and I
14 think this discussion about sort of permutations of
15 serial queue sequencing and so forth is distracting from
16 the bigger major issues that aren't substantially
17 addressed in the Staff report.

18 Just its overall context and backdrop here,
19 NewSun Energy, and I think generally the trade groups
20 it's fair to say are not opposed to a cluster study
21 based approach, and PAC seems to be confused both
22 general support for the advantages of a cluster study
23 with concerns about how it's implemented, and there are
24 other ways to implement cluster studies such as how the
25 CAISO performs it that are substantially different than

1 the approaches that PacifiCorp has proposed here and
2 that would not be as suppressive to investment or
3 harmful to both existing investments and the future
4 investments and ability to create competitive power.

5 And our biggest concern here is that there's
6 built in dysfunction to PAC's specific approaches as
7 related to all of the big items in terms of deposits and
8 penalties, timelines, loss of existing rights, and what
9 an OATT is really supposed to accomplish that -- and the
10 failure to address the fundamental power flow issues
11 which are a colossal scale and probably a primary reason
12 that the entire dysfunction exists in the PAC queue will
13 not be addressed on the front end of making this really
14 revolutionary reform, this sort of, you know,
15 generational level change, and that will affect people
16 who have been invested in good faith in the existing
17 OATT for years and years, and that we would come out of
18 all of this process, harm all of those parties, and then
19 not be able to still fix it.

20 So, you know, the scale of those issues are huge.
21 They include things like highly likely quagmires of
22 restudy dropout dynamics that are highly likely to occur
23 and haven't really been discussed in this Staff report.
24 And I'd like -- I think, walking through a handful of
25 very, like using just one really major specific example

1 will highlight those things to the Commission and sort
2 of just basic obvious primary dynamics that do not work
3 under how this has been proposed.

4 You know, all of that said, there are solutions
5 within even PAC's overall construct, which would be
6 relatively simple and substantially change and avoid all
7 of that harm, and I encourage the Commission to focus on
8 how we can get the most functional paradigm, you know,
9 coming out of this that we can within the overall
10 framework that PAC has proposed, and that would be how
11 we approach the workshops and how we have approached our
12 comments and specific suggestions. Those haven't
13 necessarily been really engaged and indeed when we try
14 to engage with those things, dealing with PAC Staff that
15 even agreed with some of the issues, those conversations
16 were shut down. And there are some simple but major
17 primary things that could be fixed that would address
18 those major issues.

19 So that said, I think the one thing I really want
20 to encourage as an overall framework for the Commission
21 is really what is a transmission interconnection OATT
22 and what is the purpose of an OATT. And the reason that
23 we have open-access transmission tariffs is to protect
24 the interconnection customer against the abuses of
25 monopoly utilities.

1 Once upon a time, the power industry in the U.S.,
2 if somebody like me or another company wanted to plug
3 into a utility power line, the answer was, "Sorry,
4 private property. Go away." OATTs and the FERC tariff
5 template was created in order to create the means for an
6 interconnection customer to reliably know they could get
7 onto the grid, they could be studied, they could pay
8 their fair share of costs to get online, but they could
9 evaluate the costs and have a reliable framework against
10 which to invest in the development of facilities. And
11 that backdrop, the OATT, is the fundamental platform
12 against which all interconnection development, all
13 project power development occurs. It's as or more
14 important than anything related to the real estate.

15 And having a mechanism which allows a developer
16 to understand what the likely costs are of an
17 interconnection to know that they have some sort of
18 asset to invest against in order to create an asset and
19 take all of the crazy risks that are involved in
20 developing a project, where a single ODOT permit not
21 being issued on a, you know, hundred year old road
22 entrance or, you know, the cost of interconnection or,
23 you know, land issues, permits, all of those things are
24 wildly risky endeavors, and what has been framed is this
25 idea that interconnection positions are just speculative

1 and that's somehow bad. But this is the anchor against
2 which a developer is able to create the knowledge and
3 asset against which it takes other risks and pursues
4 other things in parallel. And the overall structure
5 which PacifiCorp has proposed undermines that,
6 discourages it, radically changes the risk profile and
7 removes many of the basic tools that we benefit and rely
8 on as a developer in order to pursue the successful
9 interconnection of projects.

10 Essentially, we will have one time opportunities
11 to get online or get wiped out that are not consistent
12 with the commercial process by which you get a power
13 contract. In 30 days, as was highlighted a minute ago,
14 you will have to make deposits that could very likely,
15 and in recent PacifiCorp studies, be a hundred million
16 dollar deposit, right, and you have 30 days to come up
17 with that cash in order to move forward. We'd have to
18 know what those things are to make investments.

19 And the notion that you have to have a perfectly
20 mature project that's ready to sign a power contract
21 before you even start the process, you know, undermines
22 that and a lot of the mechanics around this and the
23 punitiveness of them as well as removing our ability to
24 study alternate POIs or downsize to a smaller project
25 that would not trigger such upgrade, all of those things

1 are affected by PacifiCorp's proposal, and at the end of
2 the day the Commission should be asking itself, does
3 this facilitate investment and competitive generation
4 for the market overall and especially for QFs, which
5 your statutory requirement is to encourage. And this
6 current construct doesn't do that.

7 All of the prior discussion that occurred
8 essentially ignored the rest of these primary issues
9 about deposit size, withdrawal penalties, the ability to
10 downsize, study alternate POIs, the deposit construct
11 between the end of the cluster and the facility study,
12 those are the primary issues that will affect whether
13 somebody like me, which I believe I'm the only person on
14 the phone that actually writes these checks, that has to
15 decide to write a \$75,000 check to incur the potential
16 two million dollar penalty involved in dropping out to
17 even find out what the costs are for my interconnection
18 study. And those aspects, I think, are really where
19 should be focused, and where I think the Commission
20 actually does have a substantial amount of power to make
21 significant but simple changes that would change those
22 risk profiles and dynamics. And some of those might
23 push a bit against the FERC process, but many or most of
24 them I think could be done in a way that doesn't
25 necessarily do that. But regardless, you know, you have

1 more power than usual in many ways, because PacifiCorp
2 needs your cooperation as related to their FERC approval
3 moving forward functionally, and you should be focused
4 on those consequences. So that OATT backdrop is the
5 bedrock of investment, is I think the critical thing,
6 including for QFs that should be contextualized.

7 And I'm making these comments, my entire
8 professional career for the last 15 years has been based
9 around interconnection driven development and investment
10 and assets. I've been involved since the birth of the
11 solar industry, my mentors were transmission
12 interconnection specialists, my -- NewSun has studied
13 over 2,000 megawatts in Oregon alone, I worked on
14 several thousand megawatts of projects, including as a
15 small developer, which I believe overall the approach
16 here is very suppressive of small developers. And I
17 have literally personally developed a project, was one
18 of the top ten largest PV plants in the world, as a
19 small team of a handful of people, those types of
20 investments would be suppressed, and the things that we
21 do in NewSun, where we are able to bring hundreds of
22 megawatts, thousands of megawatts to potential new
23 developments in Oregon to the market will be adversely
24 affected if not crushed by the approach that PacifiCorp
25 has proposed.

1 So with that said, you know, high level comments
2 on the FERC context, the Commission should be aware that
3 the FERC decision is not finalized. There were numerous
4 substantive comments, and many of the biggest categories
5 of comments were made in that proceeding by Pacific
6 Northwest trade groups. Those weren't addressed, there
7 have been motions for re-hearing. You should not be
8 considering the FERC decision as resolved, final, and
9 conclusive, nor should you consider that FERC actually
10 substantially engaged many of the numerous issues.

11 PAC, a moment ago, cited Irion as having been
12 supportive of all of these things as if it was like some
13 universal support contract. That is the opposite of
14 what is true. What the industry said was that PAC's
15 queue reform has been so dysfunctional that moving to a
16 paradigm that is not dysfunctional is desirable. That
17 is very different than omitting the laundry list of
18 major procedural substantive evidentiary and functional
19 aspects of the queue reform which FERC did not
20 meaningfully engage nor necessarily comment on, and that
21 those groups, many of which are still appealing.

22 And so your context should not assume that FERC
23 blessed this nor even fully engaged the issues that were
24 raised by the folks here, nor that PAC's representation
25 of that as some sort of rosy industry blessing of what's

1 occurring here is correct.

2 Not only that, but the industry's comments were
3 functionally muted and dumbed down because people in the
4 industry are afraid of retaliatory actions from
5 PacifiCorp. I am afraid of retaliatory actions for
6 speaking out. And in the internal discussions of these
7 trade groups, the basic backdrop was whether or not
8 something is said that threatens the timing of an RFP or
9 retaliation from PacifiCorp and how that would affect
10 things, and that resulted in the muting of comments. So
11 even -- even the comments that were major and
12 substantively provided, were also dumbed down and
13 limited by those dynamics from those different groups,
14 with certain major balance sheet IPPs that have billion,
15 hundred billion dollar type balance sheets for which
16 these punitive provisions are not as burdensome, causing
17 the trade groups to not be able to make as fulsome
18 comments as they might otherwise have made.

19 So, you know, with that said, the next thing I
20 wanted to talk about was sort of the specific set of
21 issues that we still have concerns about. And I think
22 as an overall backdrop, there was not sort of a
23 gradation of what the range of choices were involved in
24 PacifiCorp's queue reform to do this. We went from a
25 very normal industry, typical, set up deposits and

1 timelines and so forth that PacifiCorp had as a sort of
2 FERC template against which we operate in, \$10,000 for a
3 feasibility study, \$50,000 for a system impact,
4 \$100,000, that process in which you gain successive
5 degrees of information through which you normally are
6 allowed to evaluate your options, decide how to proceed,
7 so forth, and have a successive and increasing tier of
8 costs and opportunity to drop out, the opportunity to
9 downsize, you know, if you identify that an upgrade at
10 51 megawatts would trigger a hundred million dollar
11 upgrade, but 50 or 30 would not, you have the ability to
12 do that.

13 The overall context of PAC's change is from very
14 reasonable normal to the most extreme and punitive, and
15 it is not a belt and suspenders change from -- it is
16 belt, suspenders, club, hammer, you know, like the
17 consequences of all these things are hugely extreme.
18 And in a basic simple level, I think the Commission just
19 thinking about gee whiz, is a two million dollar penalty
20 really what's necessary to accomplish some degree of
21 change? How has PAC justified why such an extreme
22 change is necessary? You do not have to accept that.
23 You know, do we need to go from a \$10,000 initial
24 deposit to a \$75,000 initial deposit? Never mind the
25 economy to scales that are realized by studying

1 everybody as a group, which are not reflected by those
2 costings, you know, is essentially a punitive, and I
3 would say suppressive paradigm, the only choice that you
4 have to go from current nationally normal process to
5 extremely punitive and burdensome and expensive.
6 Because those things fundamentally affect the ability of
7 somebody like me or other major IPPs to make decisions
8 in what they can invest in. And so I think the spectrum
9 of those things, you know, creates the opportunity for
10 some change.

11 So, those lists of primary issues: Clarity on
12 the ability to get a PPA. Currently PAC refuses to
13 provide power contracts until you have your
14 interconnection studies completed. That could be very
15 simply changed to require PAC to proceed with
16 contracting all year long and not wait until cluster
17 studies are done or some point after that. That's
18 different than Staff's recommendation, it's a simple
19 change that needs to be made anyways.

20 And as I will talk about in a second, I think
21 arguably PAC's paradigm here is highly likely to end in
22 a dysfunctional situation, and if that so occurs, the
23 ability to eventually get a QF contract will become
24 jammed up behind that dysfunction and further protract
25 and defer the ability of a QF to take a contract.

1 The ability to downsize your interconnection
2 request, this is a basic obvious and beneficial function
3 that currently exists in the OATT today. When you file
4 your initial studies, you have multiple current
5 opportunities to downsize, like up to 70 percent from
6 your initial request, and you do that based on the
7 information. This allows the interconnection customer
8 to have a constructive opportunity to get feedback that
9 upgrades at certain levels are triggered and decide, oh,
10 hey, a smaller thing would avoid that major upgrade.
11 And those upgrades could be a few million bucks, which
12 is significant, or they could be hundred, multi-hundred
13 million dollar upgrades, like PacifiCorp requiring a
14 transmission line from Prineville to Yakima and things
15 like that.

16 The current new structure doesn't provide those,
17 and that -- the nexus, and I think this is the key nexus
18 area where a lot of energy and discussion should be
19 focused and we should talk about, is you get to the end
20 of the cluster study, the timeline you have to make your
21 deposit to the facility study, how big those deposits
22 are likely to be, and the history from PacifiCorp is
23 hundred, multi-hundred million dollar network upgrades
24 being triggered. The current proposal is that we would
25 have to come up with hundred percent numbers, all of the

1 PacifiCorp folks would have to do that. Coming up with
2 a million dollars, coming up with two million dollars,
3 those are big numbers, those are scary, those are real
4 skin in the game. Doing that in 30 days, when you just
5 get a study, you have to decide all of the consequences,
6 the commercial outcomes, who you might be evaluating a
7 PPA with, the financial modeling, you know, the
8 resources, all of that has to occur in this 30 day
9 period. Never mind the fact that all of your
10 competitors or fellow interconnection customers just got
11 the same information, and when each of us make a
12 decision that will affect the results. If I get a
13 hundred million dollar upgrade, you know, if I drop out
14 or proceed will affect whether anybody else, you know,
15 will be able -- what their results will be
16 functionally.

17 PAC's entire process here boils down to post all
18 of that money and trust that we'll figure it out. And
19 this is a huge opportunity for some very simple
20 clarifications in process, but also just limiting that
21 deposit size. In the CAISO, it's subject to a cap, a
22 percentage of your upgrades.

23 There's a very simple solution there that would
24 not impose this extremely highly likelihood of all the
25 interconnection customers should drop out from the

1 results of those things. This issue is only compounded
2 by the power flow study issue that's been identified by
3 CREA, by us, and by all the trade groups really, in
4 which case which PAC is refusing to study the power flow
5 on the BPA system, refusing to include its own load in
6 the studies that are performed. Like in Prineville,
7 where they just rate based, built a new 230 KV facility,
8 60 million dollar project to serve Facebook and so forth
9 coming online, they are rate basing that. That same
10 place they are -- they are excluding those loads that
11 they use to justify that from their power flow studies.
12 Right? Those are then triggering these consequential
13 upgrades which shouldn't necessarily exist at all, but
14 it then amplifies this issue of, and we would have to
15 post this deposit, even though they're not even
16 including their own load in that. Is there time to
17 discuss that? How does that occur? There's a 30 day
18 window to deal with all of that. Can you downsize to
19 avoid those upgrades? Not provided for.

20 These are actually -- many of these things are
21 things that could be very simply solved, but they are
22 fundamental primary things around how we invest in the
23 market and providing, you know, a maximum deposit with a
24 downsize right and so forth, would in a dropout process
25 so that that could be then re-evaluated, and then they

1 could recircle who is in the cluster, make adjustments
2 if necessary to the actual study results and then
3 proceed, that's not that complicated of a solution, but
4 it's a highly likely problem. And that same example,
5 which I -- again, I think we should spend some more time
6 talking about so you can understand the implications of,
7 if you go through the currently proposed PacifiCorp
8 process where you get an informational study, that
9 informational study is closer to worthless than it is
10 extremely useful. It provides some initial reference
11 point to study what might happen on the system, but it
12 does not include all of the other customers.

13 So you could have four people proposing a similar
14 50 megawatt project at one point of interconnection,
15 each of them would get back a study that says, hey,
16 maybe there's no upgrades at 50 megawatts, but when all
17 four of them file, they're going to trigger a new
18 powerline to Yakima, which takes ten years and 300
19 million dollars to build, as was recently the result of
20 a PacifiCorp study. Now, what should happen in that
21 situation? Who -- should any of those people fund those
22 deposits? It doesn't make sense. It's basically
23 illogical. You know that based on those highly expected
24 outcomes, all of those people should drop out. What
25 happens to the PacifiCorp study in that case? What if

1 one of them drops out? What if two of them drop out?
2 If there's no ability to downsize? If that was a --
3 there was 150 megs of capacity and there were four
4 people applying for 200 megs, if they each downsized by
5 10 or 20 percent, you could avoid all of those upgrades,
6 you know, the market is being denied all of those
7 options.

8 And not only that, but this whole context is
9 backdropped against really high initial deposits and
10 really high punitive deposits for the consequences of
11 moving forward, which is highly dissuasive of
12 investment. How is it reasonable for somebody to find
13 out the basic information of what does it cost to plug
14 into the grid? What is PAC going to charge you? Should
15 we plug in here or there? Should we do 37 megawatts or
16 50 megawatts? To secure that basic information, which
17 is the entire purpose of the OATT, we have to sign up
18 for this punitive paradigm that sets up highly
19 likelihood dysfunctional outcomes where we're going to
20 have to post impossible deposits. That is not an
21 environment in which somebody like me or anybody that
22 doesn't have a billion dollar balance sheet or an inside
23 relationship with PacifiCorp, to make those types of
24 investments.

25 And that's why when I wrote the letter that says,

1 you know, the context here is, are you going to
2 encourage QFs or are you going to harm them? This is
3 overwhelmingly harmful. It is harmful on a cumulative
4 market impact basis and this overall analysis, and it is
5 demonstrably harmful on the individual aspects of the
6 tariff. We're losing our right to downsize our
7 interconnections in the way that we had. We're losing
8 the granularity of the progress of information from a
9 feasibility study, initial detail, system impact study,
10 more detail, you know, facility study, more detail, and
11 then to downsize through those. All of those things,
12 among others, are individually directly harmful, and
13 arguably as FERC did not address, do not meet the
14 federal standard of not being worse than what the
15 current paradigm is when queue reform is made, when a
16 tariff is reformed.

17 So, the -- so, I mean, that's the overall
18 backdrop of our comments. I think a lot of these things
19 actually -- sorry, before I transition to that.

20 One other example of the alternative POIs, right?
21 And Prineville is another great example. In Prineville,
22 there's -- we have a single site that has two PacifiCorp
23 115 KV lines crossing it that are different lines that
24 come out of the same substation and access to the
25 substation itself and access to PacifiCorp's new 230 KV

1 substation, and access to the 34 5 KV system, all from
2 one location. Currently, under the current tariff, we
3 can ask to be studied, I could have one interconnection
4 look at 115 line A, versus 115 line B, or 115 line A
5 versus the Ponderosa Substation.

6 In that backdrop, we can develop valuable
7 information: Does it cost seven million to do one and
8 one million to do the other? That information allows us
9 to proceed. And while PacifiCorp would say, well, your
10 informational study could allow you to look at those
11 things, it doesn't look at the cumulative impact, it's
12 not binding in any sort of way, and the current
13 mechanism to find out definitive results under the
14 cluster reform is that I would have to file all of those
15 interconnections simultaneously to get results, which
16 then results in this huge, you know, higher number of
17 megawatts to go through the study, which means it's more
18 likely to trigger upgrades, which means that if we get
19 those results we have to then turn around and drop out
20 to remove and work our way back to the one that is the
21 most functional outcome. That's, again, another example
22 of a high likelihood of extreme dysfunction, and just
23 not working in loss of a current very valuable piece of
24 information and flexibility in the current tariff.

25 So, you know, with that said, a lot of these

1 things I think could be very simply addressed, and
2 NewSun's approach to this, even if we have, you know,
3 overall issues with what's occurring here, is that
4 several major changes, which are within the power of
5 this Commission to enact, could occur that would
6 mitigate most of these issues, and substantially change
7 the universe from punitive and suppressive and harmful,
8 to functional, more skin in the game, but still allow
9 the functional OATT to perform its primary function for
10 the market and for QFs and encouraging them. So those
11 would be smaller initial deposits, no withdrawal
12 penalties. There's no justification for why there has
13 to be withdrawal penalties, nor do you have to accept
14 PAC's assertion that that's somehow necessary.

15 Add downsize rights for our interconnection
16 positions as currently exist so that we can avoid those
17 crazy upgrades that a little bit of information would
18 allow us to do and is currently allowed and recognized
19 throughout the country as a valuable thing. Allow the
20 studying of alternative POIs in a functional manner.
21 Maximize the post-cluster study deposits that have a cap
22 of ten percent of upgrades and then a one million dollar
23 max, and then require PAC to revisit the cluster as a
24 result of those results. Something like that could be
25 worked out very similar to the CAISO model then done

1 elsewhere.

2 The PPA process. Order PacifiCorp to proceed
3 with contracting year long. They have created some new
4 universal lateral -- unilateral rights that you did not
5 bless, which they refused to study -- or refused to
6 contract with QFs while -- before they have an
7 interconnection study result, which they then control
8 and this dysfunction, their queue has prevented QFs from
9 being able to get contracts because you can't get
10 studies. So now they're proposing to reform this and
11 have a similar result, well, we'll still be stuck
12 waiting for those studies and then all of that will get
13 bottlenecked into a single part of the year that
14 everybody will get the results all at once, and then
15 that will create a new dysfunctional environment of
16 contracting. That's not necessary. They can just
17 contract all year long and avoid that entire issue.

18 On site control, PacifiCorp is creating itself as
19 who has discretion over how many acres you should have
20 to have to apply for a site -- or to apply for
21 interconnection or maintain your interconnection
22 depending on what your phase is. Those requirements
23 should be set at a threshold that's way lower than
24 what's necessary. An interconnection customer should
25 not have to have their definitive final site established

1 in order to apply and get information, you know, some
2 foothold is reasonable to require giving PacifiCorp the
3 discretion and creating bureaucracy and process and
4 restrictions around whether you're going to use which
5 acres or how many or whether -- what efficiency solar
6 panels assume and so forth, that doesn't need to be
7 done. It should be something like, you know, 25 percent
8 of that reasonably required, not whatever number
9 PacifiCorp comes up with. They are not a power
10 developer and it shouldn't be relevant anyways, because
11 sites can change without huge -- or material, if any,
12 electrical impacts. That's a very simple change.

13 On that topic, I would like to highlight that
14 this overall new paradigm is also fundamentally
15 inconsistent with the development of power projects on
16 public lands. This construct of having to -- having a
17 one time path of interconnection, if you have to go
18 through a BLM permit, which huge portions of America's
19 clean power is on, you have a five year NEPA process, I
20 don't know when you formally get site control after you
21 go through a public auction process to lease something,
22 at which point you can finally study and get plugged in
23 to get information and results around what your
24 interconnection costs might be, which by the time you
25 can come back and meet other PAC standards, years may

1 pass and somebody may have taken your interconnection.
2 It's fundamentally incompatible, hasn't been dealt with
3 or addressed whatsoever in this entire process, and I
4 would argue that this new paradigm will prevent the
5 development of any power on public lands because of
6 those consequences.

7 And then finally, this power flow study issue,
8 you know, fundamentally for years people have invested
9 in PacifiCorp's queue, filed requests only to find out
10 that they would sit there on ice for a long time. Those
11 people made investments in development and permits, site
12 control, and all sorts of other things for years and
13 years, meanwhile, the queue reform has been stalled out
14 and/or people got results that triggered things, as I
15 exemplified, you know, multi-hundred million dollar
16 upgrades in Prineville where they're simultaneously
17 building out billions of dollars of publicly-announced
18 data centers, but a single 40 megawatt project triggers
19 a 300 million dollar upgrade because they don't need the
20 power, right? Those power flow studies are being
21 restricted by PacifiCorp in a way that is fundamentally
22 inconsistent with how most or all of the utility
23 industry studies these things, and the very simple
24 assumption that these are not down in the weeds of
25 complex, crazy electrical engineering, these are

1 fundamental, primary basics.

2 They do not study the power flow onto adjoining
3 Bonneville systems, for example in Prineville where you
4 have triple 500 KV lines, ability to absorb injections
5 of power, which, again, would make it unlikely that a
6 300 million dollar powerline to Yakima is necessary.
7 They exclude their own load queue from those same
8 studies, so even if there's 1,000 megawatts of load in
9 PacifiCorp's queue, somebody applies for a 40 meg, you
10 know, interconnection, they find out that, sorry, you
11 need a new powerline to Yakima that costs 300 million
12 dollars, and they ignore the existing Bonneville load in
13 their studies.

14 And as the CREA report filed with FERC
15 demonstrates, and that engineer said, this is not
16 normal, it's not typical, it's not how it happens in the
17 CAISO, and then ignores the basic physics of, gee whiz,
18 they're attached to all these other systems, which by
19 the way they get all of their power from, because they
20 rely on Bonneville to serve those loads. Those are
21 primary things that should be dealt with before queue
22 reform occurs.

23 The goal here is not to clear the queue and
24 destroy all these good in faith investments, the goal is
25 a functional paradigm going forward. And if PacifiCorp

1 -- if there's even a fraction of a chance that
2 PacifiCorp is not studying appropriately these primary
3 fundamental inputs, and if those primary inputs are
4 what's triggering and has been creating the dysfunction
5 and the crazy results in the PacifiCorp study process
6 for several years, and that is the real reason that we
7 have this queue reform problem, much less that we would
8 persist and take that problem forward after reform and
9 after destroying all of those investments that you would
10 prevent those people from getting a fair shake at being
11 studied properly before the queue is "wiped." Which the
12 real result should be that all of those interconnection
13 customers actually get legitimate, reasonable results
14 for their studies before they have to make these crazy
15 decisions like posting hundred million dollar deposits
16 in 30 days based on PacifiCorp's study methodology.

17 If you, as the Commission, want a competitive
18 RFP, you want competitive options present, you should
19 make sure when PacifiCorp finally does this study, when
20 everybody finally gets their shake at things, they
21 actually get studied properly and that major glaring
22 huge multi-hundred megawatt -- multi-hundred million
23 dollar triggering problems are addressed before that
24 study occurs so that people can finally get their fair
25 shake at results, and so that after the queue reform

1 occurs, we're living in a functional paradigm not moving
2 forward, having destroyed everybody's investments to
3 move into a new dysfunctional paradigm that still has
4 the same primary problems.

5 So, you know, with that said, I hope that we can
6 have a conversation today and tomorrow about specific
7 solutions and how those would solve problems. Some of
8 these things I think could be very simply done. I hope
9 you will address these issues against the context of how
10 will this facilitate investment and development of power
11 and competitive options for your ratepayers existing?
12 How will this encourage QFs, meet your statutory
13 obligation to "encourage" QFs? You know, how will you,
14 if you get this wrong, undo the harm to all of these
15 people who invested in your state in Oregon against the
16 backdrop of the OATT, if they are unfairly cleared and
17 if you create a new environment which is still
18 repressive of investment and new generation and
19 undermines your competitive market, how will you fix
20 that if this occurs and gets out of the gate properly?

21 What else could PacifiCorp have done that would,
22 you know, not require this? Should PacifiCorp be hiring
23 more interconnection staff so they have the bandwidth to
24 do this correctly? You know, actually engage in some of
25 these discussions. You know, should a workshop process

1 facilitate this? And ultimately as you look at each of
2 these provisions, is that extreme of an action actually
3 necessary? Right?

4 Each component of PacifiCorp's queue reform is
5 major. Serial to cluster, arguably that should all be
6 required. You could do this entire reform and enter a
7 new paradigm without changing any of the deposits, any
8 of the withdrawal penalties, all of those things, and
9 you would pick up all of those inconsistencies and have
10 a new structure. It would be radically more efficient
11 and beneficial than a log dam structure. There is --
12 paradigm like that does not require, you know,
13 quadrupling and such the deposits involved, and changing
14 the entire risk structure, penalties, you know. You
15 know, is that extreme of an action necessary?

16 So, with that said, I will pause there, and I
17 hope that we can engage in talking through some of these
18 specific examples just how this does affect investment,
19 because I hope your goal will be a functional market
20 paradigm that folks like myself and other independent
21 power developers of a variety of sizes, but not just
22 NextEra and Avangrid, scale companies that the entire
23 market can engage in, because that is how you get the
24 most competitive options available to your ratepayers,
25 which is ultimately your other statutory obligation is

1 trying to facilitate, you know, the broadest range of
2 competitive options being available on the market.

3 And I will close out this entire thing with --
4 with noting that against the backdrop of PacifiCorp's
5 entire claim for why the queue was a problem, that there
6 were tens of thousands of megawatts compared to their
7 ten thousand megawatts of load, that PacifiCorp
8 fundamentally misframed the entire issue surrounding
9 this. When you have a market -- you do not have a
10 competitive market when there is only one option per
11 each customer, there's only one to one ratio of
12 megawatts of assets being developed to bid into an RFP.
13 If that were the case, there would only be, you know,
14 one bidder per megawatt of procurement. That is not
15 what a competitive market does.

16 And similarly, PacifiCorp, you know, claimed that
17 same problem in a world where PacifiCorp system is
18 connected to the hundred gigawatt scale WECC market.
19 They have interfaces with Bonneville --

20 CHAIR DECKER: Mr. Stephens?

21 MR. STEPHENS: -- and (*inaudible*).

22 CHAIR DECKER: Mr. Stephens, this is Chair
23 Decker. I thought you were wrapping up a couple minutes
24 ago.

25 MR. STEPHENS: Yeah.

1 CHAIR DECKER: We have a lot of public comment
2 to get to, and so are you indeed wrapping up here or --

3 MR. STEPHENS: Yeah. Yeah, I am. Thank you.

4 CHAIR DECKER: -- do we need to stop --

5 MR. STEPHENS: The -- the -- fundamentally the
6 backdrop is not necessarily as PacifiCorp represents it
7 in that regard, and as you're contemplating next to your
8 market, you know, that backdrop of the existence of
9 competitive options is critical, and I hope will be your
10 goal, including for the benefit of your ratepayer.

11 Thank you, very much. I appreciate it and look
12 forward to discussions.

13 CHAIR DECKER: You've given us a very
14 comprehensive description of the challenges that really
15 the FERC reform and its corresponding proposal here
16 posed for the -- your company and developers of your
17 type. You've also offered some specifics that, you
18 know, I think (*inaudible*) we may be able to get into.

19 For today's purposes, however, as I mentioned
20 earlier, we have quite a few commenters to get to in
21 this morning's session, so we'll have to reserve kind of
22 questions and specific -- or sorry, engagement on
23 specific issues for later in our process here.

24 So, I'm going to have to call, at this point, on
25 John Lowe for Renewable Energy Coalition. Mr. Lowe.

1 MR. STEPHENS: Thank you.

2 MR. LOWE: Thank you, Chair Decker. This is
3 John Lowe, Renewable Energy Coalition. Hello to Chair
4 Decker and Commissioners Tawney and Thompson.
5 Appreciate the opportunity to make a few comments. I
6 promise I will make up for the longevity of Jake's
7 comments and make mine short.

8 What -- what I think you know me to be all about
9 from previous occasions is that I'm very concerned about
10 process. I'm also very concerned about trying to
11 improve the implementation of PURPA so that it works for
12 everyone, and that -- that has been the objective all
13 along and continues to be.

14 What is -- can you hear me okay?

15 CHAIR DECKER: Yeah, we can hear you great.

16 MR. LOWE: Okay. Fine. I was getting another
17 call, unfortunately.

18 What concerns me is the little area that Jake
19 touched upon, which has to do with kind of the non-
20 interconnection stuff. And what I see here is, if you
21 don't mind me being kind of the wise old Sage that's
22 been doing this stuff for literally 40 years about now,
23 is that interconnection is an integral part, obviously,
24 of implementing PURPA, but it's typically not the only
25 part, and it's typically not the biggest part that we

1 engage in.

2 Other things related to avoided costs and avoided
3 cost updates and methodology and contract terms and the
4 length of contracts and how and when you enter into
5 contracts and all those things are the subjects of lots
6 of conversations that we've had over years trying to
7 establish what is the best process by which to go about
8 those things. My feeling about what's going on here is
9 that interconnection, yes, in a critical function, but
10 it's -- it's like we are having the tail of the dog wag
11 the dog. And I'm very concerned about the implications
12 and the impacts of a interconnection process that is
13 being driven by let's say some other factors, probably,
14 that ultimately impact the entire PURPA process. And
15 we, the coalition, have tried to inject a number of
16 questions and concerns into this matter as it relates to
17 the power purchase processing kinds of stuff in the
18 PURPA world.

19 And I think there's probably a number of
20 solutions, but I don't know that we've actually had an
21 opportunity to air those solutions, and I feel like the
22 interconnection stuff has been driven kind of in a
23 vacuum with little regard, if any regard, for the other
24 PURPA matters that I've outlined very generally.

25 So I would just suggest that notwithstanding what

1 appears to be a deadline, I don't know if it's
2 artificial or not, or whether it can be worked around,
3 it seems that a more thoughtful process may be possible
4 where not only some of the things that Jake and others
5 have talked about that are specifically related to the
6 interconnection stuff and the paradigm change on
7 interconnection, but also maybe equally important, or
8 possibly even more important, dealing with the issues
9 related to the power purchase side of the equation.

10 I think we all understand that timing is an
11 important thing with avoided cost prices updated in May,
12 May 1st in Oregon each year, that's obviously a critical
13 time, the few months before those updates, and the month
14 or so after those updates is a critical time, and how
15 the timing of this interconnection process overlays with
16 that is certainly a big concern.

17 The other critical area of timing, obviously, is
18 getting contracting done in time to meet what typically
19 ends up being a start of a new calendar year, whether it
20 be the result of contracts that are terminating at that
21 point in time typically, or contracts that typically,
22 for new projects would start at that time. So, the
23 timing of the interconnection stuff as it relates to
24 around the first of the year and around the avoided cost
25 updates is really critical and probably not anywhere

1 nearly adequately addressed in the workshops or any
2 other way for that matter.

3 So, I would just encourage us to have some kind
4 of a process by which we can deal with these things a
5 little more adequately, and not end up, in my situation,
6 feeling like we have gone through a lot of pain and
7 misery, all of us, for years trying to design some
8 things that will work right, only to have something hit
9 us very quickly and abruptly that can upset a lot of
10 things that we've done, and that doesn't give me a lot
11 of comfort going forward that something like this could
12 happen again. And so I would like to avoid that feeling
13 by having a more adequate conversation about some of the
14 real problems on the interconnection side as well as the
15 impact on the power purchase side.

16 Anyway, with that, I will stop. Thank you very
17 much.

18 CHAIR DECKER: Thank you, Mr. Lowe. Thanks for
19 raising the PURPA and PPA issues as something that, you
20 know, perhaps need attention in this new paradigm. I
21 know Staff did propose to change the May 1st update to
22 October 1st for PacifiCorp to better align with the new
23 annual cluster study process, that there may be other
24 areas of alignment certainly that are needed.

25 And just to address the kind of deadline issue, I

1 certainly think that there are issues that folks will
2 raise, you know, related to sort of how projects come in
3 or out of the transition process, but the timing of the
4 transition process is, you know, functionally connected
5 to the RFP, you know, timeline, which is functionally
6 connected to a bunch of other dockets, and obviously to
7 the reform decision at FERC. So, it certainly can
8 appreciate how this might feel like it's being driven by
9 something that doesn't make sense or is external to
10 those that it's impacting, and that is, you know, from
11 my perspective, certainly a reality of one that -- I
12 think it's a fair question how much control we, frankly,
13 have over. I really appreciate that overall sentiment
14 though.

15 Like I said, we don't really have time for
16 questions, but I guess I made a comment. I think we're
17 going to have to -- we'll continue to engage with folks
18 once we let people present their initial comments.

19 But at this point, we need to move to Angela
20 Crowley-Koch, with OSEIA.

21 MS. CROWLEY-KOCH: Thank you, Chair Decker.
22 This is Angela Crowley-Koch with OSEIA.

23 I want to thank Staff for all the work they've
24 put into this and appreciate all the time that the
25 Commission is giving to this really important issue.

1 So, I won't go into all the details from the
2 comments that we jointly filed with the other
3 interconnection customers, but I do want to point out
4 one thing specifically, which goes under the umbrella of
5 what Commissioner Thompson mentioned, which is there are
6 a lot of open-ended questions here, and it feels to us
7 like a lot of details that still need to be worked out.

8 I agree with what Mr. Lowe just said, that this
9 feels very rushed and is a lot of changes to something
10 that's really critical to Oregon's overall energy mix
11 and adoption of clean energy.

12 And so the one particular thing that I'll mention
13 in terms of rushing the process, is there's a lot of
14 confusion about the restudy process, and it's hard for
15 me to envision in the current state of the proposal how
16 that restudy process will work, especially given all the
17 deposits they've laid out and the penalties they've
18 laid out, it seems inevitable to me that after the
19 first cluster study, there will be parties that drop
20 out, which will trigger a restudy and shifting of
21 costs, which I imagine will mean more projects will drop
22 out.

23 And it feels to me to be -- you know, what's the
24 end in sight? How is this going to be timely? Are the
25 restudies going to be able to be completed in the time

1 allotted before the next -- it's time for the next
2 cluster study? It's very unclear from the proposal how
3 that will be worked out.

4 And in the workshops we had, we tried to ask
5 these questions, but the answer always seemed to be,
6 well, sure, if someone drops out we'll do another --
7 we'll do a restudy. So that's a very real concrete
8 issue that developers will have in trying to figure out
9 this cluster study process, and it just seems like we
10 need more time to have some of these really important
11 details get ironed out.

12 As Mr. Stephens mentioned, some of these checks
13 that need to be written for deposits are quite large,
14 and that's a pretty big change for the process to have,
15 those deposits need to be given before a lot of these
16 other questions are answered.

17 So, I'll just stop there, but note overall that
18 there are unanswered questions that have very real
19 impacts on developers and, therefore, the amount of
20 renewable and clean energy projects that can be
21 developed here in Oregon.

22 Thank you.

23 CHAIR DECKER: Thank you, Ms. Crowley-Koch.

24 Okay, I think we are ready for Mr. Sanger and Mr.
25 Adams. Mr. Sanger, why don't you go ahead and go first

1 and then we'll go to Mr. Adams.

2 MR. SANGER: Thank you, Chair Decker,
3 Commissioners Tawney and Thompson.

4 I am cognizant of the time, and I know there's
5 been time set aside for tomorrow afternoon. I do have a
6 number of items that I wanted to go over, so I wanted to
7 check in just about how you're thinking about processing
8 things given that it's a few minutes to noon?

9 CHAIR DECKER: Yeah. I think generally there's
10 a tolerance for going until about 12:30 ideally we'd
11 wrap up, and then that would give us a chance to sort of
12 reconvene tomorrow afternoon with specific engagement on
13 some of the issues for sort of change that folks have
14 raised. Does that give you a chance to kind of give us
15 some opening comments and potentially engage a little
16 bit on some of your most important issues before we wrap
17 up for today and reconvene tomorrow?

18 MR. SANGER: Yes. Yes. Thank you.

19 That's about half the time Mr. Stephens had, but
20 I think we can (*inaudible*).

21 CHAIR DECKER: Well, yeah --

22 MR. SANGER: That was a joke.

23 CHAIR DECKER: -- I mean, we can go until one,
24 we can have you start again tomorrow if you don't have
25 your chance. I, you know, I can't control what public

1 comment we get.

2 MR. SANGER: No, I was trying to add some levity
3 at the end of the hour. So, happy to work with whatever
4 it is that you three Commissioners would like.

5 So, I'm here representing Renewable Energy
6 Coalition and Northwest & Intermountain Power Producers
7 Coalition for this item today on UM 2108.

8 We're not here to debate whether or not the
9 merits of the cluster study are a good idea or a bad
10 idea. As Mr. Lowney pointed out, NIPPC generally
11 supported the FERC queue reform process. NIPPC made a
12 number of changes that FERC did not make, but in the
13 end, NIPPC supports moving forward with a cluster study
14 approach as it applies to FERC jurisdictional
15 interconnections.

16 REC did not oppose the FERC cluster study process
17 as it applied to FERC jurisdictional interconnections.
18 So, don't assume that because a party did not oppose or
19 supported what's going on on the FERC side that they
20 support what's going on on the state interconnection
21 side.

22 The question that the Commission is being asked
23 here is very different, and that is whether, and if so,
24 how PacifiCorp's Queue Reform Proposal will apply to
25 state jurisdictional QFs.

1 And both NIPPC and REC's specific requests to the
2 Commission at this point is that you can adopt the
3 cluster study queue reform approach, but you need -- we
4 recommend that you make the changes that we've
5 recommended in our comments.

6 Then in response to Mr. Thompson's question about
7 whether it's a pilot or how we characterize it, that is
8 less important, the terminology, but there are a lot of
9 unresolved questions, a lot of things that PacifiCorp
10 has said that don't have factual support or are not in
11 writing. So our recommendation is then to immediately
12 start investigating the proposal to answer the questions
13 that have been raised in the various comments.

14 And for anything that is not adopted, any of the
15 interconnection customers' recommendations that are not
16 adopted, we urge you to direct PacifiCorp to work with
17 us. And when PacifiCorp made its filing, it refused to
18 make a number of changes, but you've seen here in the
19 last few days, PacifiCorp made some changes when Staff
20 pushed back and made some recommendations. I'm not sure
21 what PacifiCorp committed in response to Commissioner
22 Thompson's query about the redline of the rule, but they
23 expressed some willingness to make some changes to meet
24 on what the Commission wants. So, PacifiCorp is not
25 going to constructively engage to make changes unless

1 you, the Commission, indicate that that's what you want.

2 So, I'm going to pause here, making sure there
3 weren't any questions about what our position is.

4 *(No audible response)*

5 MR. SANGER: Okay.

6 CHAIR DECKER: Commissioners, any questions?
7 Yeah, go ahead.

8 MR. SANGER: Okay. Thanks. And one thing we
9 want to point out is if PacifiCorp is going to move
10 forward with its cluster study approach, the benefits of
11 -- you know, whether you agree there's benefits or not,
12 there are some benefits with clearing the queue, and
13 that's going to happen and accrue to both FERC and state
14 jurisdictional interconnection customers regardless of
15 what the PUC does. So, the queue is going to be
16 cleared.

17 PacifiCorp and Staff support adopting the
18 proposal with only minimal changes, and they say that's
19 going to benefit QFs. We disagree. And I'd like to
20 have the Commission just recognize that all of the
21 interconnection customer trade associations, you know,
22 NIPPC, REC, CREA and OSEIA, as well as the individual
23 interconnection customers that submitted written
24 comments for all opposed to PacifiCorp's proposal
25 without modification, there's nowhere else in the

1 regulatory process where the Commission would simply
2 eliminate decades of legal rights for customers based on
3 so little explanation and so little factual evidence.

4 So while we appreciate the thoughtfulness that
5 Staff put into analyzing all of these issues, except for
6 on a few places, they came out against the
7 recommendations of the interconnection customers, and we
8 believe that there's significant harm here.

9 One response that PacifiCorp has to the
10 recommendations that we make is to simply point to the
11 fact that it got FERC to approve its interconnection
12 queue reform and it's simply treating Oregon customers
13 the same as it's treating its FERC interconnection
14 customers. And from our perspective, that is not an
15 appropriate or correct answer. That's not a response
16 that really resonates.

17 And the analogy, my favorite analogy that I
18 wanted to bring up with this, is when you respond to
19 PacifiCorp, there's a great cartoon of a monkey, a fish,
20 and an elephant, and in the cartoon the teacher provides
21 a final exam question to a group of animals to pass that
22 class, including the monkey, the elephant, and the fish.
23 And the final test is for each of the animals to climb a
24 tree, and obviously the monkey is the only one that can
25 climb the tree and pass the class. And this is the same

1 situation. What might work for a FERC jurisdictional
2 interconnection customer is not going to work for the
3 state jurisdictional interconnection customers.

4 The primary opposition that you're seeing here is
5 not based on a serial queue or a cluster study for QFs,
6 but how it impacts the state jurisdictional process
7 which has different rules and policies. Some of those
8 are good for interconnection customers, some of those
9 are bad. What PacifiCorp's proposal does, it removes
10 the good parts of the rules and keeps the bad parts.

11 Oregon has decades of PURPA implementation and
12 contracting that depends upon a serial queue approach.
13 If you're going to make a change to a cluster study
14 without other changes, that's going to prevent numerous
15 new QFs from getting contracts and make it very
16 difficult for many existing QFs to renew their
17 contracts. It's going to eliminate the rights of QFs
18 that have been encapsulated in numerous orders issued
19 over decades.

20 So those are my introductory remarks. I had five
21 items that I wanted to address in my comments of things
22 that are in buckets of issues, one of which was the
23 cutoff date for interconnection customers that are able
24 to choose to remain in the serial queue, the need for
25 written rules, the impact on existing QFs, the PPA

1 contracting process, and the allocation of costs.

2 And I want -- I think there's been some progress
3 on the cutoff date for interconnection customers being
4 able to choose to remain in the serial queue with
5 Staff's recommendation in terms of when people can make
6 decisions.

7 I did want to respond to Mr. Lowney's statement
8 about Lacomb Irrigation District. And the fact that
9 Lacomb Irrigation District is a REC member does not mean
10 that they received specific notice when they were
11 processing their interconnection application. REC has
12 over 40 members, some of which have multiple projects,
13 and REC provides notice of some of its filings, and
14 included -- and it did provide notice of the Queue
15 Reform Proposal, but we don't go out and discuss every
16 single one of the utility's filings with every member.
17 Not every interconnection customer is a REC member.

18 And Lacomb Irrigation District, and other small
19 QFs, they don't know what an Oasis is, let alone how to
20 monitor it. They didn't understand that queue reform
21 would apply to it until they separately contacted REC a
22 couple -- two days ago on a completely unrelated issue.
23 So, we support the process of going out and providing
24 notification, and hopefully PacifiCorp will do it
25 differently in the future.

1 Our next item, we recommend that the Commission
2 should require PacifiCorp to provide both a revised tier
3 four administrative rule along with a detailed
4 explanation, including as much detail as the current
5 rules have regarding how these proposed changes will
6 work for large and small QFs. There's numerous
7 unanswered questions about how PacifiCorp's QRP will
8 work, and how it will integrate with the Commission's
9 existing interconnection rules and policies and PURPA
10 policies.

11 There needs to be clear and understandable rights
12 and obligations and written rules. It's not appropriate
13 for any interconnection customers, including small QFs
14 like Lacombe Irrigation District, to need to shift
15 through all the documents in the FERC case, in this case
16 to understand their basic legal rights.

17 And I appreciate Mr. Lowney's statement that they
18 filed their redline in order to comply with the request
19 that we made to provide a rule redline, but they didn't
20 do what we asked. They just came in and they deleted
21 most of the rule, but didn't replace it with anything.

22 And, you know, I want to point out to the Lacombe
23 comments that they submitted, and if you look at page
24 seven of their study that they received back from
25 PacifiCorp, PacifiCorp says that they didn't pass the

1 tier two study process, and they're going to need to
2 submit a new application under tier four of the Oregon
3 Administrative Rules. And this study, which came out on
4 July 27th, cites a specific provision of the rules that
5 PacifiCorp is proposing to waive and it is redlined out.

6 So, an interconnection customer like Lacombe needs
7 to be able to get their study back and not have it point
8 to rules that PacifiCorp has proposed to waive, here
9 didn't even tell them that they proposed to waive.

10 So our recommendation is that you require
11 PacifiCorp to make a filing that specifically details
12 the legal rights, and then people can comment on that
13 after we know what it actually is going to be.

14 I'll pause there if there's any questions, before
15 moving on to my third point.

16 CHAIR DECKER: Yeah, why don't you just keep
17 moving on, and then when you and Mr. Adams has finished,
18 I think we can keep going until one to let the
19 Commissioners ask any questions of sort of any of the
20 intervenors at that point.

21 MR. SANGER: Okay. Thank you.

22 The third issue that I wanted to address was
23 Staff report and PacifiCorp's reply comments on the
24 QRP's effect on existing QFs. Those made us even more
25 concerned about the harmful impact on existing QFs. We

1 recommend that all existing QFs be able to choose
2 whether they participate in a serial or cluster study.
3 You exempt them from a cluster study and any other study
4 and any higher costs under the new rules, they don't
5 increase their size. You put every -- you require
6 PacifiCorp to put everything in writing on how it's
7 going to apply things to the existing QFs. And you
8 allow them to be able to enter into new Power Purchase
9 Agreements prior to completing the interconnection
10 study.

11 Existing QFs are about to lose a significant
12 number of rights if these things are not clarified. And
13 I think Lacombe Irrigation District's comments
14 demonstrate that what PacifiCorp is saying that it, you
15 know, PacifiCorp says that it confirms that its current
16 and ongoing practice is that existing queue projects are
17 not restudied in order to execute a new interconnection
18 agreement unless there's a material change to the
19 project such as an increase in capacity. Well, here you
20 have a QF which hasn't increased its capacity and
21 PacifiCorp is saying that it needs to be studied under a
22 tier four process.

23 There's lots of questions, lots of different
24 possibilities that haven't been vetted, and we ask that
25 you simply, at this time, exempt all existing QFs from

1 the entire process, anything related to the generator
2 interconnection queue reform process, if they elect to
3 do so.

4 Our fourth item here that I wanted to address was
5 that PacifiCorp's Queue Reform Proposal requires QFs to
6 obtain an interconnection study, which is only allowed
7 once per year, prior to obtaining a contract. Our
8 recommendation is that QFs should be able to obtain a
9 Power Purchase Agreement, any QF, at any time, with the
10 ability, one, to update their commercial operation date
11 after receiving the results of the cluster study or
12 system impact study, and two, terminate their PPA if the
13 interconnection cost estimates exceed the amounts
14 identified in an informational study that was previously
15 provided to the QF.

16 Now this is very similar to how PacifiCorp treats
17 resources in its RFP. We propose language that is
18 essentially based on the load pocket language in terms
19 of ability to terminate your contract, the
20 interconnection costs are higher than they originally
21 estimated. So we recommend that you make these changes
22 to allow QFs to be able to get contracts.

23 PacifiCorp's proposal, in our mind, clearly
24 violates FERC precedent. FERC has explained that
25 requiring the completion of a utility controlled study

1 process gives the utility far too much control over the
2 contracting and legally enforceable obligation ability.
3 This hands it over to the utility and defeats the
4 purpose of the legally enforceable obligation. It is
5 inconsistent with PURPA.

6 Now, our view is that right now Oregon's policies
7 are that a QF can enter into a Power Purchase Agreement
8 at any time without an interconnection study, and you
9 can do that at any time three years prior to the
10 expiration of the current existing QF's contract or
11 three years prior to the commercial operation date. The
12 Commission may decide to change those policies, but they
13 should be done in a thoughtful, deliberative process.
14 And this is something that you shouldn't just do by
15 adopting a Queue Reform Proposal that makes it so other
16 people can't enter into contracts as early as they
17 currently are allowed. This is something that is
18 especially important for existing QFs, because they have
19 Power Purchase Agreements that expire at specific times,
20 and they can't just defer their online date.

21 In many of these existing projects, especially
22 biomass and hydro, need to enter into Power Purchase
23 Agreements well in advance so they can know what sort of
24 interconnection upgrades to do, what sort of facility
25 changes they can afford, and if they're stuck in an

1 interconnection process that doesn't give them that
2 information in a timely manner, they're going to -- it's
3 going to be really difficult for them to make business
4 decisions that they need to make.

5 I mean, it's also -- you know, it's -- your
6 policy that you've adopted is three years for existing
7 QFs as well, because of the process that they need to go
8 forward, and they can't start a lot of those
9 investments, they can't start putting real money down,
10 many of these projects, unless they've got a Power
11 Purchase Agreement that has a fixed price in it where
12 they can go to a lender, they can go to a financier and
13 say, "Look, this is how much it's going to cost, put the
14 study money down. Let's spend the money to develop and
15 build this project." If you don't allow people to do
16 that, then they're not going to be able to get the money
17 or risk the money to participate in the queue reform
18 process. And that's different than a lot of the large
19 FERC jurisdictional interconnection customers. We're
20 talking about a lot of smaller developers, and you're
21 going to have the practical impact of cutting out a
22 whole type of development, a whole development business
23 model will be cut out because they can't go through this
24 process that was developed for a different type of
25 business entity. So, this is another example, of what

1 might work and what works at FERC isn't going to work,
2 in our mind, at the state level.

3 And these are -- most of these questions that
4 we're talking about were things that were not discussed
5 at FERC. We didn't know how PacifiCorp was going to
6 make its proposal at the state, how it was going to try
7 to comply with various Oregon policies. So, most of
8 these things, except for the commercial readiness
9 question, were not discussed at FERC.

10 And the last item that I wanted to put the bucket
11 of issues into that I wanted to discuss was the
12 Commission should revise the study and network cost
13 allocation proposal that PacifiCorp has made.

14 One, we recommend that you change the proposed
15 one percent floor on cost responsibility for network
16 upgrades to ten percent.

17 Two, we recommend that you allow Oregon
18 jurisdictional interconnection customers to collect a
19 refund for network upgrades.

20 Three, we recommend that all costs should be pro
21 rata, none of them should be per capita.

22 And four, we recommend that small Oregon QFs
23 should be able to withdraw with no penalties, and large
24 QFs should be able to withdraw with no penalties if
25 their costs are greater than an earlier study.

1 On the issue of network upgrades reimbursement,
2 this is another example of how just using the FERC
3 process does not bear to Oregon QFs. A FERC
4 interconnection customer, they have interconnection
5 costs, network interconnection costs and they will pay
6 for those, they'll get reimbursed. The primary
7 situation facing them is they will lose the time value
8 of money. So they pay for the network upgrades, they
9 get the money back. If you're a QF interconnection
10 customer and your costs change, you now have to choose,
11 do I pay for that, they're not going to get refunded.
12 And we're not here to argue the merits of whether or not
13 that is a good policy in general, that's going to be
14 addressed in UM 2032, but the problem here with
15 PacifiCorp's new approach is that there is going to be
16 withdrawal penalties for those QFs. So previously you
17 could drop out without many costs, and you might drop
18 out, you were more likely to drop out than a FERC
19 jurisdictional interconnection customer, because you
20 have to pay for your network interconnection costs. But
21 now you're going to lose your deposits if you withdraw,
22 you're going to be charged, you're going to be penalized
23 if you withdraw. And, you know, PacifiCorp has made
24 some legitimate arguments as to why there should be some
25 penalties, because we now have a cluster process. Now,

1 we agree with the extent of those and whether they
2 should apply in all cases, but if you're going to agree
3 with PacifiCorp and have withdrawal penalties and the
4 practical result is that state jurisdictional
5 interconnection customers that will have to pay for
6 those network upgrades, especially if they're higher
7 than what they originally thought they were going to be,
8 are going to -- they're going to drop out. Whereas a
9 FERC jurisdictional interconnection customer, the same
10 exact costs might not drop out, because they can get
11 them refunded.

12 So, in our mind we recommend that you try to
13 solve that problem either by on an interim basis until
14 UM 2032 is resolved by allowing these customers to get a
15 refund, or, we prefer and, have those customers not be
16 subject to withdrawal penalties, because they're more
17 likely to withdraw -- they're more likely to drop out
18 simply because they're treated differently under
19 Oregon's policy related to network upgrades, and the
20 smaller customers are generally more likely to withdraw
21 because it's much more difficult for smaller projects to
22 get constructed, they're not as sophisticated. That's
23 why PURPA exists.

24 Another item I wanted to highlight on in this
25 topic is that PacifiCorp proposes per capita cost

1 allocation for station equipment network upgrades. And
2 they provided some information about why this should be
3 per capita, that these are why these costs should be
4 allocated in that way. There's some data responses we
5 didn't see until the Staff report came out. We haven't
6 had an opportunity to vet that information, it could be
7 correct, it could be wrong, but I do know in some
8 circumstances that they are wrong and that it's going to
9 be extremely discriminatory to QFs.

10 If you think of an existing QF project, for
11 example, and at a two megawatt interconnection, and that
12 increases its project size to say three, four, five
13 megawatts, something like that, they're increasing their
14 size, they're going to get thrown into this cluster
15 study. And if they get studied with one other project,
16 an 80 megawatt facility, then that project is going to
17 pay 50 percent of the station equipment of the larger
18 projects. And that project probably already has some
19 station equipment. It may need no upgrades whatsoever,
20 but it's going to be stuck with 50 percent of the bill
21 of another project.

22 And, also, I don't think that PacifiCorp has
23 demonstrated that the station equipment for a three
24 megawatt project, a new three megawatt project, is going
25 to be the same as an 80 megawatt facility. So, given

1 that PacifiCorp hasn't supported its recommendation with
2 any facts whatsoever that we can vet, we recommend that
3 all costs be allocated on pro rata rather than a per
4 capita basis.

5 So there's my prepared comments reduced -- you
6 may not have realized it, but reduced a little bit
7 because of the previous comments that were discussed.
8 And if you have any questions, I'm happy to discuss them
9 now, but it sounds like you want to move on to Mr. Adams
10 at this point.

11 CHAIR DECKER: Yeah, I think we will have no
12 questions, but want to make sure that Mr. Adams gets his
13 chance to speak, and then we'll take some questions.

14 Go ahead, Mr. Adams.

15 MR. ADAMS: Okay. Thank you, Chair Decker.

16 This is Greg Adams, calling in on behalf of the
17 Community Renewable Energy Association. And I think you
18 guessed right in picking Mr. Sanger to go first on
19 behalf of our jointly filed comments today. He was
20 planning to get into the details more than me, so I
21 don't have anything additional to add, I think he
22 covered some of the main outstanding issues from our
23 comments, and we support his comments, and I'm available
24 to answer any questions that the Commissioners may have,
25 that Mr. Sanger wants me to speak to.

1 Thanks.

2 CHAIR DECKER: Okay, great. Perfect.

3 So, I think we'll have time now, and I think
4 we'll -- I think the Commissioners are okay going to
5 close to 1:00 for some questions that Commissioners
6 might have, you know, for any of the intervenors who
7 have commented, from Mr. Stephens all the way to Mr.
8 Adams.

9 I'm going to start with, I guess, just because I
10 have to start somewhere, the question about one of the
11 -- one of the last things that Mr. Sanger touched on,
12 and that's the cost allocation issue.

13 As with many of the issues here, I think that
14 it's not clear to me, given the status of the FERC
15 process, which, you know, is that the approval is
16 standing, you know, recognizing Mr. Stephens' comment
17 that there may be appeals or hopes for more decisions on
18 reconsideration.

19 But anyway, with respect to cost allocation and
20 the requested changes around the sort of one percent
21 moving up to ten percent, or the move to sort of pro
22 rata allocation for all cost categories, what happens if
23 we change that, but FERC doesn't? How does the sort of
24 unified cluster work at that point? What's your
25 understanding of that, Mr. Sanger?

1 MR. SANGER: My understanding is that PacifiCorp
2 will need to comply with, you know, Oregon law. And,
3 you know, they can either get a change at FERC or they
4 can, you know, they can -- I mean, I guess -- I'm not a
5 hundred percent certain, so I guess it's always better
6 to start with that when you're not a hundred percent
7 certain. But, you know, PacifiCorp didn't engage
8 people, they didn't have these discussions, and I think
9 this gets to the heart of PacifiCorp's strategy. They
10 think they've boxed everybody in, and the only way that
11 they will box people in is if you answer this question
12 as, we're just going to do it the way FERC's done it
13 because we don't think we can do anything about it. And
14 I think that you put it back on PacifiCorp the other
15 way, that you say, this is Oregon law, this is what's
16 going to work, and mandate that they go do it.

17 One of the things that FERC said was that each --
18 the states have jurisdiction over their own processes,
19 this is what they discussed in their order, and they're
20 leaving it up to states to implement them.

21 So, my recommendation would be that you adopt
22 what you think is the best course of action, and then
23 PacifiCorp needs to figure out how to implement it.
24 Don't let PacifiCorp box you in.

25 CHAIR DECKER: Okay. I appreciate that

1 perspective. But it is true that, you know, if you were
2 to go from one percent to ten percent, there's really
3 not a way, without a change at FERC, to allocate those
4 costs to the other participants in the cluster, it would
5 just be that some unallocated.

6 MR. STEPHENS: Chair Decker, if I might? I
7 agree with what Irion said, and I also agree with the
8 general comment about you doing what's right for Oregon,
9 and I think you guys have a unique amount of power in
10 this situation given the desirability for them of things
11 working together well.

12 On this issue and sort of surrounding it,
13 PacifiCorp has presented this entire thing, I think as
14 an either/or choice between just how they would do it at
15 FERC and for the serial study issues, and on like this
16 type of issue. But there is another sort of middle
17 solution available, and because PacifiCorp system is so
18 geographically attached from different areas, like the
19 Utah system, for example, PacifiCorp could actually run
20 an Oregon focused cluster and get the benefits of the
21 cluster and combined study approaches and some Oregon
22 specific implementation differences which might deal
23 with something like this, like allocating costs among
24 customers specifically in Oregon that might facilitate
25 solving some of these problems as it relates to your

1 concern, the interface of kind of the rest of the FERC
2 jurisdictional tariff. Because each of these pockets is
3 separate, there could be just an Oregon cluster.
4 Because in practice, they will be studying all of those
5 as detached for the most part. There may be some
6 asterisks to that, but I think that's an avenue worth
7 exploring.

8 Thank you.

9 MR. SANGER: Chair Decker, I think I have an
10 answer to your question.

11 CHAIR DECKER: Okay.

12 MR. SANGER: But I thought I heard someone else
13 go first.

14 CHAIR DECKER: Go ahead, Mr. Sanger, we'll see
15 if anyone else wishes to respond.

16 MR. SANGER: Okay. So, you have -- you have the
17 right to -- you've already exempted a number of
18 projects, community solar projects, tier three, net
19 metering from having to go through the FERC process.
20 So, for example, on the per capita allocation, all you
21 have to do is say that more state jurisdictional
22 projects above the community solar size, you know, are
23 going to not have their costs allocated, not going to
24 have costs allocated to them from the FERC
25 jurisdictional process. So I think that specific one is

1 an easy fix. You've already exempted a bunch of
2 projects from that, you can exempt a bunch more. You've
3 got complete discretion there. You can go all the way
4 up to 80 megawatts and exempt Oregon QFs from the per
5 capita allocation.

6 On the going from one to ten percent, you can
7 also do that, because there you're just saying that
8 Oregon QFs to ten percent are not going to have to study
9 their -- not going to have to pay those costs. Those
10 costs already could have been paid, under the way
11 PacifiCorp's Queue Reform Proposal works, costs above
12 one percent already were going to be charged to all
13 other customers. So the way in which PacifiCorp's FERC
14 jurisdictional queue reform works right now and how it
15 applies to Oregon, both of those two specific items can
16 be implemented without any changes to the FERC Queue
17 Reform Proposal.

18 MR. ADAMS: Yeah, Chair Decker, this is Greg
19 Adams. I think -- sorry, were you going to ask a
20 followup question?

21 CHAIR DECKER: Go ahead.

22 MR. ADAMS: I don't read the FERC order as
23 conditioning, you know, the FERC approved policy on the
24 assumption that all state jurisdictional
25 interconnections will follow the exact same policy. I

1 mean, the bucket of costs that will get allocated among
2 the FERC generators is controlled by the FERC order, and
3 this Commission clearly has jurisdiction and authority
4 to adopt something different for the state
5 jurisdictional interconnections.

6 CHAIR DECKER: Yeah. I guess I'm confused about
7 whether you folks are saying that you -- we can sort of
8 require that state jurisdictional customers be in the
9 same, you know, sort of a unified cluster process, but
10 be subject to different cost allocation rules within
11 that process, or whether instead that you're saying that
12 we should exempt projects from the requirement to use
13 the cluster process at all.

14 I know, Mr. Sanger, you are saying that
15 specifically for, you know, at least existing projects
16 that aren't increasing their size. So maybe you can
17 clarify your answer on the cost allocation piece.

18 But then also address the question that was
19 raised, you know, earlier today about what -- what --
20 how you see that happening, you know, if -- if there are
21 more projects that don't -- you know, that are falling
22 within a serial process and aren't required to go into
23 that cluster, you know, are they getting bumped to those
24 windows in between clusters necessarily, and how is that
25 better for them?

1 MR. SANGER: Okay, so on the first question,
2 it's my interpretation, and I think Mr. Adams shares
3 this, that you can have state jurisdictional projects
4 participate in the cluster study and have them have
5 different charges, penalties, withdrawal penalties,
6 whatever it is. I think you've got the ability to do
7 that.

8 And on your second question, I agree that having
9 interconnection customers only be studied after the
10 cluster study provides them with only a one time limited
11 opportunity. That's why we're recommending that the
12 Oregon QFs have at least two opportunities. They can
13 choose to participate in the cluster study subject to
14 the changes that we've recommended, or they can choose
15 to be processed under a serial queue approach, which
16 would happen after -- in between the cluster studies.

17 Did that successfully answer your two questions?

18 CHAIR DECKER: I think so. I think the answer
19 is, if you choose -- you agree that if you choose to
20 continue to be processed serially then you would have to
21 wait for those windows -- you know, rather than being
22 processed as part of the cluster, you'd have to wait for
23 that window in between the cluster studies.

24 MR. SANGER: Yeah. So the one -- or processed
25 before for the ones that have their existing

1 obligations. But yes.

2 CHAIR DECKER: Yes, right. Okay.

3 Okay. I'm going to turn -- let's see, how about
4 Commissioner Tawney, do you have any questions for any
5 of the intervenors?

6 COMMISSIONER TAWNEY: Thank you.

7 I want to just followup briefly on what I heard
8 to be Chair Decker's original question. So, I hear you
9 articulating, Mr. Sanger and Mr. Adams, that we have the
10 purview or the right to arrive at a different cost
11 allocation approach for Oregon jurisdiction -- state
12 jurisdiction interconnection, even while they are
13 studied all in a single cluster with FERC jurisdictional
14 requests. But I heard a more fundamental question, if
15 we raise the -- the floor from one percent to ten
16 percent of the cluster, do we run the risk of costs not
17 being covered at all? It does not -- there's no
18 guarantee, so there is a larger Oregon interconnection
19 request in the queue that we could shift those costs to,
20 or in the cluster that we could shift those costs to, is
21 there?

22 What happens to those costs that we've exempted
23 the small -- the smaller projects, the ones that are
24 between two and ten percent of the size of the cluster?
25 What happens to those? Or alternatively, what happens

1 to the per capita costs because we have said they should
2 now be allocated pro rata? We can't allocate them to
3 FERC jurisdictional customers, so what happens to them?

4 MR. SANGER: So, on the question of the increase
5 from one to ten percent, those costs would otherwise
6 have been paid for by all the other customers in the
7 cluster study. So there's -- you allocate them to all
8 the other customers the same way, you're just not
9 allocating as much to the Oregon interconnection
10 customers. So the way I read the Queue Reform Proposal
11 that PacifiCorp has filed, I think that you can
12 interpret it in a way in which those costs are just paid
13 for by all the other customers.

14 If the -- if it's more than ten percent, if
15 there's just two interconnection customers and that
16 interconnection customer is going to pay 50 percent or
17 40 percent on a pro rata basis, then our proposal
18 wouldn't exempt them from anybody. So if you've got a
19 small number of interconnection customers and the Oregon
20 jurisdictional interconnection customer is, you know,
21 causing a lot of costs, then they're going to pay for
22 them either way under our proposal or PacifiCorp's
23 proposal.

24 And under the pro rata versus the per capita
25 approach, I mean, you could have right now a project --

1 you could direct saying, okay, instead of going the
2 cluster study approach, you need to do a serial queue,
3 but study these facilities at the same time. I mean,
4 you could do something slightly different and that way
5 the per capita costs are going to be not charged to the
6 Oregon interconnection customer, because those are the
7 -- those are the station network upgrades. There's a
8 number of different ways in which you can adopt
9 something that will easily get around the problems that
10 you're thinking about.

11 I mean, I think they are very good questions, and
12 the way that you answer them is that you issue an order
13 saying this is what you want, and then the details -- I
14 mean, we can't come up with and figure out all the
15 details at a public meeting on the phone with everybody,
16 and whatever you're going to hear from PacifiCorp or us
17 is not going to be fully -- fully refined. But this is
18 a solvable thing, and if you say that it's important to
19 you, there's ways in which it will be fixed.

20 COMMISSIONER TAWNEY: Thank you for -- thank you
21 for that. I think -- you know, there is -- I'd like to
22 just, before we -- I just want to put a pin in for next
23 week -- I appreciate that description, and we've covered
24 a huge range of issues, as you've pointed out that's
25 complicated.

1 Before our -- given that we have a short time, I
2 want to put a pin in when we come to this tomorrow, I'd
3 really like PAC to respond to OSEIA's worries about the
4 constant restudies and how the spiral of dropping out
5 and restudying sort of intersects with the prospective
6 cluster. So, I'll just put a pin in that for tomorrow,
7 and otherwise I think hand it back to the Chair for more
8 questions to other intervenors.

9 CHAIR DECKER: Thanks, Commissioner Tawney.
10 I'll actually -- I think Commissioner Thompson needs a
11 chance to ask some questions here.

12 COMMISSIONER THOMPSON: Yeah, thank you. Just a
13 couple of questions, I think.

14 So, Mr. Sanger, if you don't know the answer to
15 it, it's fine, we can probably hear it from PacifiCorp,
16 but you've made the arguments that if we adopted this
17 queue reform it would really mess with the ability that
18 QFs currently have to enter into PPAs and get them
19 signed. And I think one aspect of that that you've
20 raised is that they would require a cluster system
21 impact study to have been completed prior to allowing
22 someone to enter into a PPA.

23 I want to just understand and kinda contrast that
24 with the current approach that they used. Do you -- at
25 what -- what do you understand PacifiCorp's current

1 practice to be with respect to how far along in the
2 interconnection process does somebody need to be before
3 they can sign a PPA today under PURPA?

4 MR. SANGER: Yeah, thanks for the question. So
5 there's two answers to that. One answer is what is the
6 interpretation of the Commission's rules and policies
7 and approved rate schedules, and I think that you'll
8 hear that there is disagreement about that.

9 The QF parties believe that the current policies
10 are that you can enter into a contract at any time, that
11 you don't need any interconnection study. We think it's
12 generally a good idea for somebody to start the
13 interconnection process, but we think the current rules
14 -- and if you read their Schedule 37, it basically says
15 that you need to provide an update about the status of
16 interconnections, you don't have to get an
17 interconnection study complete. But I know that
18 PacifiCorp will disagree with that characterization, so
19 I just want to highlight that.

20 There's what PacifiCorp does and what -- oh,
21 sorry.

22 COMMISSIONER THOMPSON: Just a quick followup on
23 that. If you're guessing that PacifiCorp's position, or
24 maybe you know it, would they argue that you have to
25 have a feasibility study or a system impact study or a

1 facility study --

2 MR. SANGER: Yeah --

3 COMMISSIONER THOMPSON: -- *(inaudible)* process?

4 MR. SANGER: Yeah, what PacifiCorp does, is they
5 require you to provide a system impact study and show
6 that you can come online within three years of the date
7 you sign your contract. So if you -- if you can get a
8 system impact study and give that to PacifiCorp and it
9 says that your COD is within three years, then
10 PacifiCorp will sign a contract. If you can't get a
11 system impact study or the system impact study comes
12 back saying you can't get online after three years, then
13 they won't sign the contract. And nobody has litigated
14 that issue before -- before the Commission about whether
15 or not PacifiCorp's practices are consistent with your
16 policies.

17 COMMISSIONER THOMPSON: Okay. Thank you.

18 MR. ADAMS: Yeah, this is -- this is Greg Adams,
19 too. I think I might be able -- I'm recalling asking
20 this question myself, Commissioner Thompson, during one
21 of the workshops of PacifiCorp, when we had PacifiCorp's
22 PURPA contract administrator on the phone, and he stated
23 under the new process, PacifiCorp would not consider the
24 informational study to be sufficient to get your PPA.

25 So, and this feeds into some of our concerns and,

1 you know, the impacts on, you know, developers like we
2 heard today from Mr. Stephens. You know, you've got a
3 real timing problem if they're going to not even start
4 talking to you about a PPA or execute a PPA until after
5 you get out of the cluster, you're really compressed in
6 like a 30 day period of time to get all of that done.

7 And, you know, the FERC's been pretty clear, too,
8 that like Mr. Sanger mentioned in his comments that this
9 is -- this is not a lawful precondition to getting a PPA
10 under PURPA.

11 MR. STEPHENS: And I can clarify that based on
12 recent contracting processes and PPA requests in front
13 of PacifiCorp, that they will not move forward unless
14 you have a facility study completed. And so
15 functionally, that has been a backdrop for years that
16 because studies aren't being done, you can't get a PPA,
17 and the concern is that we would transition while
18 reforming and fixing this solution into a new situation
19 in which there are similar protracted if not indefinite,
20 especially if there's dysfunctional aspects like a -- I
21 appreciate Commissioner Tawney's comment about
22 discussing further Angela's comments, you know, that
23 process, but if we end up in a dysfunctional iterative
24 study process there that goes on and on, ultimately this
25 is putting the discretion back to the utility and all

1 the issues Irion identified sort of get compounded and
2 delayed. But in short, right now you can't get a PPA
3 without a facility study.

4 COMMISSIONER THOMPSON: Okay. And then for Mr.
5 Sanger, the followup question I have is, is your
6 proposal that QFs would be able to enter into a PPA at
7 any time or that that window would open after the
8 informational interconnection report under the new
9 process?

10 MR. SANGER: Our proposal was that a QF could
11 enter into a PPA at any time. I think that you have
12 discretion -- well, I think you have the discretion to
13 require a QF to have made a interconnection study
14 application, I don't think you have the discretion to
15 say that they need to get the results of that. But our
16 proposal is they should be able to enter into a contract
17 at any time, but I do think it's lawful for you to
18 require them to at least submit an interconnection --
19 the initial interconnection study.

20 MR. STEPHENS: Commissioner Thompson, I would
21 like to highlight that there's a couple aspects of this.
22 There's the process of contracting and moving forward
23 with PPA, drafting and so forth, and then there's the
24 final execution of the document. And PacifiCorp
25 strongly limits, and maybe with the same as that

1 condition, not being willing to move forward, even with
2 the drafting of the PPAs. So the compounding effect of
3 all of this, if you can't move forward until you have a
4 study is, they won't even begin drafting so you can
5 actually understand that if multiple requests were
6 overlapped on that, you know, you're delaying all of
7 that and then stacking multiple QFs contracting process
8 on top of each other, when functionally there's no
9 reason they couldn't be moving forward, especially for a
10 standard contract which is fill-in the blank, to get to
11 some conclusion, you know, in the meantime anyways, much
12 less whether it should be conditioned at all on the
13 completion of the studies.

14 And as was explained earlier, you know, that is a
15 long process, it already has all sorts of hiccups and
16 speed bumps along the road, but fully delaying it just
17 unnecessarily, it complicates and undermines the entire
18 obligation and the ability to get to a contract, much
19 less know your prices and make other investment
20 decisions in the meantime.

21 Thank you.

22 COMMISSIONER THOMPSON: And one more followup, I
23 guess, for Mr. Sanger, is a question about that you
24 already have -- I know that there's a dispute around the
25 rights of the QFs and PacifiCorp's practice, is that

1 being litigated right now before the Commission? And if
2 so, where is that?

3 MR. SANGER: That is not being litigated before
4 the Commission as far as I'm aware of.

5 COMMISSIONER THOMPSON: Okay. Thanks.

6 MR. SANGER: Although, actually -- sorry -- I
7 think that issue was going to come up in the AR 631
8 process on QF contract forms, and I think that it's
9 possible, I don't know for certain, but Ms. Andrus
10 stated at some point that that might be one of the
11 issues in which she prepares contract language on. So
12 it's possible that it might be adjudicated there in the
13 future.

14 COMMISSIONER THOMPSON: Okay. Thank you.

15 MS. ANDRUS: This is Stephanie Andrus, that's
16 correct.

17 COMMISSIONER THOMPSON: Yeah. Okay. Thanks,
18 Ms. Andrus.

19 So, switching gears just to my second question,
20 again for Mr. Sanger, I think kind of a high level
21 question, but you've -- I heard you again assert that
22 there's a lot of unanswered questions with respect to
23 how queue reform would work, and then I think there's
24 also some areas where, you know, maybe your clients
25 don't like the answers that are there, so there's areas

1 where you'd want to dispute what's being proposed, but
2 there's also areas where you think the answer's not
3 clear, and you've proposed that we run a concurrent
4 process or, you know, that we immediately open another
5 process to look at queue reform even if we do, in fact,
6 approve PacifiCorp's filing on some basis. And my
7 question for you generally is, would that process be
8 focused on answering unanswered questions, or would it
9 be focused more on revisiting things that were decided
10 in queue reform but you think that the Commission
11 potentially got wrong, or is it a combination of both?
12 Can you give us a little bit of guidance in terms of
13 what you would expect that to look like?

14 MR. SANGER: Yeah. Thank you.

15 First of all, you're going to have an
16 interconnection investigation, we don't know how broad
17 it's going to be in UM 2111, and, you know, that's one
18 way in which you could deal with these issues. It may
19 be that that interconnection investigation only applies
20 to PGE and Idaho Power if PacifiCorp is allowed to go in
21 its own way.

22 But to specifically answer the question, our
23 recommendation is that you leave it open, that there
24 really hasn't been enough time for you, the
25 Commissioners, in my mind, to resolve some of these

1 issues on a permanent basis. You know, you're -- so my
2 answer would be both clarifications as well as either
3 party, PacifiCorp or the interconnection customers,
4 revisiting decisions that were made on this very paltry
5 record. I mean, you may feel like you need to issue an
6 order right now because of external pressures, and you
7 don't have enough information on certain issues, don't
8 let that preclude you from getting a good answer down
9 the road if you don't adopt somebody's recommendation.

10 COMMISSIONER THOMPSON: Thanks.

11 Chair Decker, those are the questions that I had
12 for right now.

13 CHAIR DECKER: Great. Okay.

14 I think the only thing I was going to follow up
15 on was to try to start segregating out between the, you
16 know, things that we -- I guess as we take -- if a
17 Commissioner is taking the perspective that they're sort
18 of unwilling to sort of prejudice the overall transition
19 with a delay, are there nevertheless some issues that
20 you've raised that really don't demand action, you know,
21 on a kind of this week timeline.

22 The questions that, you know, surround kinda the
23 PURPA interactions strike me as ones that we can
24 continue to work on as you've just discussed with
25 Commissioner Thompson.

1 The one that -- you know, I think there are a
2 number of things that we may want to start tomorrow
3 afternoon by kind of going back to PacifiCorp on. But
4 one of them kind of relates to this dialog around filing
5 something that puts the practices that are being
6 proposed kind of in writing with more clarity. You
7 know, I recognize that that would be helpful for
8 projects to have before the, you know, I guess,
9 September 15th, if we adopt Staff's recommendation, you
10 know, notice to enter the cluster study. And I guess I
11 want to get a sense from PacifiCorp on how close it
12 could be to that kind of clear, you know, repository, I
13 guess, of information that interconnection projects
14 could go to following this -- following our decision
15 this week.

16 If you're not prepared to respond to that right
17 now, PacifiCorp, we can start there tomorrow afternoon.

18 MR. LOWNEY: Chair Decker, this is Adam Lowney, I
19 do think I'll need to confer with my client about that
20 request.

21 CHAIR DECKER: Yes.

22 MR. LOWNEY: What I would just offer is, you
23 know, what we have identified in our pleadings are now,
24 you know, the exact provisions, they're fairly limited,
25 a small universe of small generator interconnection

1 rules that are -- are subject to the waiver request.
2 We've also specifically identified what study process
3 will replace those, both in our application and in the
4 reply comments. You know it will be the article seven
5 of the revised QF LGIP which outlines the cluster study
6 process.

7 So, I think in terms of just sort of logistics,
8 I'm not sure that it's a terribly complicated exercise,
9 frankly, to put together all of the material in a single
10 place, but with the additional materials that Staff
11 requested I should note as well. But I will need to
12 confer with my client just to find out exactly sort of
13 what that might look like.

14 CHAIR DECKER: Okay. With that, I think we're
15 going to close for today.

16 And I guess my intention, when we reconvene at
17 1:30 tomorrow, is to give the Commissioners a chance to
18 reflect on what we've heard today and through all the
19 comments give some overall perspective on how they want
20 to proceed in this matter. And then, I guess, work
21 through a list of the kind of additional proposals for
22 modification that parties have raised and, you know,
23 kind of have some back and forth with parties, with the
24 company, and come to some decisions on those.

25 So, with that, I will ask whether there's

1 anything else to come before the Commission today before
2 we adjourn our -- or, I guess -- oh, boy, I don't know
3 if I'm technically adjourning our public meeting or --
4 Nolan, you want to help me out here?

5 CHIEF ALJ MOSER: Yeah. I believe we're -- the
6 public meeting tomorrow has been noticed as an
7 additional separate public meeting. So, we're closing
8 this meeting and then we'll have a new public meeting
9 tomorrow.

10 CHAIR DECKER: Okay. Thanks.

11 Well, anyway, anything to come before the
12 Commission before we adjourn this public meeting?

13 *(No audible response)*

14 CHAIR DECKER: Okay. Thanks, folks, and we'll
15 re-engage on this tomorrow.

16 MR. SANGER: Thank you.

17 MS. CROWLEY-KOCH: Thank you.

18 MR. LOWNY: Thanks.

19 **(End of Meeting)**

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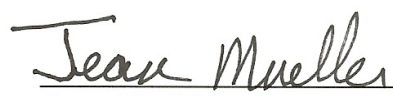
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STATE OF OREGON)
) ss.
COUNTY OF Linn)

I, Jean Mueller, a Court Transcriber for the State of Oregon, do hereby certify that I transcribed the audio proceedings had upon the meeting previously captioned herein; that I thereafter had reduced by typewriting the foregoing transcript; and that the foregoing transcript constitutes a full, true, and accurate record of the proceedings had upon the meeting, and of the whole thereof.

Dated: September 22, 2020.



Jean Mueller
Court Transcriber
541-259-1139

**Interconnection Customer Coalition's Application for
Rehearing or Reconsideration of Order No. 20-268**

Attachment B

Transcript of August 12, 2020 Public Meeting

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 2108

In the Matter of
PACIFICORP, dba PACIFIC POWER,
Application for an Order Approving Queue
Reform Proposal.

**TRANSCRIPT
OF
AUGUST 12, 2020
PUBLIC MEETING**

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1 CHAIR DECKER: Good afternoon, everyone. This
2 is Megan Decker, Chair of the Oregon Public Utility
3 Commission, and we're here for a special public meeting
4 of the Commission to continue our discussion of UM 2108
5 from yesterday's regular public meeting.

6 Commissioner Tawney, are you on the line with us?

7 COMMISSIONER TAWNEY: Good afternoon. I am
8 here.

9 CHAIR DECKER: And Commissioner Thompson?

10 COMMISSIONER THOMPSON: Yes, I'm here.

11 CHAIR DECKER: I believe filling in for Jason
12 Jones today as Commission counsel is Johanna
13 Riemenschneider, is that correct?

14 MS. RIEMENSCHNEIDER: Yes, it is. Good
15 afternoon.

16 CHAIR DECKER: Thank you. And then Chief
17 Administrative Law Judge, Nolan Moser.

18 CHIEF ALJ MOSER: Yes, I'm on the line. Thank
19 you.

20 CHAIR DECKER: Great.

21 I presume that we have largely the same group
22 that we had yesterday on the line. I'm going to read
23 through that list, but just for a sake of completeness,
24 if there is anyone who is new to the conversation today,
25 you can pipe up and let me know when I'm done.

1 So, for PacifiCorp, we had Adam Lowney, Karen
2 Kruse, and then also on my list was Rick Vail and Kris
3 Bremer.

4 We had Irion Sanger on behalf of REC and NIPPC.
5 We have John Lowe.

6 Ken Kaufmann, who probably isn't with us today,
7 Greg Adams.

8 Jake Stephens and Marie Barlow for NewSun Energy.

9 Is there anyone -- oh, it looks like Ken is here.
10 Is there anyone who is on the line today who I didn't
11 read?

12 MS. CROWLEY-KOCH: I didn't hear my name. This
13 is Angela Crowley-Koch with OSEIA.

14 CHAIR DECKER: Oh, yeah, sorry, I forgot you
15 Angela. I actually don't have yesterday's list, so that
16 was from -- from memory.

17 Anyone else?

18 *(No audible response)*

19 CHAIR DECKER: Okay.

20 So, I want to take a minute and talk through what
21 we'll do here today to get to some resolution.

22 The first thing that I think we'll do is -- do is
23 circle around on some things that we left open or put a
24 pin in for public comment today. A few of those are
25 things that we asked PacifiCorp to be prepared to

1 address, but if Commissioners have, you know, other
2 things that they just want to start today by hearing
3 from parties on, I'll provide a moment for you to add
4 those here in a minute.

5 When we finish with that, we'll take some high
6 level perspectives from each of the Commissioners, and
7 I'll start with that, and as part of that, we'll, I
8 guess, lay out some priorities and a proposed set of
9 things that we'll go into detailed discussion of today,
10 and Commissioners can, you know, react to that and we'll
11 kind of set our agenda for detailed discussion that way.

12 Then, having kind of set that agenda, we'll sort
13 of begin working through details on issues that we
14 decided to talk about, and that will likely include
15 soliciting some additional information and feedback from
16 Staff, the company, intervenors, as we work through
17 things.

18 So, Commissioners, I guess I'll stop there and
19 see if that sounds like a reasonable approach, and then
20 I'll kind of move on to proposing, you know, sort of who
21 we should hear from in that first step.

22 Commissioner Tawney and then Commissioner
23 Thompson, anything you want to add to that kind of broad
24 agenda?

25 COMMISSIONER TAWNEY: No, I think that will work

1 well.

2 COMMISSIONER THOMPSON: Yeah, same here, I like
3 that approach. Thank you.

4 CHAIR DECKER: Okay. So, the things that I at
5 least had in mind to start with, in terms of hearing
6 from parties, are generally for PacifiCorp. I -- you
7 know, we sort of posed a question about the timeline for
8 providing written summary -- written form -- these
9 procedures -- new procedures in written form and whether
10 that could be done in time to inform the September 15th
11 proposed deadline for notifying of the intent to
12 participate in a cluster study.

13 The second thing I remember Commissioner Tawney
14 asking for yesterday was for PAC to address the issue
15 raised about sort of what steps they were thinking about
16 -- and you can correct me, Commissioner Tawney if I get
17 this wrong -- but what steps they were thinking about to
18 avoid sort of a cluster study, restudy, you know,
19 endless loop situation.

20 The third thing that I thought there was maybe a
21 little confusion about yesterday that I was hoping we
22 could clarify PacifiCorp's perspective on before moving
23 forward is how existing generators who aren't, you know,
24 materially changing their size or characteristics, would
25 -- whether those would be caught up in the cluster

1 transition or potentially exempted as the QF parties
2 have proposed. Those were the three kind of narrow
3 things that were on my mind to get some clarity on
4 before we go into our discussion.

5 Commissioners, was there anything else that you
6 wanted to add to that?

7 COMMISSIONER TAWNEY: Could I -- this is
8 Commissioner Tawney. As I was thinking overnight about
9 the issues and digesting what we heard, I -- Ms.
10 Crowley-Koch raised, on behalf of OSEIA, this issue of
11 sort of the cluster death-spiral of just restudy,
12 restudy, restudy, and the more I thought about the
13 larger cluster construct and RFP, when PAC is -- when
14 the company's addressing that issue of how do you just
15 avoid endless restudies where the costs get ever larger
16 on the remaining parties, help me understand how we
17 don't get to the end of the short list and -- of the RFP
18 and have three-fourths of -- anybody who didn't win in
19 the short list, pull out and drive a whole range of
20 restudies? Because the more I sort of thought about
21 that, the more wrapped around the axle I sort of got.
22 And I'm sure you've thought that through and I look
23 forward to understanding that.

24 So it broadens out the question from OSEIA a
25 little bit, but would really help orient me.

1 MS. KRUSE: This is Karen Kruse, maybe Adam,
2 I'll take a swing at it.

3 CHAIR DECKER: Sorry --

4 MS. KRUSE: Oh, I'm sorry.

5 CHAIR DECKER: Before you go, I just want to see
6 if Commissioner Thompson had anything to add to the list
7 of things that we're hoping get addressed initially, and
8 that can be for PacifiCorp or any other party.

9 Commissioner Thompson.

10 MS. KRUSE: Oh, I'm so sorry.

11 CHAIR DECKER: That's all right, no problem.

12 COMMISSIONER THOMPSON: Yeah, no problem.

13 I just want to add maybe one small thing, was
14 towards the end of the day we discussed the question
15 about what level of interconnection study has to be
16 achieved before a QF can enter into a PPA with
17 PacifiCorp, and I heard Mr. Sanger's view on that, and
18 then I think I heard Mr. Stephens offer a slightly
19 different view, and I wonder if the company could just
20 address their point of view on that question as well.

21 But other than that, your list sounds good, Chair
22 Decker.

23 CHAIR DECKER: Okay. Now, go ahead,
24 PacifiCorp, I think there's four things for you to
25 address there.

1 MS. KRUSE: Okay. Adam, I -- it's hard when we
2 aren't in the same room.

3 So, maybe I will take the one related to the RFP
4 first, since that's the one I so rudely interrupted on.
5 I guess for that question I would invite Rick Vail to
6 weigh in with any additional thoughts, but the way I see
7 restudy risk in general, stepping back from the RFP and
8 just looking at restudy risk in general, is that there
9 is no interconnection process that a transmission
10 provider can put in place that would ever eliminate the
11 risk of restudies entirely.

12 And so, the serial process or a cluster study
13 process is always going to have -- in fact, those two
14 processes, in my opinion, without any kind of additional
15 metrics or gating items that test the seriousness of a
16 project's viability before it enters into the process
17 are, I would say, almost equal as far as restudy risk.
18 And maybe Rick or other experts will weigh in and
19 disagree with me on that.

20 But as a baseline starting point, I would say it
21 doesn't really matter if it's serial or cluster. If
22 you've got projects in there for whatever reason that
23 really aren't ready and they are at a different level of
24 viability than other projects, then you've got a risk of
25 withdrawal. And if you've got a risk of withdrawal,

1 than you've got a risk of restudy.

2 And so I think the key to how PacifiCorp
3 transmissions -- transmission function has structured
4 this process to mitigate the risk of restudy is really
5 the commercial readiness metrics that, as everyone
6 knows, we are not applying to state jurisdictional
7 interconnection requests, we are only applying to FERC
8 jurisdictional and we are only applying to large FERC
9 jurisdictional, because they were, by and large, the
10 problem, so to speak, in our queue. And so I would say
11 as a baseline that's -- that's a really good step
12 forward.

13 At the second level of kind of gating or
14 mitigation for risk of restudy is some of the financial
15 elements that we are applying to other -- to the other
16 aspects of the proposal. Now these are both FERC large
17 and QF large, or state jurisdictional large and those --

18 *AUTOMATED OPERATOR: Conference recording has*
19 *stopped.*

20 MS. KRUSE: Should I keep going?

21 CHAIR DECKER: Yes, you may continue.

22 MS. KRUSE: Okay. Those fall into more of the
23 financial category and those are deposits or withdrawal
24 penalties or a security requirement, and those will also
25 help both streamline what the requirements are across

1 the board, and also reduce that risk ideally of
2 restudies. It just can't mitigate it completely no
3 matter what we do. And then I would say that's
4 (*inaudible*) kind of high level, and I don't know if
5 that's kind of helpful for thinking about the framework.

6 With respect to the RFP in particular, you know,
7 the structure of how they are going to designate who
8 goes on an initial short list and then refine that list
9 later, does it present certain restudy risks?
10 Absolutely. If someone loses their commercial readiness
11 designation because they were depending on a short list
12 spot and that is removed, yes, that could cause a
13 restudy, but so could any third party that comes in
14 using one of our commercial ready -- FERC jurisdictional
15 commercial readiness requirements and loses that
16 designation. It could be that the term sheet can't be
17 elevated to another level by the requisite time in the
18 process, or maybe they can't produce some other, you
19 know, one of the other forms that are not applicable to
20 large state jurisdictional interconnection.

21 But that restudy risk is ideally mitigated
22 because we aren't just starting with everyone who,
23 regardless of whether they can produce something, let's
24 say preliminary as a term sheet or not, gets into
25 whether it's the queue that's processed serially or the

1 new kind of (*inaudible*) the queue because it's a little
2 different, but the group -- the cluster, and then we've
3 got that higher risk.

4 So, I guess what I'm trying to emphasize on that
5 RFP focused area is that that's really not part of the
6 proposal here, so that's a different, you know, business
7 unit all together. But also that whether or not, you
8 know, regardless of how they structure it or a third
9 party's -- it's the -- the new process we're proposing
10 is designed to try to weed out someone who can't even
11 offer something as kind of preliminary as a term sheet
12 to get in.

13 And Adam, Rick, please --

14 COMMISSIONER TAWNEY: So --

15 MS. KRUSE: Go ahead.

16 COMMISSIONER TAWNEY: Yeah, go ahead and add and
17 then I'd like to reflect that to make sure I've got it.

18 MR. VAIL: Okay. This is Rick.

19 Just really quick, I mean, what I was -- kinda
20 wanted to talk about is just the restudy risk, whether
21 you're in the cluster study or in the serial queue
22 world. You know, in the serial queue world, we have
23 quite a bit of experience where some of the higher
24 priority queued projects will have, I'll say a fairly
25 large network upgrade associated with their

1 interconnection. And they will continue through the,
2 you know, through the process and sometimes even go into
3 suspend mode for significant periods of time. And then
4 when they come out or they drop out of the queue, you
5 know, at least in the cluster study area we'll have a
6 study file already set up with all these generators in
7 it. In the serial queue world, when that withdrawal
8 happens, it triggers a number of additional restudies
9 and we have, you know, experienced that quite a bit
10 where one withdraw could generate six or seven
11 restudies. Those network upgrades slide down to the
12 next in line and it really is one of the aspects that,
13 you know, can clog up the serial queue. So I would
14 just, from my experience, the restudy risk is very
15 similar whether it's serial or cluster.

16 And one good thing about the cluster is, the
17 readiness criteria in particular for the large FERC
18 jurisdictional requests, is, you know, one big key to
19 that in helping kind of unclog what I would say has
20 been, you know, a concern for PacifiCorp's queue for a
21 while.

22 So, I'll let Adam weigh in anything additional.

23 MR. LOWNEY: Yep, thank you. And, you know, the
24 only comment I would add is sort of the flipside of this
25 and that is, you know, you've heard a lot of

1 recommendations from other parties to eliminate or
2 reduce the withdrawal penalties or the financial
3 security requirements, or allow projects into the
4 cluster study with a weaker demonstration of site
5 control, or allowing customers to change their point of
6 interconnection, or having multiple points of
7 interconnection, or allowing customers to downsize their
8 facility after a cluster study. And I would just
9 observe that all of those recommendations, if adopted,
10 would materially increase the likelihood of restudies.
11 Effectively, they're undoing all of the protection that
12 we have tried to build into the cluster study process
13 in order to minimize and mitigate the risk of
14 restudies.

15 So, as you -- as you weigh that risk of restudy,
16 which again, is a very real risk and, frankly, can never
17 be eliminated all together, it's important to balance
18 that risk with the protections that are included in the
19 proposal designed to mitigate that risk.

20 COMMISSIONER TAWNEY: So as I -- I think about
21 the comments that OSEIA raised and the sort of risk of
22 the next -- the cluster continually downsizing, what I
23 think I hear you saying is, because of the readiness
24 requirements, there will come a step where there's
25 either somebody left with the viability to carry the

1 project -- to carry the -- sort of carry the cluster
2 forward, or sort of everyone will leave and that upgrade
3 will not get done in the next round. Folks may apply
4 again, but they may not because they know that an
5 upgrade is required there. But what I'm hearing is, I
6 think, because of the readiness requirements you're
7 putting in at the FERC level for the FERC large
8 jurisdictional, the hope is, there's sort of a viable
9 large scale project that can shoulder that upgrade, and
10 if not, then the cluster sort of collapses through this
11 round and we're sort of done and we move on to the next
12 cluster study next year.

13 MS. KRUSE: This is Karen. I think that that is
14 an accurate description, yes.

15 COMMISSIONER TAWNEY: Okay, thank you. I
16 appreciate that.

17 CHAIR DECKER: Okay, so can you folks address
18 the, you know, any conversation we had about the
19 production of the written summary, clarify the rules for
20 existing generators, and then just provide the
21 company's view of level of interconnection needed to get
22 a PPA?

23 MR. LOWNY: Yes, Chair Decker, this is Adam
24 Lowney. I'm happy to walk through those.

25 I also would appreciate the opportunity just to

1 clarify some things. There were some -- some less than
2 clear statements made yesterday about what's being
3 proposed, and some of those misconceptions have carried
4 forward, for example, into the document that NewSun
5 filed a couple of hours ago. So, at some point, I'd
6 just like to --

7 CHAIR DECKER: Yeah, I'm sorry, Adam, I think
8 that that might be possible. I just would like to get
9 to kind of an agenda setting on which issues we're
10 planning to talk about today. We'll certainly let
11 people, you know, clarify things as we get into those
12 issues, but I want to keep the opening remarks as brief
13 as possible here.

14 MR. LOWNY: Okay, understood.

15 So turning to that first question on producing
16 the written summary for small generators, I would say
17 that I think we can produce that in -- by the -- I think
18 you had mentioned the September 15th deadline. I think
19 that's probably doable. I would note that as you can
20 see in the redline that we provided for the small
21 generator rules, there's fairly relatively few rules
22 that got -- that would need to be waived in order to
23 allow the Queue Reform Proposal to move forward. And
24 those terms that do get waived are basically replaced by
25 the cluster study provision article in the draft, QF

1 LGIP. So it's really just a matter of sort of moving
2 that QF LGIP language into that rule, and the rest of
3 the rule are basically unaffected.

4 So, I don't think that that's a large hurdle or a
5 huge timing constraint.

6 On the next question on existing generators, so
7 there is some confusion, and I think Staff sort of
8 flagged in their public meeting memo that some of that
9 confusion stems from the rules themselves, which are not
10 crystal clear on the small generator side anyway.

11 So what happens with an existing generator, and
12 we'll just assume this is an existing generator that is
13 not changing its size, so it's staying the same, it's
14 just come to the end of its interconnection agreement
15 term and it needs a replacement interconnection
16 agreement. Those types of generators are not studied in
17 the cluster study, just as today they're not studied in
18 the serial queue. So in other words, if you were an
19 existing customer today, you do not submit a new
20 interconnection request and go to the back of the line
21 and get studied behind everybody else that's already in
22 the queue. And in the cluster study framework, you
23 would not have to submit your existing generator into
24 that cluster study and get studied as if you were a new
25 interconnection customer. That's not to say that we

1 don't study those customers, however, and as provided by
2 in the Administrative Rules for small generators, we
3 will update the requirements for a generator to the
4 extent there's been code changes, for example. You
5 know, for some projects that came online 20 or more
6 years ago, there are different standards and
7 requirements today than there were then.

8 And so when we -- when we say we studied an
9 existing generator, what is meant by that is, we examine
10 that generator and essentially bring them up to code
11 based on whatever's required by today's standards. So
12 it's -- we, at times, use the word "study"
13 interchangeably, but it's a different kind of study. So
14 hopefully that clarifies it.

15 And we're happy to provide, as Staff recommended,
16 a little more language describing exactly what happens,
17 but the company's approach is really consistent with the
18 small generator interconnection rule. But specifically
19 note that if your expiring agreement needs to be
20 replaced, you can be brought up to code, and then if you
21 have incremental generation, for example, because you're
22 building out your project, that incremental generation
23 will get restudied in a different way consistent with a
24 new interconnection request.

25 Turning to the question from Commissioner

1 Thompson on the level of study required to get a PPA,
2 and I heard two things yesterday, I heard one party --
3 and I can't recall who say PacifiCorp requires a
4 facility study, I heard someone else say they require a
5 system impact study. And my understanding is that the
6 PacifiCorp, the PPA side that negotiates and finalizes
7 those PPAs, typically looks to receive at least a system
8 impact study that can verify the COD that the particular
9 project is requesting for purposes of their PPA. So the
10 company does not require or insist upon a facility
11 study, although certainly if a project had that, that
12 would be sufficient in order to verify the COD that's
13 requested in the PPA.

14 And I'm happy to answer follow-ups to the extent
15 I didn't answer the questions or my answers raised new
16 questions.

17 CHAIR DECKER: Yeah, I think we'll have to have
18 some followup on the sort of the written summary and
19 what that looks like, but it's good enough for now.

20 Commissioner Thompson, did you want to follow up
21 on the question that you asked at all?

22 COMMISSIONER THOMPSON: No, that was helpful,
23 thanks.

24 CHAIR DECKER: Okay. You know, I recognize that
25 a lot of people have a lot of things to say about this

1 matter and I -- you know, before we have too much more
2 sort of conversation sort of clarifying things back and
3 forth, as I said, I think it will be helpful to hear
4 some high level, you know, perspectives from
5 Commissioners that can help us kind of set an agenda and
6 then order of issues for discussion and, you know,
7 potential even, sort of going down our list of issues
8 for discussion or for a detailed discussion today.

9 I'll start that by first, as I started yesterday,
10 you know, recognizing that Staff and Staff counsel, you
11 know, have, you know, albeit on an accelerated timeline,
12 you know, worked through these issues and really, you
13 know, given considerable thought to the -- sort of the
14 balance that we should try to achieve here, you know,
15 and I think made some meaningful recommendations that go
16 to some of the concerns that parties have raised and,
17 you know, certainly don't accept all of them, but I
18 guess I start from the premise that I saw that review,
19 it was pretty thoughtful, and I continue to, you know,
20 be informed by how Staff, you know, has just struck that
21 balance in their report.

22 You know, as I -- as I sort of think through the
23 issues that has, you know, come up, that would go kind
24 of beyond where the Staff report is, you know, I -- I
25 think about a few things and sort of prioritizing in my

1 mind where it's useful or necessary for the Commission
2 to sort of dig in and potentially, you know, consider a
3 different result. You know, obviously, there's a factor
4 around, you know, whether Commissioners are persuaded
5 that the approach that has been, I guess, approved at
6 FERC and brought to the stage in PacifiCorp's proposal
7 is, you know, unworkable or unfair for, you know, state
8 jurisdictional interconnectors in general.

9 The second -- you know, the second thing that,
10 frankly, I'm thinking about is the amount of disruption
11 that, you know, changing something for FERC
12 jurisdictional customers would cause to the sort of
13 unified cluster, you know, process which, you know, we
14 have some reason to want to go well, I guess, you know,
15 per the conversation earlier this morning, and in
16 relation to sort of the RFP and, you know, sort of the
17 improvement in the ongoing interconnection context for
18 small generators. You know, I certainly recognize that
19 an appeal for further process in the FERC case could
20 change that, but I'm sort of arriving at this taking
21 sort of the FERC approved process like as a given and
22 calibrating how much I want to get into something
23 different according to how disruptive I perceive that
24 would be to the FERC approved process proceeding
25 successfully.

1 I guess I could say more about that, but I think
2 it, you know, goes from, you know, what will, you know,
3 minimize the -- what will support that readiness and
4 minimize the risk of restudies, but even more important,
5 sort of are there things that will sort of really make
6 it hard to manage that process. Those are things I'm
7 less likely to want to make a different decision on
8 here.

9 And then the third thing that I'm thinking about
10 as I look at all these different issues is, you know,
11 are there some that -- are there some of these issues
12 that are really important for us to figure out all the
13 way to the end here today on this timeline, or are there
14 some that, you know, we have some other processes in
15 place to continue to evaluate these issues. And, you
16 know, as an example there, I think some of the PURPA
17 issues that are expected by this change would be an
18 example of something that falls in that category
19 potentially, you know, in my way of thinking about it.

20 So, I guess thinking about those factors and
21 through what we talk about, you know, there's kinda one
22 other -- one other thing that I -- one other priority I
23 guess I wanted to express, and that's being like as
24 clear and careful as we can supporting projects that,
25 you know, may be caught in the middle here in this

1 transition, and making sure that they, you know,
2 understand their options and the tradeoffs.

3 So, I guess what I'm going to do at this point,
4 having said all that, is just offer, I guess, my
5 colleagues an order of things that we could, you know,
6 talk through. And they go a little bit in order of what
7 I think is something that, you know -- you know, I think
8 we need to take action on now, and would be something
9 that would help without, you know, really significantly
10 disrupting kind of the FERC process.

11 So, the first thing that I want to get some
12 clarity on is what we're requiring in terms of written
13 procedures to not just replace the waived rule, but to
14 really give small state jurisdictional generators a
15 place to go to understand how this is going to work. So
16 that's the first issue.

17 You know, the second issue is, you know, that's
18 relatively low hanging fruit at some level is to, you
19 know, make clear that we find this issue of the power
20 flow studies, you know, interesting and worth pursuing
21 in the interconnection docket, but you know, not
22 something -- you know, and something that we would order
23 to happen, but not something that would necessarily, at
24 this point, be able to kinda undermine the whole setup
25 that FERC has approved, you know, something we need to

1 continue to learn about. I don't think there's much
2 discussion there, I just wanted to throw that out
3 there.

4 The third thing is, I think, you know, something
5 that would be not overly disruptive would be talking
6 about a different sort of cutoff date for eligibility
7 for the transition cluster. I think I really hear
8 PacifiCorp saying that, you know -- that, you know, that
9 falls in the category of things that probably increase
10 the risk of, you know, restudy or projects that are less
11 ready being part of the transition cluster. But anyway,
12 I think that might be, you know, sort of less disruptive
13 than some other things.

14 But the fourth thing that I guess, you know, I'm
15 interested in understanding better is, you know, there
16 seems to be a really strong push for sort of ongoing
17 retention of a serial queue option in the state
18 interconnection landscape, and I don't -- I don't -- I
19 don't under -- you know, I don't understand sitting here
20 today, sort of how that quite works and sort of what the
21 timing, you know, rules would be for fitting in between
22 the clusters and things like that. You know, I think --
23 I also don't quite understand -- and maybe it's because
24 of the uncertainty about how it works, you know, why
25 it's seen as so beneficial. But I guess on that one, I

1 don't know that that's something that we couldn't, you
2 know, go back to after the transition and if the, you
3 know, cluster process is, you know, it turns out to be
4 less favorable for everyone than Staff thinks it would
5 be, I guess I'm raising that as an issue just because I
6 think we do need to decide, you know, whether that is
7 going to be an option at this point, and I'm raising the
8 possibility that we can decide, you know, no, it's not
9 an option at this point, but as we learn and gain
10 experience with the cluster process, it doesn't seem
11 like it couldn't work to squeeze something in between
12 clusters. It's just hard to understand how worthwhile
13 it is compared to the challenges with doing so.

14 Okay. I'm just going to keep going here, that
15 was number four.

16 Number five is the PURPA issues. I really think
17 that, you know, parties have raised some reasonable,
18 practical concerns about the sort of timing crunch if
19 there's no action whatsoever in contracting before the
20 results of the cluster study are received. I would
21 suggest that we not, you know, try, given all that's on
22 our plate today, to address the question of what is
23 allowable in terms of -- or what's the right policy for
24 what PacifiCorp should be able to require particularly
25 in this new environment before, you know, executing a

1 PPA. And so I would suggest that, you know, we
2 recognize that that question is, I think presented or
3 going to be presented in AR 631, having to do with PURPA
4 rule making and, you know, we may want to have some
5 discussion around those issues. But I also recognize
6 that, you know, making that alignment work isn't
7 something that we have to, you know, get right today
8 from my perspective.

9 So, this is going to go on a while, but that's
10 kind of a theme. That was issue number five and I've
11 got four more, I guess.

12 The sixth issue had to do with additional
13 exemptions. You know, I think -- I think that I just
14 heard PacifiCorp say that existing projects, you know,
15 that aren't changing their size, you know, regardless
16 of, you know, updated standards or whatever, aren't
17 going to be part of the cluster. You know, I think
18 that's something that obviously they should clarify in
19 whatever we ask them to commit to writing.

20 But I think the other issue that's been raised
21 and that we should talk about is the argument that
22 projects that meet the community solar program threshold
23 for the pilot, you know, interconnection process should
24 also be sort of exempted. And now, I'd be happy to have
25 some discussion on that, but I -- but a little bit in

1 reflecting back on what we heard about that program at
2 kind of the six month review a couple weeks ago, and
3 remembering some question that seemed to be on Staff's
4 mind about whether those thresholds, which again were
5 sort of, you know, adopted as a pilot, you know, are
6 really, you know, the meaningful or helpful. You know,
7 I just -- I'm not sure that those have existed long
8 enough and sort of been vetted enough to be something
9 that we want to move into our interconnection procedures
10 like on this record. Okay, so that's the sixth issue.

11 The seventh -- now we're getting into some of the
12 weightier issues where, you know, I think in kind of,
13 you know, increasing degree in my mind of disruption to
14 the FERC process. So the three remaining issues on my
15 list anyway, or issue groups, are kind of study
16 deposits, penalties, you know, site control
17 requirements, sort of the things that get you into the
18 study and the penalties that you could incur for
19 withdrawing.

20 I don't think it's, you know, impossible to have
21 different rules there or, you know, quite as problematic
22 to have different rules there for state jurisdictional
23 generators, but I do -- I do not want to ignore the fact
24 that, one, you know, it appears to me that a lot of
25 things aren't changing all that much, you know, and two,

1 the change in threshold from 10 megawatts to 20
2 megawatts for small generators makes a difference here.
3 And three, you know, the overall goal here is to sort of
4 increase the -- frankly, those barriers to entry so that
5 the process is studying the projects that are most
6 likely to stay in. So that's the balance there, but,
7 you know, I certainly wanted to express, I guess, more
8 openness to talk about those things than I'm, I guess,
9 feeling right now about the other two issue groups,
10 which are: cost allocation and kind of what we can do
11 about the period following the cluster study.

12 With the cost allocation one, you know, I just,
13 you now, I appreciate the point that, you know, we have
14 authority over state jurisdiction generators, and you
15 know, if our decision causes a mismatch with the late
16 treatment at FERC that, you know, it is what it is and
17 it's sort of not our problem, and I'm just not sure
18 that's the way I, you know, see this.

19 Again, I don't, you know, think that the -- some
20 of the cost allocation approaches, you know, we could --
21 I don't think it's -- you know, and I think Staff
22 expressed this in their report, I think it's something
23 that it's important to continue to look at over time,
24 but it is, you know, to determine if, you know, for
25 instance a one percent threshold or a, you know, per

1 capita, you know, approach on station costs is, you
2 know, really causing a problem, but -- or is, you know,
3 functionally unfair for state generators. But I just --
4 I haven't heard a persuasive answer to my suspicion that
5 if we change these things, there's just costs that don't
6 get allocated, they can't just be allocated to the FERC
7 jurisdictional projects.

8 But anyway, if Commissioners want to, you know,
9 feel that it's important to dig into those cost
10 allocation issues despite the, you know, pretty high
11 potential for sort of disrupting the framework that's
12 FERC approved, you know, we can do that, but I'm having
13 some heartburn about that.

14 And the final thing is, you know, similar that
15 the period after the cluster study, you know, I have a
16 ton of -- I think that intervenors are right that, you
17 know, 30 days for a small project just is not -- is not
18 -- is going to be difficult to work with. I -- you
19 know, I hear also the, you know, concerns that some of
20 the kind of trial and error that projects could, you
21 know, achieve with a serial queue in terms of downsizing
22 and alternative points of interconnection, I hear that
23 those options aren't as available as I think -- I'm
24 pretty sure there's still some downsizing that's
25 possible after the cluster result. You know, that is a

1 significant change, but it strikes me that it might be,
2 again, a change for the better when you're looking at
3 this holistically in terms of getting efficient and
4 durable kind of results.

5 You know, the period after the cluster study, you
6 know, I think makes that time for reviewing the results
7 and disputing them, you know, really, really short, but
8 I fundamentally, you know, put this kind of last on my
9 list because my perspective is that, you know, the
10 system sort of falls apart if you have FERC
11 jurisdictional generators responding within 30 days and
12 you're sort of waiting around for state jurisdictional
13 generators to decide and fund for another 30 days. You
14 know, I -- anyway, I think that is something that I feel
15 like we have less realistic meaningful control over and,
16 therefore, something that I am not as inclined to spend
17 significant time on today.

18 So, I have really gone on at length and
19 hopefully, Commissioners, you were mostly tracking that,
20 and I think I did send that list to Chief Judge Moser,
21 so he can help us after you react and sort of get a
22 perspective on what we need to work through today given
23 sort of the initial perspectives that we present.

24 I want to turn it over to one of you, and I'll
25 just leave it to the first one that chimes in, which

List

1 probably means you're both going to do it at the same
2 time.

3 COMMISSIONER THOMPSON: Actually, can I go ahead
4 and ask --

5 COMMISSIONER TAWNEY: Yeah, go ahead Mr. --

6 COMMISSIONER THOMPSON: Yeah, Chair Decker,
7 would you be okay if I -- I know you didn't want to take
8 up all the time and you feel like you've talked a lot,
9 but it was a comprehensive list and it was important for
10 you to do that, I think, so that we can figure out the
11 way forward. Are you okay if I kinda try to recap what
12 I heard from you? Because I think the list was clear on
13 some items, it wasn't clear to me if you had expressed
14 much of an opinion and you were just saying that you
15 think -- you're recognizing we need to work through the
16 issue, and then on some of them it was clear that you
17 were expressing an opinion.

18 CHAIR DECKER: Mmm-hmm.

19 COMMISSIONER THOMPSON: Can I just recap what I
20 heard from you on each of those nine items real quickly?

21 CHAIR DECKER: Sure.

22 COMMISSIONER THOMPSON: But I think -- and then
23 -- and then I am prepared to do something similar.

24 CHAIR DECKER: Yes.

25 COMMISSIONER THOMPSON: But you'll be pleased to

1 hear my list is a little shorter.

2 So, I heard that on the item number one, written
3 procedures, I think I heard you express an opinion about
4 what would be important for us to work on and clarify
5 what's expected.

6 CHAIR DECKER: Yes.

7 COMMISSIONER THOMPSON: And then, number two, I
8 think I heard you say the issue of power flows is an
9 interesting topic that we may want to take up later, but
10 you feel like it probably wouldn't make sense to take
11 that up right now in the context of acting on queue
12 reform one way or the other, that that can be taken up
13 later if at all.

14 CHAIR DECKER: Yeah. I think -- I think Staff
15 had agreed in their opening comments, that in the
16 interconnection docket it would be worthwhile to have a
17 workshop related to this, but that it wasn't necessarily
18 something that we needed to order or that was meaningful
19 at this stage to our decision here.

20 COMMISSIONER THOMPSON: Yeah, okay.

21 And then number three, the cutoff date for
22 eligibility to get in the cluster study, I think that I
23 heard you say basically you think that's open for
24 discussion because something could probably be
25 accommodated, but you didn't have a strong opinion on

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1 that one.

2 CHAIR DECKER: Exactly.

3 COMMISSIONER THOMPSON: Okay. And then number
4 four --

5 CHAIR DECKER: I guess my opinion is just that
6 be disrupting, you know, too much by reaching a contrary
7 decision on that.

8 COMMISSIONER THOMPSON: All right. And then
9 number four, the push for ongoing availability of a
10 serial queue. I, at first, thought that you were saying
11 you think that warrants a lot of discussion because you
12 were kind of looking for a way to accommodate that, but
13 then I thought maybe you ended by saying, you are really
14 not convinced that that may be workable and so you would
15 tend to think that that's a lower priority item to take
16 up, but you were kind of just open for discussion.

17 CHAIR DECKER: Yeah, I'm open for discussion on
18 that. I think what I'm questioning is whether we know
19 enough right now about how that would work and just
20 saying, yes, you still have that option and sort of
21 throwing it out there could really confuse --

22 COMMISSIONER THOMPSON: Yeah.

23 CHAIR DECKER: -- the question of whether people
24 need to actually, you know -- or what the tradeoffs are
25 with deciding whether to, you know, give notice that

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1 you're moving into the cluster, given that you don't
2 really know if you had the option to stay in it and be
3 processed in a serial queue, what that would mean about,
4 you know, kind of when -- I mean, I think Staff has
5 expressed some real confusion about why someone would
6 want to stay in, you know, only to be studied, you know,
7 in April 2021 or something like that, if there were a
8 restudy following the transition cluster study.

9 So, I guess my perspective is there's a lot to
10 figure out there. I think it's something that we could
11 say no to today and still have as an option out there in
12 the future.

13 COMMISSIONER THOMPSON: Mmm-hmm.

14 CHAIR DECKER: I mean, I'll be interested in
15 what others think about that, but I -- because if it's
16 something that people really feel is important and
17 workable, I think it's worth us understanding why that
18 is, and, you know, how it would work. I don't feel
19 prepared to do that today, and I wonder if the best
20 approach might not be to say, you know, (*inaudible*) the
21 cluster and we'll keep working on a way, you know, to --
22 you know, require to move to the cluster now, but we'll
23 keep working on a way to incorporate, you know, a
24 meaningful serial queue option if it really is
25 important.

1 COMMISSIONER THOMPSON: Got it. Okay.

2 Number five, the PURPA issue was basically
3 referring to the fact that the parties, interconnection
4 customers have basically said that this queue reform is
5 really throwing a wrench in their ability to timely get
6 PPAs signed, and you're -- you're kind of appreciating
7 that there's an issue there, but we think we have a
8 different forum to take that up in AR 631. I think I
9 heard you pretty clearly on that.

10 CHAIR DECKER: Yep. Yep.

11 COMMISSIONER THOMPSON: And number six, the
12 additional exemptions. It sounded like you were mostly
13 just interested in clarifying how existing projects will
14 be treated when it comes to renewal. And I was also
15 interested in hearing a little bit more clarification.
16 I think we heard some good news from PacifiCorp on that.
17 And then I think you were expressing skepticism that
18 looking to the CSP interconnection process as something
19 that would be tried and true enough to incorporate those
20 types of exemptions and to hear. I think you're
21 expressing kind of a hesitancy to do that at this point.

22 CHAIR DECKER: Yeah.

23 COMMISSIONER THOMPSON: Okay. I'm sorry to do
24 this, I feel like I'm taking as much time as you did,
25 but this is helpful to me.

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1 Number seven, the study deposits and all that,
2 the penalties and site control, you were saying open for
3 discussion, but we start to get into a situation where
4 we are kind of butting up against some of the policies
5 that are really meant to be implemented here about
6 streamlining the -- kind of clearing out the queue,
7 because those are some important thresholds that
8 projects need to meet. I think I heard you on that
9 pretty clearly.

10 CHAIR DECKER: Mmm-hmm.

11 COMMISSIONER THOMPSON: Cost allocation, again,
12 it sounded like you were interested in a discussion on
13 that, but kind of not interested in trying to quickly
14 reach the resolution that might have the effect of
15 leaving a huge gap in the ability to allocate costs and,
16 you know, just sort of sticking those to PacifiCorp.

17 CHAIR DECKER: Yeah. And I -- just to put a
18 finer point on it, maybe that's a lower priority for
19 discussion, because I feel unlikely to, you know, be
20 proposing some different approach there.

21 COMMISSIONER THOMPSON: Mmm-hmm.

22 CHAIR DECKER: But I think, you know, always
23 open for discussion. But that's why it's sort of lower
24 on the agenda to me.

25 COMMISSIONER THOMPSON: Okay. And then the

1 cluster study process of developers having only 30 days
2 to decide if to proceed after getting a study, you're
3 recognizing that could be a hardship, but it's really
4 hard to see what we can do about that given that that
5 seems to be the -- kind of the -- one of the main
6 aspects of the cluster study process that was approved
7 by FERC was sort of a timely ability to move on after a
8 cluster study.

9 CHAIR DECKER: Yeah.

10 COMMISSIONER THOMPSON: Okay. Well, thank you
11 for that. I -- yeah, I'll make a few comments, and then
12 I have a list of, I think, six items and I haven't yet
13 thought about how they intersect with yours, but I think
14 there's quite a bit of overlap.

15 I guess it's at a high level -- and first I
16 wanted to clarify, Commissioner Tawney, did you want me
17 to push forward or did you want to --

18 COMMISSIONER TAWNEY: Yeah, you go -- go ahead.

19 COMMISSIONER THOMPSON: Okay.

20 COMMISSIONER TAWNEY: Maybe when you're
21 finished, I'll be able to integrate my list into your
22 list, no promises.

23 COMMISSIONER THOMPSON: Okay. You know, I think
24 at a high level, it's important to recognize queue
25 reform is happening for PacifiCorp, and I appreciate and

1 understand that FERC acted and, you know, this is a
2 situation where I think everyone agrees that the current
3 situation is broken and something needs to happen, and I
4 feel like parties are all pretty close to recognizing
5 that a cluster study approach at a high level is the
6 right thing to do, not that we're in an ideal situation,
7 but that it's a good -- it's a good way forward given
8 where we are. So I personally, you know, agree with
9 what you, I think, implied, Chair Decker, that I want to
10 make sure that on the state level we act in a way that
11 doesn't thwart that effort, because I think it's
12 probably an important effort. And so I think we really
13 have to focus on making sure that nothing that we do
14 here really thwarts that, but then be open to ideas to
15 how to improve it.

16 But I do have to say, I don't -- I don't see a
17 way to really keep both systems alive at the same time,
18 and I think you expressed that as well, that it's a
19 little unclear why people would want the serial process,
20 because I think the only way to really integrate that
21 would be to put it after the cluster study process,
22 which then raises all the concerns that were raised
23 about timing and ability to enter a PPA and get
24 interconnection done on a timely basis. I think in my
25 view, you know, all of those things would only be

1 exacerbated by having to wait until after the cluster
2 study in order to get your project studied serially.
3 So, I think -- I feel like we need to move forward and I
4 don't see a way to keep both of those things alive, but
5 we can have more discussion on that today.

6 I do feel like this is a lot to be implementing
7 on a very short time frame. I think the interconnection
8 customers and other parties' complaints about that are
9 warranted. And what concerns me is, I sense that
10 there's not only things that the parties disagree about,
11 but there's also things that people don't understand
12 exactly how they're going to work, so I think it's
13 really important that we have some processes that over
14 time that allow for a timely ability to answer
15 unanswered questions and then processes that allow us to
16 revisit things if they turn out to be completely
17 unreasonable. I do think that the Staff memo helped us
18 a lot in this regard. I think they've identified some
19 good items where change can be accommodated and is
20 helpful, but other things could come up over time.

21 And then one other thing I had in my notes that I
22 wanted to just emphasize, and I think everyone's kind of
23 in agreement now, but it does seem really important that
24 when we're doing something that represents as sweeping
25 of a change as this, that the parties who are going to

1 be affected by it have notice. And maybe we've got into
2 a situation where it feels like people are going to get
3 notice and that Staff does propose something and
4 PacifiCorp's accepted it, which hopefully is effective
5 at that, but obviously it's a little bit concerning to
6 have parties coming to the table and saying, "I have a
7 stake in this and I just found out about it." So, I'm
8 not sure what to do on that, but I just wanted to note
9 -- to flag that again.

10 And then another just kind of high level theme,
11 or feeling that I thought that I have is, you know, the
12 topic of interconnection is tricky, right, and even
13 without queue reform, we have lots of interconnection
14 disputes that find their way to the Commission and that
15 exist out there between utilities and the developers.
16 And so that's unfortunate, and I would love to fix all
17 those problems, but I think it's important to recognize
18 that even the existing construct doesn't answer all the
19 questions about how interconnection works and all of the
20 ways that parties can disagree. And so I -- with that
21 in mind, I think, unfortunately, it's impossible for us
22 to run to ground all of the different disputes that
23 might develop about the interconnection process under a
24 cluster study approach, because we could probably spend,
25 you know, all year almost full-time trying to do that,

1 deal with hypotheticals or worst case scenarios.

2 And so I think we just have to find a way to kind
3 of narrow the issues here and move forward, but then
4 also provide a way to address things kind of efficiently
5 over time.

6 So those are some of the high level thoughts that
7 I have.

8 And then I identified six things that I felt like
9 would be important to work through today. And I know
10 our time is disappearing, but one is, I did want to talk
11 about that PPA timing issue. I know that we had a
12 discussion that says, you know, PacifiCorp insists on a
13 system impact study before allowing QF developers to
14 sign a PPA. I understand that would have been
15 problematic before in terms of timing from a developer's
16 perspective, and my question is, you know, now that
17 we're implementing queue reform, has that really changed
18 the dynamic to such a large extent that we need to
19 revisit that policy? I think the queue reform
20 potentially has the effect of saying, you have to wait
21 much longer to get an interconnection system impact
22 study than you would have hoped to have done before, and
23 if that delays the ability to sign a PPA, then, you
24 know, that's -- that's at least important from the
25 developers' perspective. So I kind of want to talk

1 about that. I think I agree, Chair Decker, that we
2 could take it up in a different docket. I wouldn't mind
3 having a little bit of discussion on that today.

4 Number two, for me, was cost allocation, and
5 that's one that you touched on. My thought has been, I
6 do not feel well equipped to look at the cost
7 allocations and to secondguess the proposals at this --
8 you know, on such a quick basis, especially given that
9 they, to some extent, mirror what was approved at FERC.
10 And none of them struck me as like patently
11 unreasonable, but I do fear that over time as they get
12 implemented, none of us, including the company or the
13 developers, really know what that's going to look like
14 until a cluster study is done.

15 So my question that I'd like to talk about is
16 could the Commission impose a reasonableness standard on
17 cost allocation, because we do expect the allocation to
18 make sense, that's why PacifiCorp proposed it. But if
19 we find that a developer, you know, it turns out that
20 they are the, you know, 500 kilowatt project and they
21 are being asked to bear, you know, 50% of some
22 multimillion dollar cost and it just feels unreasonable,
23 is there a way that we can provide an outlet so that at
24 least the dispute on that topic could be resolved?

25 And I recognize that what you said is true, that

1 we can't necessarily allocate those costs to the FERC
2 jurisdictional projects at that time, but potentially we
3 can provide some relief. So that's my thought on cost
4 allocation, that was my second item.

5 The third was, I wanted to talk just a little bit
6 about those other processes and dockets, and you pointed
7 to one of them already, Chair Decker, AR 631. And I
8 know there's a proposal for us to also open another
9 docket right now that just addresses some of the
10 outstanding questions related to queue reform. I don't
11 feel strongly about this, but if there is a way to do
12 that so that parties have a quick docket that they could
13 use to get resolution on things, I would -- I'd be open
14 to that. But I think that it's important that we manage
15 the scope of that, so that it doesn't become just a redo
16 of everything where we're hearing arguments that the
17 cluster study approach is a bad one and we should go
18 back to the serial queue and -- I don't think everything
19 should be on the table.

20 Number four, I had, like you, I wanted a little
21 bit more clarity about how existing projects will be
22 treated, and I'll just say that it would seem to be a
23 really unfortunate outcome of queue reform if existing,
24 you know, projects -- I feel like good projects that are
25 still able to operate with the new PPA, if for some

1 reason they experience a gap in operations just because
2 of the timing considerations caused by the cluster
3 study, that would be unfortunate. I do think we heard
4 that maybe that won't be the case unless they're
5 materially changing their output, which might warrant
6 the study. But we can kind of make -- they can confirm
7 that.

8 Number five was, that I had, was dispute
9 resolution and litigation. I am fearful that -- that we
10 will have a lot of litigation at the Oregon PUC about
11 interconnection disputes because of the lack of clarity.
12 And so my question is, what can we do right now to guide
13 those disputes to the most efficient resolution process?
14 Are we going to just tell people that they need to file
15 a complaint and we'll open a contested case and then
16 we'll have 50 QF dispute dockets, or are we going to
17 commit that where there are unanswered questions, people
18 can bring those maybe to a public meeting and try to get
19 them processed more quickly? And if we -- if we have
20 those two options available, how do people know which
21 ones they can take advantage of?

22 And then the final topic that I have, number six,
23 was interconnection study disputes, and that just goes
24 to the question about is there -- are there any things
25 that we can do right now to mitigate the chaos that may

1 ensue if everybody disputes the interconnection study
2 that comes out of the cluster study? And we did already
3 touch on that a little bit today, and I think heard from
4 PacifiCorp that it's a little bit inevitable that there
5 will be problems if that happens, and maybe we can solve
6 all those. But I wanted to hear a little bit more about
7 how that would work.

8 So, those are my six items, I think there's some
9 overlap. Unless you have any questions.

10 CHAIR DECKER: Okay. You know, I think what --
11 what might be helpful is for -- you know, you raised,
12 you know, I think some concerns about notice. I think
13 that fits in my kind of first category of written
14 procedure of how those get disseminated.

15 COMMISSIONER THOMPSON: Mmm-hmm.

16 CHAIR DECKER: I think you kind of wanted to
17 talk about guiding, you know, sort of like what happens
18 next, guiding resolution, how we evolve over time, how
19 we explain or -- how we explain things, how we fix
20 things that come up later and talk about sorta what's
21 currently open and what the options are there. I think
22 that's probably a separate and an additional issue to
23 kind of add to the list.

24 You know, I wanted to ask on your point about
25 revisiting the policy as a PPA waiting on

1 interconnection, you know, you wanted to have some
2 discussion about that today, and I think that's fine, I
3 think that was, you know, on my list too, but I -- I
4 guess I didn't get a sense from you of whether you think
5 that today's an appropriate time to sort of definitively
6 resolve that or whether that could feed into, you know,
7 the conversation about what other dockets are open or
8 available.

9 COMMISSIONER THOMPSON: Yeah, I think -- I would
10 love just to ask the company --

11 CHAIR DECKER: Okay.

12 COMMISSIONER THOMPSON: -- and the developers a
13 couple of questions on that topic.

14 CHAIR DECKER: Okay.

15 COMMISSIONER THOMPSON: And then maybe decide
16 that.

17 CHAIR DECKER: Okay, perfect.

18 You know, you -- it sounds like, do you want to
19 talk about cost allocation? It sounds like you need to
20 hear from the company on the concept of a reasonableness
21 standard, but that sort of fits my category just fine.
22 Again, I think starting that discussion there rather
23 than delving into sort of some of the details of that
24 one might be a good place to start.

25 So, I think that really just kind of adds one

1 topic to the list there.

2 Commissioner Tawney, you know, I don't know how
3 you got cleanup on this one, but it's your turn.

4 COMMISSIONER TAWNEY: All right. Well, I'll
5 give it a shot. So, I really appreciate both -- the
6 thoroughness that both of you've approached this with.

7 I think on the threshold issue, I agree we need
8 to move forward. I see a really compelling case that
9 this will be an improvement over the serial queue, and I
10 agree with Commissioner Thompson that that serial queue
11 is no picnic. It engenders very little agreement, it
12 leads to its own set of disputes and, you know, it's not
13 as though that was working so well and there was such
14 common understanding that we didn't have four dockets
15 open investigating it already. So, I think at the
16 threshold level moving forward with this and really
17 striving to make the whole system work as a cohesive
18 element will be better in the end for small generators
19 to get faster results to figure out where they can plug
20 into the Oregon system than certainly what we have
21 today.

22 I agree -- I appreciate Commissioner Thompson
23 bringing up the potential for disputes, the almost
24 certainty of disputes and litigation. I don't
25 underestimate the disagreements that are going to arise

1 out of this change, both because there is still a lack
2 of understanding about details, and because there is
3 just disagreement about the facts on the ground or what
4 -- how things ought to proceed. In that vein, I'd
5 really ask Pacific Power to be very mindful of the
6 burden that it puts on all of us, the Commission, and
7 the stakeholders more broadly when they are not as clear
8 and consistent and responsive to QFs as they possibly
9 can be. But I know this is a challenging space, but I
10 guess I would just really encourage some customer
11 service, which is not to say that the team doesn't do
12 that and so on, but I think when you're dealing with
13 taking a group of customers through such an enormous
14 change, it just really puts some onus on the company to
15 step up and do that in a really customer service
16 oriented way.

17 So, I'm going to try to be efficient here. I --
18 let me highlight the issues that I think are -- where I
19 really want to -- that were additional for me, and then
20 I have some additional pieces.

21 I had also wanted clarity about the existing QFs.
22 I think Lacombe, both issues they raised about notice,
23 which you've both covered very well, so I'm glad that's
24 on the list, but you know, their study and their being
25 told they need to be restudied, just goes back to that

1 struggle to have confidence in PAC's responses overall,
2 and I think you hear that in all of us expressing desire
3 to see something in writing that's exceedingly clear
4 that existing QFs can go back to.

5 I think in parallel, your -- you both raised
6 wanting to explore more about what that written -- how
7 quickly that written -- written specifics about, in
8 particular for small generators those procedures could
9 be produced. I think those become incredibly important
10 in the context of the litigation question because when
11 we say we have an order for a waiver, what we are
12 waiving and what we expect to happen in place of that
13 really then turns to what that written compliance filing
14 is. And so, I think that compliance filing being done
15 well, being done thoroughly, being applicable to small
16 generators and readable will become really important
17 then for what the -- an important foundation for the
18 sort of very valid litigation and next step questions
19 that Commissioner Thompson was raising.

20 In a similar vein, clarity from Pacific Power on
21 what the system study will show, the early study that
22 folks can get ahead of going into the cluster, I feel
23 like that is the place where customers who have to date
24 explored points of interconnection and so on will be
25 able to still have those conversations, but PAC's going

1 to need to be really clear about what's in that study
2 and make sure it's actually serving those customers.
3 And then that -- I think Staff's proposal that those are
4 posted on Oasis in a timely fashion, that those are
5 produced in a timely fashion, again, become really
6 important to making this process work, but also for
7 stalling, eliminating some of the arguments and
8 litigation that could flow from this if that step
9 doesn't work well.

10 I'm trying not to duplicate. I also wanted to
11 discuss clarifying the timing of the PPA, but, you know,
12 from my perspective, I could see where PAC was taking
13 the approach it was taking as the whole queue was
14 entirely locked up, and now the world is going to be
15 different. The queue is -- the serial queue for
16 interconnection doesn't exist, the queue -- the ability
17 to get to an answer about interconnection will happen,
18 but I think it raises questions about how -- what is the
19 new world order for what happens to -- when PPAs can be
20 entertained, what does count as readiness for that, and
21 it may need to get tied back into some of the larger
22 questions on the how many years before a commercial
23 online date or other things that we do today because we
24 don't have a cluster study with specific dates. And so,
25 I think looking at that in its fullness in another

1 docket is going to be important. I think there's
2 probably more moving parts to that than just a simple
3 readiness question that is clearly not so simple, even
4 today.

5 On the cost allocation issues, it really concerns
6 me where the unallocated costs would be shifted to. I
7 don't think Pacific Power would eat them, I think
8 transmission customers would likely eat them. And I
9 think it's unlikely that we're going to get any sort of
10 agreement among the parties about what is a per capita
11 charge or what is reasonable or -- and so, I'm
12 interested in the reasonableness standard, but I think
13 it's a really complicated issue where there is going to
14 be very little meeting of the minds among the parties,
15 and we're going to need to do some careful balancing.
16 And so, I'm really attracted to taking that up in its
17 fullness, you know, in 2032.

18 I think it would really, you know, partly that's
19 mitigated by the change to 20 megawatts for small
20 generators, that that take some of the pressure off this
21 cost allocation question, but I'm intrigued by the
22 reasonableness standard, although I recognize how
23 incredibly difficult that would be to apply in all
24 likelihood given the litigiousness of these
25 conversations typically.

1 In general, I find Staff's recommendations
2 really, like Chair Decker said, really balanced between
3 the different interests well.

4 I would just highlight, these are not issues that
5 we need to take up, but I want to just articulate, I
6 think the cluster area definition issue that we heard
7 about yesterday from Pacific Power and from Staff is
8 going to be important in terms of avoiding further
9 disputes, and again, really would ask PAC to be
10 exceedingly clear and transparent about what they're
11 doing and really engage proactively so that Staff and
12 parties can understand where they're drawing boundaries
13 and why. I don't expect that that will mean there are
14 no disputes about how those boundaries are drawn, but I
15 think PAC would go a long way in just being as clear and
16 transparent and consent about communicating that as they
17 can be.

18 In terms of the readiness requirements and
19 deposits and penalties, like Chair Decker, I don't have
20 a very -- I'm not very interested in trying to change
21 those from the FERC requirements, in part because I'm
22 not comfortable with having a lined hour megawatt
23 standards for small generators and large generators, and
24 presuming that, you know, now that we've said 10 to 20
25 megawatt projects for small generators, if that's what

1 we say, which I would support, then, you know, small
2 generator deposits and penalties and withdrawals apply
3 to those folks; I know NewSun sort of raised that
4 question in their matrix that they filed. I wouldn't
5 feel comfortable with Oregon jurisdictional large
6 generators being subjected to a different set of
7 financial penalties or a more -- less rigorous financial
8 penalties than their peers who are FERC jurisdictional.
9 And I -- what I'm hearing, maybe I'm misunderstanding
10 it, but what I'm hearing parties ask for is essentially
11 that, and I'm uncomfortable with that for a host of
12 reasons. And so given that we're down to large
13 generators, which is a very small number of projects, I
14 am comfortable sticking with what FERC has decided for
15 those generators to date.

16 And finally, I just want to say on the -- on the
17 issue of the costs and cost allocation and so on, just
18 from a paradigm perspective, I really understand that
19 efficiency argument that the QFs are bringing forward as
20 they really seek to find the corners of the system where
21 there's a little bit of extra space to slot in. I think
22 you can also make an argument that that's in some ways
23 free riding on upgrades someone else made. And I think
24 the cluster study, at its heart, eliminates some of that
25 opportunity, and that is -- we're losing efficiency

1 maybe in terms of squeezing every last possible megawatt
2 we could hook into the system before we make the next
3 investment, but we're also probably capturing some costs
4 and eliminating a little bit of free ridership. It's
5 complicated and I know it's not binary, but I think part
6 of what informs me around that network cost allocation
7 piece is, is somebody paid for that upgrade before the
8 QF got there and found the little -- the piece of corner
9 of capacity that was still available. And I'm on one
10 level okay with them needing to pay for that capacity in
11 some way, and I -- there are probably nuances I don't
12 understand, and that's part of why I want to explore it
13 more fully in 2032, but from a paradigm perspective, I'm
14 comfortable going forward with the model that's outlined
15 in the cluster study from that perspective.

16 So, let me stop there and hand it back to you
17 Chair or Commissioner Thompson if I've been unclear,
18 which is perhaps likely.

19 CHAIR DECKER: No, I think that we're -- you
20 know, I'm getting a sense of sort of how this is taking
21 shape, and I don't really have any clarification for
22 you, but I certainly would offer Commissioner Thompson
23 the opportunity to clarify anything.

24 COMMISSIONER THOMPSON: No, I think that made
25 sense.

1 CHAIR DECKER: All right. So this is kind of a
2 point where we have some work to do. And, Judge Moser,
3 I think I'd just be inclined -- well, first of all --

4 CHIEF ALJ MOSER: Mmm-hmm.

5 CHAIR DECKER: -- I guess I'd be inclined to
6 just kinda work through things. I think most of what
7 the other Commissioners said sort of fit the order of
8 issues that I talked through, except possibly the issue
9 about sort of, you know, guiding resolution and sort of
10 what other dockets are open.

11 CHIEF ALJ MOSER: Yeah.

12 CHAIR DECKER: I think that that could probably
13 be part of the, you know, kind of fallen under that
14 second issue of, you know, the -- had talked about
15 ordering a power flow workshop in UM 2011, or indicating
16 that that was interesting, but that could be a place
17 where we kind of review that.

18 So, what I want to be clear about, though, before
19 we kind of start and bring up the, you know, kinda
20 really (*inaudible*) resolution on each of these, you
21 know, even though I know there was some, you know,
22 interesting, you know, topics along the way here, you
23 know, I want to start with an understanding that, you
24 know, on pages 29 to 30 of the Staff memo, there is a
25 set of recommendations all of which PacifiCorp indicated

1 that they could accept, you know, with a couple of, you
2 know, caveats around, you know, the September 15th
3 deadline, you know, reducing the opportunity to cure, et
4 cetera. But there was one that came up that we would
5 need to add to our list that came up yesterday, which is
6 the extension of that facility study agreement to April
7 30th. But I just want to, you know, track anything that
8 we're talking about, you know, against kind of that
9 starting place and confirm with the Commissioners that
10 these changes that Staff recommended and that PacifiCorp
11 agreed to are things that you're supportive of.

12 I think Commissioner Tawney alluded to that, but
13 just want to confirm that.

14 COMMISSIONER THOMPSON: So confirmed from my
15 perspective, yes. Thank you.

16 COMMISSIONER TAWNEY: Yes, and as well as the
17 change in relation to Sunthurst that we heard
18 yesterday.

19 CHAIR DECKER: Yeah.

20 COMMISSIONER TAWNEY: Both that and Staff's
21 recommendations, absolutely.

22 CHAIR DECKER: Great. So, Staff's
23 recommendations do -- did include, you know, some
24 indication, you know, to clarify the policy and process
25 for existing generators among other things and, you

1 know, sending a communication to all eligible Oregon QFs
2 to make sure they're aware, but let's start with the
3 question of sort of written procedures to, you know,
4 accomplish, you know, what those are, how they're filed
5 with us, and how beyond that condition that Staff placed
6 about communication by August 20th, you know, those would
7 be communicated to potentially affected parties.

8 You know, Adam -- Mr. Lowney, when he started his
9 discussion of this issue, you know, there was some
10 discussion of sort of, I think continuing to expand on
11 the rule or putting -- putting some more context -- or
12 putting some more work into their rule language. But I
13 guess what I had in mind when people talked about this
14 was something more like a -- like, you know, small
15 generator interconnection procedures, you know, for
16 Oregon jurisdictional customers that could get those
17 posted to Oasis, you know, sent to parties. But also
18 reviewed -- and Ms. Andrus, if you want to recommend
19 anything here, I'd invite you to adjust for me, but I
20 think those could be filed in this docket somewhat like
21 a rate -- I mean, we don't have time for kinda more back
22 and -- more sort of litigated back and forth on this,
23 but they could be filed in this docket something like a
24 late compliance filing is filed and parties could raise
25 issues to Staff for Staff to include in their kind of

1 letter confirming that the compliance filing was
2 complete.

3 Did I -- Ms. Andrus or Ms. Moore, did I describe
4 that, you know, in the way that -- in a way that
5 conforms to how things actually work for the rate
6 compliance filing?

7 MS. ANDRUS: This is Stephanie Andrus, and I
8 believe that is how the compliance filings work for rate
9 cases.

10 CHAIR DECKER: So, Staff kind of files a letter
11 saying that this met the requirements.

12 MS. ANDRUS: Right.

13 CHAIR DECKER: So, Commissioners, I suppose we
14 need to hear from PacifiCorp and see if other parties
15 have comments or questions, but before we do that, does
16 that, you know, proposal to sort of create a document
17 that contains all of the -- that sort of modifies what
18 we have on the FERC side and contains the procedures for
19 Oregon generators, is that what you had in mind here?

20 COMMISSIONER TAWNEY: It is what I had in mind.

21 COMMISSIONER THOMPSON: It is for me.

22 COMMISSIONER TAWNEY: Yeah.

23 COMMISSIONER THOMPSON: Mmm-hmm.

24 COMMISSIONER TAWNEY: Yeah.

25 COMMISSIONER THOMPSON: Me as well.

1 CHAIR DECKER: Okay. So, Mr. Lowney or someone
2 else from PacifiCorp, is that -- does that sound like
3 what you were talking about and I just misunderstood
4 you, that it was -- that you were talking more about
5 rule language? And, also, you know, for that to
6 meaningfully inform decisions to, you know, enter the
7 cluster to provide notice, it would have to be done on
8 quite an accelerated time frame because, you know, doing
9 it by September 15th doesn't really allow to inform those
10 decisions, you know, that would have to be something
11 that's done in like the next two weeks or --

12 COMMISSIONER TAWNEY: Yeah.

13 CHAIR DECKER: -- you know, 15 days or something
14 like that. So just ask you to respond to that concept.

15 MR. LOWNEY: Yeah, this is Adam Lowney.

16 I think -- so I guess what -- and let me just
17 maybe repeat what I was envisioning and see if this
18 matches up with what you were describing. You know, the
19 idea behind the filing was basically to change as little
20 as possible, and so when I'm envisioning what would
21 become the small generator interconnection procedures
22 for PacifiCorp, what I would do is start with everything
23 that's in provision 82 of the Commission's rules, and I
24 would take those verbatim into the small generator
25 procedures. And then the sections that get excised and

1 replaced by cluster study language would then be
2 essentially folded in on top of that. So what it would
3 look like is, our small generator interconnection
4 process would be the Division 82 rules, with the
5 exception of the one rule that has the redlining in it,
6 the tier four interconnection study process rule, and
7 that rule then would be -- would be -- have the
8 deletions that were reflected with the additions of the
9 article is -- I believe it is from the large generator
10 interconnection procedures that described sort of the
11 logistics of the cluster study itself. Plus the couple
12 of other options, like the informational study, for
13 example, would be added to that section as well.

14 So that's what I was envisioning, and that way
15 the idea -- the thinking behind that would be we're
16 changing as little as possible so that the framework
17 looks the same. If we were to start from scratch or
18 from the FERC SGIP, I just worry that's going to cause
19 more confusion, because everything is going to look new,
20 even if it substantively isn't new. It's just going to
21 be presented in a different way.

22 So that's, I guess, what I was envisioning. And
23 I should add that we would include in there the issues
24 that we have agreed to address in writing such as
25 existing projects. You know, so fill that gap, you

1 know, those rules in division 82 will still be there, we
2 will just fill in the gaps, explain exactly what
3 happens.

4 CHIEF ALJ MOSER: And just to clarify, that
5 would all come as a, you know, compliance filing to an
6 order in this docket, correct?

7 MR. LOWNEY: Yeah, from my perspective I think
8 that approach makes sense as well. I would agree with
9 Ms. Andrus on that point.

10 COMMISSIONER TAWNEY: This is --

11 MR. LOWNEY: On the secondary -- oh, sorry.

12 COMMISSIONER TAWNEY: Well, this is Commissioner
13 Tawney, I just want to be clear in that sort of bullet
14 point list of what you would incorporate, you would
15 include the new fees, deposits, withdrawal fees and so
16 on as well so that they understood the costs.

17 MR. LOWNEY: Well, none of those apply to the
18 small generators, so those wouldn't be included in the
19 small generator interconnection procedures.

20 COMMISSIONER TAWNEY: Okay.

21 MR. LOWNEY: So for the large generator
22 interconnection procedures, our filing included a
23 redline version of the QF LGIP and LGIA and related
24 appendices. So the compliance filing for the large
25 generator procedures would effectively be that batch of

1 documents reflective of any changes that are ordered to
2 those documents. So there would be a twofold compliance
3 filing, there would be the small and the large
4 component.

5 CHAIR DECKER: Okay.

6 Ms. Andrus or Ms. Moore, any reactions that you
7 have to whether that approach as sort of keeping things
8 -- rather than starting from scratch with the small
9 generators, keeping things the same as they were, you
10 know, except for what changed? Does that strike you as
11 something that's going to sufficiently and appropriately
12 communicate to small generators?

13 MS. ANDRUS: Yes. That's kind of what I had in
14 my mind as well.

15 MS. MOORE: Yes, this is Caroline Moore. I
16 agree, but as long as it makes it very clear what's
17 changing and includes the transition cluster. And the
18 fact that those withdrawals and penalties and such are
19 not, you know, applicable to small generators -- as long
20 as that's very clear.

21 CHAIR DECKER: Okay. Okay. So a clear
22 explanation of what's changing or what's not changing.

23 You know, at risk of getting sort of way off
24 track, you know, what we'd be asking for is the August
25 20th communication that Staff asked for, a filing let's

1 say by August 31st, you know, that we just described, and
2 then a, you know, posting out on Oasis and making sure
3 that small generators have had active communication of
4 where to find that.

5 I want to ask, you know, recognizing that there's
6 lots of other things on the table, whether Mr. Sanger,
7 you have any -- you know -- you know, particular things
8 to add or comment on, on kind of that narrow set of
9 issues there.

10 MR. SANGER: Chair Decker, Commissioners Tawney
11 and Thompson, thank you for the opportunity.

12 That seems like a largely acceptable process. I
13 would want to have the opportunity to review and comment
14 and have the Commission review any concerns that are
15 raised. You know, it's not clear exactly what
16 PacifiCorp's going to do, but I think that could be done
17 in a public meeting within the time that you just
18 discussed.

19 CHAIR DECKER: That's a good clarification,
20 because normally the rate compliance filings don't come
21 back to a public meeting unless, you know, Staff finds
22 something that -- at least this is my understanding --
23 unless Staff finds something that, you know, is not
24 compliant or not clear and that, you know, they run into
25 an issue with. Is that correct, Ms. Andrus?

1 MS. ANDRUS: Yes, that's right.

2 CHAIR DECKER: But you could bring something to
3 a public meeting if you needed to?

4 MS. ANDRUS: I'm sorry. That's correct, yes.

5 I think our first -- probably to the extent we
6 found an issue, I imagine we would contact PacifiCorp,
7 see if they would agree with our interpretation and if
8 not, then likely go to a public meeting for a resolution
9 on the proper interpretation of your order.

10 CHAIR DECKER: Okay. Judge Moser, is that one
11 sufficiently clear that we can move on?

12 JUDGE MOSER: Yes. Yeah, that is clear.

13 CHAIR DECKER: Okay. So, let's move on to, I
14 guess, some kind of discussion of, you know,
15 Commissioner Thompson's recognition that this is, you
16 know, a big change, difficult to swallow all at once,
17 will evolve over time, will require additional kind of
18 explaining issue resolution, fixing, you know,
19 potentially some processes for discussion that would
20 maybe help head off some litigation and, you know, that
21 relates to their question of what dockets are open now
22 to kind of answer those outstanding questions or whether
23 we need something further.

24 I guess I'll just hazard a start on this by
25 saying that we have recently opened an interconnection

1 investigation whose scope is as yet in development, UM
2 2011, and I'll -- I guess I'll pose a question to Ms.
3 Moore about, you know, in addition to that docket being
4 a place to continue kind of gathering data about things
5 that are working -- or sorry, things that are evolving,
6 it's potentially also a place to have, you know, ongoing
7 discussion or workshops on how things are moving along.
8 I'll let you respond to all of these. So, I think
9 potentially that is available and still potentially
10 within scope of that, but I'd like to kinda understand
11 your thoughts on that.

12 And the other -- another docket that's open is AR
13 631, which again relates to PURPA contracting and PPAs
14 and, you know, notwithstanding, you know, Commissioner
15 Thompson, what you said about wanting to talk about that
16 a little bit today, you know, to Commissioner Tawney's
17 point that there's sort of a, you know, the cluster
18 process creates kind of a new world order. You know,
19 that docket is, I think, in an early enough stage that
20 those -- that it can accommodate some discussion of what
21 might be important to align between PURPA contracting
22 and this new cluster process.

23 Then we also have UM 2032, and I think
24 Commissioner Tawney certainly expressed that, you know,
25 she is sort of comfortable leading that where they've

1 been told it's kind of fully worked up in that docket,
2 which again, I think can accommodate discussion of this
3 new paradigm.

4 I want to toss it to Staff to sort of add
5 anything it wants about, you know, other places where
6 these things can be brought up or where Staff can sort
7 of play a proactive role in helping to identify and
8 resolve issues, you know, before they reach a complaint
9 process. But then I'm sure after Staff speaks,
10 Commissioner Thompson may have more that he wants to add
11 there.

12 MS. MOORE: Great. Thank you, Chair Decker.
13 This is Caroline Moore with Staff.

14 I think those are the primary dockets, and Staff
15 has put in our report that the monitoring of this
16 process in general is going to be important for UM 2111
17 and UM 2005, which is distribution system planning to
18 the extent that there's small distribution level
19 generators receiving cluster studies instead of serial
20 studies and sharing station upgrades and such.

21 So, and I think that this process has mostly been
22 helpful -- it's not the only docket where we've gotten a
23 lot of valuable insight on priorities and important
24 topics to just scope within 2111, but this has been
25 helpful as well, and it's going to inform that a lot,

1 and I think it's really important to monitor this in
2 that context.

3 CHAIR DECKER: Commissioner Thompson, what else
4 did you kinda want to talk about here? What
5 expectations would you want to either set for those
6 dockets, or do you feel like there's something more
7 needed that we should talk about?

8 COMMISSIONER THOMPSON: Yeah, I feel like
9 there's maybe just a little addition that's needed.
10 First, that's helpful to know that there are dockets,
11 but I guess I just want to recognize that, you know,
12 again, we're acting quickly here, the filings are large,
13 there's been at least, you know, a lot of assertions
14 that there are unanswered questions, and I think we've
15 heard a couple examples of those. And so it leads me to
16 believe that there really might be instances where there
17 just really are unanswered questions, and some of them
18 might need to be resolved on a quicker time frame than
19 saying, oh, good news, you have a docket -- an ongoing
20 docket that might take a year or a year and a half to
21 resolve.

22 And so what my thought was, is I'm fine pointing
23 to those other dockets of available venues to solve
24 questions or disputes, but I also think that it would be
25 important to direct that where possible if there are

1 questions that need to be answered in the near term,
2 that the Commission public meeting process is also
3 available for that, and that puts a lot of pressure on
4 Staff to kind of field those questions and decide if
5 they think that they need to recommend that we suspend
6 something for investigation or kick it over to one of
7 these existing dockets.

8 But because we're adopting queue reform itself in
9 a public meeting, it seems to me that we should also
10 hold out that time process for potentially supplementing
11 our decision with unanswered -- with answers to
12 questions that haven't really even been clarified yet.

13 So, does that make sense what I'm proposing?
14 Just, I think it would directing in the order that in
15 addition to these processes, parties are free to propose
16 to Staff that unanswered questions be able to be brought
17 to the Commission for a public meeting process.

18 CHAIR DECKER: Any reaction to that from Staff?

19 MS. MOORE: That sounds reasonable. This is
20 Caroline Moore. But I'd encourage Stephanie Andrus to
21 jump in if she hears anything unreasonable.

22 MS. ANDRUS: No, I agree, that does sound
23 reasonable. This is Stephanie Andrus.

24 CHAIR DECKER: Thank you.

25 Okay. I certainly don't have an objection to

1 indicating that availability. I guess my only concern
2 is that, you know, we're moving through some decisions
3 pretty fast here, I think, you know, at the same time we
4 are making definitive decisions, and I think
5 Commissioner Thompson raised the -- you know, recognized
6 that there's a concern that we just are hearing things
7 over and over again, and so, you know, I just would
8 encourage the Staff to use some discretion about whether
9 they feel like the, you know, what we went through today
10 sort of resolved something or whether something's either
11 new or presenting, you know, materially new information
12 or just really didn't come up at all in what we
13 considered here today.

14 Is that fair, Commissioner Thompson?

15 COMMISSIONER THOMPSON: Yes, that's -- I agree
16 with that for sure.

17 CHAIR DECKER: Okay. All right.

18 Judge Moser, I think we can --

19 CHIEF ALJ MOSER: Yeah, we can reflect that in
20 the order.

21 CHAIR DECKER: Okay.

22 COMMISSIONER TAWNEY: That sounds great to me.

23 CHAIR DECKER: Thanks.

24 MR. STEPHENS: Can I ask a question?

25 CHAIR DECKER: Who is speaking?

1 MR. STEPHENS: This is Jake Stephens.

2 CHAIR DECKER: Is it about the public meeting
3 process as a place to bring sort of new implementation
4 uncertainties?

5 MR. STEPHENS: Yeah, it was about that question
6 of essentially you're proposing that certain issues are
7 going to go into other dockets and certain issues could
8 be available to go to the public meeting. But while
9 we're here today, is there going to be an opportunity to
10 discuss certain aspects of the conclusions you've come
11 to and provide us an opportunity to point out why some
12 of those things maybe should be decided or discussed
13 further and that more urgent action is necessary, or is
14 that part of things not going to happen?

15 CHAIR DECKER: Well, thank you for that
16 question. You know, we're sort of doing our best to
17 step through the issues that I outlined and to the
18 extent that the Commissioners feel like they need to
19 hear more than what we've heard in the written comments
20 and what we heard yesterday, we will do that in the
21 order that the issues were presented.

22 You know, I can guarantee you that there won't be
23 as much discussion as people want and, you know, that
24 goes for everyone. So, I know that it won't be a
25 satisfactory amount of discussion, but certainly there

1 will be some opportunities as we move through today.

2 MR. STEPHENS: Thanks.

3 CHAIR DECKER: Okay, so --

4 MR. STEPHENS: As we go through that, I just
5 wanted to request that at some point there's, you know,
6 a couple of the key issues that you guys have flagged
7 and I think you're curious about, and recognize there
8 might be issues would be worth just talking through some
9 case studies so that can better understand how you're
10 *(inaudible)*.

11 CHIEF ALJ MOSER: Yeah, so the -- this is Nolan
12 Moser. So I think what -- just to clarify where we are,
13 we're sort of in a deliberation and decision phase.
14 Everyone here on the line is participating in that phase
15 to the extent that the Commission has specific questions
16 about a resolution they're thinking about and details
17 about previous comments. So it's sort of a call and
18 response situation. So what the Commissioners will do
19 is, as they get into each issue, if they have questions
20 for a specific participant, they'll ask them.

21 CHAIR DECKER: Okay. Thanks -- thanks, Nolan --
22 Judge Moser.

23 I think we -- what I'd like to do is make a
24 slight change in the order of issues that I laid out at
25 the beginning and talk about the issue of kind of an

1 ongoing retention of the serial queue option.

2 You know, I expressed a -- you know, not a sort
3 of -- a level of curiosity about why people still want
4 that and how it could fit in meaningfully without
5 disrupting the cluster process. I think I heard
6 Commissioner Thompson come with quite a bit more
7 skepticism that there was much that we could talk about
8 there that would make retaining a serial queue option,
9 you know, kind of worthwhile or something that he would
10 support.

11 You know, I want to give you a chance to say if
12 that wasn't, you know, quite as -- maybe I said that
13 more strongly than you meant it, Commissioner Thompson,
14 but, you know, do Commissioners want to spend time
15 having discussion or hearing a little more clarification
16 from the QF parties about how retaining a serial queue
17 option would work, and kind of how and where we could
18 accommodate discussion of that, whether today or in the
19 future, or do we need to just sort of let that be an
20 issue for the future given the other discussions that
21 you both expressed as more meaningful to you to have
22 today?

23 Commissioner Thompson, why don't you respond
24 first.

25 COMMISSIONER THOMPSON: Yeah. Yeah, I think

1 I'll just say that the resolution you proposed for this
2 issue, which really wasn't, you know, resolutions so
3 much as it was pointing that they -- well, I take that
4 back. I think I'm comfortable today saying we're moving
5 forward with the cluster study approach, but then also
6 preserving the question for later of if it makes sense
7 over time to adopt some kind of a serial study process
8 that runs concurrently with that.

9 And, I mean, you're right, I did express
10 skepticism that those two things could be ran at the
11 same time, because I do find that it is kind of
12 inherently problematic to think that, you know, if you
13 did both at the same time, I think the cluster -- the
14 value of the cluster study is going to be compromised
15 because you're going to have, you know, other studies
16 happening in front of it that haven't made it far enough
17 to really inform that cluster study process. And then
18 conversely, if you say that the serial process is going
19 to happen after the cluster studies, then it didn't seem
20 to me like it addressed the interconnection customers'
21 concerns in any event because they're still going to
22 experience all of the delay of a cluster study.

23 So I'm open to -- I think like you, Chair Decker,
24 I'm open to hearing parties over time express that there
25 might be a reason to do that, despite my feeling that it

1 doesn't seem readily apparent why they would want to.
2 But I don't think we need a lot more discussion of that
3 today.

4 CHAIR DECKER: Okay. Commissioner Tawney,
5 what's your view of this one?

6 COMMISSIONER TAWNEY: I am, like Commissioner
7 Thompson, don't see how they sort of co-exist. I think
8 we've created two carve-outs where we specifically are
9 trying to accommodate legislative customer choice
10 options, Net Metering and Community Solar, and we carved
11 those out, and for a wide variety of reasons that
12 predate the cluster study, to the degree that PURPA
13 generators are generators like any other generator and
14 customer indifference is an important element, I think
15 they belong in the cluster with everyone else, like all
16 the other -- you know, maybe that's some -- maybe that's
17 sort of -- I don't mean that as glib as it probably
18 sounds at 3:30 in the afternoon, but I think it's fine
19 to move them into the cluster study.

20 I think my concerns about the fair sharing out of
21 network costs becomes even more complicated when you
22 have one model of network cost sharing happening over in
23 the cluster study and you're trying to carry some
24 parallel costs, sharing costs delineation over in the
25 serial cluster study -- or in the serial study.

1 So, I think when we go to apply some, you know,
2 very, very careful cost allocation model to this, having
3 two styles of queues becomes really, really muddling for
4 the cost allocation discussion as well.

5 So for that additional reason, I'm -- I'm
6 comfortable saying let's go forward with the cluster
7 study, if it's -- if, you know, as you say, the door --
8 we can always transition in the future to something else
9 if this is failing.

10 CHAIR DECKER: I want to check with Staff to
11 make sure, you know, that you see that as much of a
12 possibility that I do, that down the road that there is
13 still an option, once we understand how the cluster
14 study is working, to sort of reincorporate an
15 intervening serial, excuse me, option. Not that I'm
16 asking you to take a position on it, but just that that
17 is potentially something that, you know, we can -- a
18 tool we could use if it became important in the future.

19 MS. MOORE: Sorry, it took a second to unmute
20 myself. This is Caroline Moore with Staff.

21 That sounds reasonable. I think, you know, the
22 interconnection investigation is going to be a multi-
23 year investigation and we're going to be looking at this
24 closely and I think there will certainly be opportunity
25 to revisit particularly how we handle our small

1 generator interconnection procedures as a whole over
2 time.

3 CHAIR DECKER: Okay. You know, in the interest
4 of time and making sure we get to talking about the
5 things that are, you know, that the Commissioners
6 indicated as sort of most important, I would just want
7 to maybe close this one by saying that, you know -- or
8 can reflect that maybe this is an issue that -- or this
9 is a possibility that we chose not to take up at the
10 initiation of this transition, but that we're not closed
11 to if it would be deemed sort of workable and helpful in
12 the future.

13 I think if we're reaching a decision that we're
14 moving into the transition cluster, it becomes important
15 to me to make sure that we're really clear about how
16 projects that are sitting here today kind of work that
17 are in earlier stages of development, you know, but --
18 but -- and don't meet that late stage cutoff, you know,
19 to sort of make sure we're not leaving things in an
20 unfair state of limbo. And that's why I indicated a
21 desire to talk a little bit about eligibility for the
22 transition cluster and that, you know, kind of what I
23 understand to be a cutoff date of January 31st.

24 I'm not particularly interested in, you know,
25 going 30 days forward from today on this, but I have a

1 sense that -- and, you know, I'm not clear on exactly,
2 you know, how many projects might be caught up in this.
3 And again, being caught up doesn't mean that they would
4 have to wait -- or sorry, it doesn't mean that they
5 would never get studied, it just means, I think, that
6 they would be waiting for the first prospective cluster.

7 And -- but anyway, I guess I heard PacifiCorp say
8 yesterday that -- that this -- you know, that that
9 bumping out, the January 31st date, you know, as we had
10 some discussion of in the RFP process, didn't -- you
11 know, might mean that there are more projects at an
12 earlier stage, you know, in the transition cluster might
13 increase that risk of, you know, restudy which is
14 clearly present. But just like I was in the RFP study,
15 I'm a little inclined to, you know -- you know, allow
16 more projects into the transition cluster. It doesn't
17 seem like -- you know, it's less disruptive, you know,
18 in my mind, and I don't hear the QF parties really
19 necessarily advocating for that, but, you know, in the
20 context of not having the option to be processed in
21 serial queue order, that issue might take on more
22 importance.

23 So, I guess I want to -- I -- I would be
24 interested in hearing from, you know, the QF parties,
25 you know, about how they see that issue of eligibility

1 for the transition cluster and, you know, hear some
2 response from PacifiCorp.

3 Before we do that, Commissioners, is there
4 anything that you want to add or -- or a feeling that
5 you have that this isn't a good idea (*inaudible*) --

6 COMMISSIONER TAWNEY: Can I --

7 CHAIR DECKER: -- to talk about?

8 COMMISSIONER TAWNEY: Well, can I -- can I just
9 clarify. You're -- you're specifically asking about
10 projects who filed for interconnections, you know, after
11 December 31st, up to some -- some dates, that they be
12 allowed to go into the transition.

13 CHAIR DECKER: Yeah.

14 COMMISSIONER TAWNEY: If they can prove their
15 readiness and -- and meet the other benchmarks and --
16 and so on.

17 CHAIR DECKER: Yeah.

18 COMMISSIONER TAWNEY: Okay. That's helpful.

19 CHAIR DECKER: That -- that -- that --

20 COMMISSIONER TAWNEY: Yeah.

21 CHAIR DECKER: And if I misunderstood that
22 issue, Staff or someone should jump in and -- and let me
23 know. But yeah, that is exactly --

24 COMMISSIONER TAWNEY: Okay. Yeah. I -- because
25 I just wanted to make sure I had clear in my head it's

1 different than the Sunthurst question of getting to
2 continue in serial --

3 CHAIR DECKER: Right.

4 COMMISSIONER TAWNEY: -- because they've met a
5 certain milestone.

6 CHAIR DECKER: Yeah. So when --

7 COMMISSIONER TAWNEY: Yeah. Yeah.

8 CHAIR DECKER: If -- if our decision is that you
9 don't have an option to continue in serial, there is no
10 serial right now --

11 COMMISSIONER TAWNEY: Mmm-hmm. Yeah.

12 CHAIR DECKER: -- where are you left? If you're
13 not eligible for the transition cluster, my
14 understanding is that your --

15 COMMISSIONER TAWNEY: Waiting.

16 CHAIR DECKER: -- your next opportunity for
17 interconnection is the first --

18 COMMISSIONER TAWNEY: Yeah.

19 CHAIR DECKER: -- prospective cluster.

20 COMMISSIONER TAWNEY: Yeah. Yeah. Thank you.

21 And that -- and when I look at Staff's memo on
22 page -- their table in their appendix, I think there's
23 five projects that this applies to as far as Staff could
24 find. So, thank you. I'm interested in the QFs'
25 response and the -- and the company. I just wanted to

1 be really -- make sure I had in my head exactly who you
2 were talking about.

3 CHAIR DECKER: Okay. Commissioner Thompson, any
4 clarifications before --

5 COMMISSIONER THOMPSON: No, nothing to add.
6 That sounds like a good thing to explore, the way that
7 you've proposed.

8 CHAIR DECKER: Okay. Mr. Sanger, I'm just going
9 to pick on you first again here and then, you know, I'll
10 open it up.

11 MR. SANGER: Thank you, Chair Decker,
12 Commissioners Thompson and Tawney.

13 If you are going to not allow serial queue
14 option, then we would recommend that any QF that has
15 made an interconnection application be provided the
16 opportunity to participate in the cluster study.

17 I guess our preference would be that the QF now
18 would have the option to participate in the cluster
19 study or continue their application as a serial queue
20 that will be processed prior to the cluster study. I'm
21 just clarifying what our starting position is. But at a
22 minimum, we think that QFs that have made application
23 requests should be allowed to participate in the cluster
24 study. There's really not that many of those projects,
25 and requiring them to wait until the end of this cluster

1 study and participate in a new cluster study seems
2 particularly unreasonable.

3 CHAIR DECKER: Okay. Thank you. I understand
4 -- I understand your position. And I would invite
5 others (*inaudible*).

6 You know, I think the Commissioners are
7 expressing sort of a -- or at least I'm expressing a
8 willingness to order PacifiCorp to allow more projects
9 into the transition cluster, recognizing that there are
10 down -- you know, that there may be down sides to that.
11 But, you know, my inclination would be to limit that to
12 projects that have requested interconnection, you know,
13 as of our decision.

14 You know, and so I'm throwing that out there for
15 any reaction, and also so that when the company speaks
16 they can react to that kinda straw proposal.

17 MR. SANGER: Chair, I don't know if you were --

18 CHAIR DECKER: Yes. Go ahead, Mr. Sanger.

19 MR. SANGER: Oh, I was just going to say that we
20 believe that whatever relief that you give, you know,
21 it's appropriate to have it apply to projects that have
22 made their applications by the time of your decision.
23 So we would not oppose not -- whatever remedy you're
24 going to adopt, that could apply to projects that have
25 submitted applications by the time of your decision, but

1 not ones afterwards.

2 CHAIR DECKER: Okay, great, thank you.

3 Any other parties want to comment on that
4 proposal?

5 MR. STEPHENS: This is NewSun.

6 Very quickly, I agree with Irion's ask. I also
7 agree with the Commissioner's views about the serial
8 cluster being a messy and problematic approach, and I
9 think that's good.

10 And moving on from that, an overall -- Chair
11 Decker's issues five, seven and nine are the big ones
12 that merit the most time to discuss.

13 Thank you.

14 CHAIR DECKER: Okay. PacifiCorp, do you want to
15 make a response to the concept of allowing more --
16 allowing projects that have submitted interconnection
17 requests up to today, making those eligible for the
18 transition cluster, which I understand would be
19 different from what FERC decided.

20 MR. LOWNY: Thank you, Chair Decker.

21 Just, you know, I think we -- we did address this
22 issue in our reply comments, so I don't necessarily need
23 to rehash those. But I guess the concern -- and this
24 is, I think, the concern you raised, is, you know, if --
25 QF projects are not subject to a readiness requirement,

1 so for them to get into the cluster requires very little
2 in terms of demonstrating that they are actually a
3 project that can move forward, and the transition
4 cluster did not have withdrawal penalties. So it's kind
5 of a free shot to everybody to get in, see what the
6 study says, and then pull out and require a restudy.

7 So, I would just observe that it will increase
8 the likelihood of restudies and it could increase the
9 potential impact of those restudies on the generators
10 that are -- particularly the FERC generators that have
11 demonstrated readiness and site control and are ready to
12 move forward. So, you know, our position is still that
13 the January 31st cutoff date is reasonable.

14 I would certainly agree with the observation that
15 if that data's going to change, it should be no later
16 than today.

17 So, thank you very much.

18 MS. KRUSE: And if I could --

19 CHAIR DECKER: Oh, go ahead. Go ahead.

20 MS. KRUSE: It sounded like there might be a
21 little bit of clarification needed between -- and maybe
22 not, but the difference between having an
23 interconnection request in by January 31st and a
24 generator's ability to be included in the transition
25 cluster in October. There are generators that even if

1 they didn't -- and then the third category of reaching
2 late stage. So, I guess I would just offer the
3 clarification that if someone was in the interconnection
4 queue by January 31st, but didn't reach late stage, they
5 are still eligible to be in the transition cluster. So
6 maybe that's not a clarification --

7 CHAIR DECKER: Yeah, no --

8 MS. KRUSE: Okay.

9 CHAIR DECKER: No, I understand.

10 MS. KRUSE: Okay.

11 CHAIR DECKER: It's -- it's basically that -- I
12 think what we're talking about here is those that have
13 filed an interconnection application but have not
14 reached that late stage cutoff and allowing them into
15 the transition cluster.

16 And just to clarify what I heard from Mr. Lowney
17 just now, is that the difference -- the reason that
18 this, you know, issue is more likely to result in, you
19 know, kind of less ready projects or -- or kind of
20 testing the waters, is 'cause there are not withdrawal
21 penalties for the transition cluster, which I think we
22 didn't quite appreciate. There are still, you know,
23 deposits, there's still the fact that the -- the study
24 cost has to be paid up front, and there's still
25 different -- you know, presuming we adopted what you

1 propose, different site control requirements.

2 Is that --

3 MR. LOWNEY: Chair Decker, this is -- this is
4 Adam Lowney. One other clarification, for projects that
5 are entering the transition cluster, there's no change
6 to the study deposits that have been paid already. So
7 if a study deposit would have increased by virtue of the
8 queue reform, which I would note is not likely just
9 because the overall costs go down under queue reform --

10 CHAIR DECKER: Right.

11 MR. LOWNEY: -- they would not be required to pay
12 anything additional, so and that's just a component of
13 the transition process that was described in the -- in
14 the initial filing.

15 CHAIR DECKER: Okay. Okay.

16 Recognizing nobody wants to belabor this point,
17 you know, I'm inclined now, given our decision to sort
18 of eliminate serial queue processing, to allow projects
19 that have requested interconnection after December 31st,
20 but before today, to, you know, be eligible subject to
21 all the other rules for the transition cluster. I think
22 my reason for that is that we are kind of, you know,
23 changing the rules of the road here. There -- you know,
24 I think there are going to be lots of things that are
25 impacting the transition cluster, and I don't think

1 given the numbers that are presented in the Staff
2 report, that it's probably the biggest of them.

3 Commissioners, what's your inclination on this
4 issue?

5 COMMISSIONER THOMPSON: Chair Decker, I'm just
6 struggling with a question, so it might be helpful to
7 hear from --

8 CHAIR DECKER: Yeah, sure.

9 COMMISSIONER THOMPSON: -- PacifiCorp on it.

10 But if we do this, we suddenly now have a much
11 later cutoff than FERC jurisdictional generators did,
12 because they had to have an application pending by the
13 -- at the beginning of the year. Are we going to create
14 a situation where generators suddenly rush to say that
15 what they actually are is state jurisdictional so that
16 they can take advantage of this later deadline, or is
17 there sufficient clarity about which generators are FERC
18 jurisdictional versus state jurisdictional that that
19 can't be -- that that won't happen? I assume that at
20 the time the application is clear, but I don't know that
21 for sure.

22 MS. KRUSE: We would love to comment on that.

23 COMMISSIONER THOMPSON: Yeah. Go ahead, Karen.

24 MS. KRUSE: Or, I mean, Adam you can too.

25 I guess my perspective is that we will definitely

1 see that kind of activity. One of the things that we
2 see most often in our queue that's really, really
3 difficult to deal with is switching back and forth, it
4 happens constantly. It tends to lie in a difficult
5 regulatory space that isn't exactly on point for FERC
6 and it isn't exactly on point for state, because it's
7 that moment where the QF is committing to sell 100
8 percent of its power under PURPA that determines the
9 jurisdiction.

10 And so we've tried to put a mechanism in place
11 where an attestation is required, and so saying, "I do
12 intend to sell 100% of my power to you under PURPA," so
13 we know to process under state, or on the flip side, "I
14 don't," and then we know to process under FERC. We get
15 a lot of disagreements about whether that attestation
16 is, you know, right or wrong, but we honestly don't know
17 how else to administer the queue and know which rules to
18 apply.

19 So, I think that the numbers that Staff reported,
20 and that we also include in our reply comments, look
21 small, but if I'm not mistaken, there were four requests
22 that designated themselves, using our attestation
23 methodology as state jurisdictional, after January 31st.
24 I strongly suspect there will be more than four that
25 suddenly designate themselves as PURPA projects.

1 So, we don't have a perfect way to say, you can't
2 do that or you can do that, you know, other than this
3 attestation form that we use.

4 COMMISSIONER TAWNEY: Can I ask -- this is
5 Commissioner Tawney -- can I ask Staff a clarifying
6 question about their list of projects in attachment B?
7 You captured projects that are physically located in
8 Oregon that could make that potential switch in your
9 list, yes?

10 MS. MOORE: This is Caroline Moore. Thanks
11 Commissioner Tawney.

12 Yeah. So that -- that table of generators was an
13 active pending interconnection application that appeared
14 in the Oasis queue to not qualify for the transition
15 cluster, because they came in after the end of January.

16 Was anything under 80 megawatts located in
17 Oregon? And I believe, based on what's in Oasis, four
18 of the five that we found in the queue were indicated as
19 FERC jurisdictional, and one of them was indicated
20 Oregon jurisdictional, but they all requested the type
21 of service that would make them eligible for -- for --
22 to be a QF if they were to -- and it was our assumption
23 in doing that, that on the cutoff date, which was
24 proposed August 15th, that we recommended moving to
25 September 15th, that's the date in which you're also

1 required to make that attestation that Karen -- or Ms.
2 Kruse was talking about. Is that helpful?

3 COMMISSIONER TAWNEY: Yeah, I think it -- if I'm
4 reading it right, Ms. Kruse, it bounds the concern
5 you're raising to the five projects listed here, that
6 there's 180 megawatts of projects that could do the --
7 could make the flip that Commissioner Thompson raised,
8 but not a gigawatt hiding somewhere that we don't have
9 visibility to.

10 MS. KRUSE: Right. That's right.

11 COMMISSIONER TAWNEY: Okay.

12 MS. KRUSE: I mean, actually, I would just pause
13 there. Kris Bremer, is that right? I mean, let me --
14 let me just rely on the person with the best knowledge
15 of the queue data. Could you just confirm the
16 statistics so I haven't messed that up?

17 MR. BREMER: Yeah. This is Kris. I would
18 confirm that, yes.

19 COMMISSIONER THOMPSON: Chair Decker, could I
20 just ask one more question just to --

21 CHAIR DECKER: Sure, of course.

22 COMMISSIONER THOMPSON: -- understand the risks
23 here?

24 Back to Mr. Lowney's comment, you -- I'm sorry, I
25 wasn't able to pull up your reply comments and remind

1 myself of what you said, but you said that one of the
2 reasons why PacifiCorp has been hesitant to do that is
3 because, you know, some of those projects might have
4 just applied for interconnection and, therefore, they
5 might be a lesser state of readiness. But at the same
6 time, when it comes to the small projects, it sounds
7 like, you know, you weren't anticipating and foreseeing
8 a readiness requirement in any event.

9 And we also know, I think, or understand that
10 they don't even have Power Purchase Agreements yet,
11 because they haven't progressed far enough that
12 PacifiCorp would offer them a Power Purchase Agreement
13 if they were a qualifying facility.

14 So, I guess I wanted to press you just a little
15 bit and see if I could understand when you say that they
16 are not very far in terms of readiness, it doesn't seem
17 like that's something you would have demanded anyways,
18 and it also seems like, you know, certainly they're just
19 projects on paper at this point, and so I just wanted to
20 test that concern and how deep that runs.

21 MR. LOWNY: Thank you, Commissioner Thompson.

22 I guess, I wasn't using readiness in a -- in the
23 sort of technical sense of the readiness criteria that
24 would be applied to a FERC large generator. So, you're
25 absolutely correct for FERC small generators and then

1 all Oregon Qfs. FERC small generators, there is no
2 readiness requirement, all QFs in Oregon, there is no
3 readiness requirement.

4 I guess I was -- I was more focusing on maybe the
5 second part of your comment, which is, at this point
6 these projects are not necessarily far enough along to
7 where we can be confident by virtue of the fact -- and
8 I'm making this observation based solely on the timing
9 of their interconnection request, so caveat the
10 statement with that understanding -- if they've just
11 submitted an interconnection request, they're not
12 necessarily in a place where they're ready to actually
13 take this project to fruition if they get a result in
14 the cluster study that would allow them to move forward
15 if they had not made the predicate, you know, we've
16 heard from developers, there's a lot of work going into
17 developing these projects. And a project that has been
18 sitting in the queue for a year has presumably, is
19 farther along in its development cycle than one that has
20 just submitted an interconnection request. And that was
21 the observation I was making --

22 COMMISSIONER THOMPSON: Mmm-hmm.

23 MR. LOWNY: -- caveated with, it's an
24 assumption based just on the timing of the
25 interconnection request.

1 COMMISSIONER THOMPSON: Okay. And it -- and it
2 could be that projects actually can't do much more until
3 they get their interconnection figured out and so, you
4 know, presumably I think that's maybe, Chair Decker, why
5 you're suggesting this would allow those projects to
6 move forward more quickly, especially now that they
7 might feel like the rug was taken out from under them --

8 CHAIR DECKER: Yeah.

9 COMMISSIONER THOMPSON: -- if they had a good --
10 good spot in the queue.

11 MR. STEPHENS: I would love to comment on that
12 if you have a second?

13 CHAIR DECKER: Sure, let's have one more comment
14 on that and then we'll wrap up this issue.

15 MR. STEPHENS: Thanks. And -- and I appreciate
16 Chair Decker's willingness to -- to allow that
17 flexibility. And we have a couple of 20 megawatt SGIRs
18 that fall into that category and that were initially
19 submitted as state jurisdictional. But you, you know,
20 in a practical sense get -- get faced with a death
21 sentence as it relates to these costs. These are in
22 Prineville, where we've given the example of prior
23 projects triggering 300 million dollar upgrades, and so
24 the NRIS question's been an issue, but we submitted
25 these as NRIS and ERIS, so they're sort of eligible for

1 both in terms of the QF PPAs. In our case, we have site
2 control and permits on projects already underneath those
3 20 megawatts, and having the flexibility to make a
4 decision about that would -- would be valuable. It
5 would be great to have a few more days than three days
6 from now, it's that going to -- if that option would be
7 materialized, but I certainly support that flexibility
8 and appreciate that.

9 CHAIR DECKER: Great. Thanks, Mr. Stephens.

10 Okay. Commissioners, do we have a comfort level
11 -- you know, recognizing that, you know, we can circle
12 back to these things at the end of the meeting if given,
13 you know, some later decision we make if this isn't
14 feeling right. But this is, you know, something I'm
15 certainly prepared to support.

16 COMMISSIONER THOMPSON: Yeah, that discussion,
17 to me, was helpful about the limited pool and kind of
18 the known -- the known quantity of projects there. I do
19 like the feeling of saying that's kind of a nice trade-
20 off there, that if we're going to get rid of the serial
21 queue process, to opening the door a little bit wider
22 for people to get into the cluster studies, feel good to
23 me, so I -- I'm comfortable with that.

24 COMMISSIONER TAWNEY: I am also. I am
25 comfortable moving forward. I think there's a lot they

1 can do as they wait for their study over the winter, and
2 I hope we don't -- I hope they don't drop out when we
3 get to the spring.

4 CHAIR DECKER: Okay. Good. I think the next --
5 so, Nolan -- or Judge Moser, I think, I'm pretty sure
6 we've discussed that enough for you to be able to
7 capture that. And just to be clear, it's those that
8 have an interconnection request filed as of our decision
9 today.

10 CHIEF ALJ MOSER: Correct.

11 CHAIR DECKER: Those projects would, given that
12 we've expressed approval for the recommendations that
13 Staff makes, they would have until September 15th to
14 indicate participation in the transition cluster,
15 because obviously some of the issues that we haven't
16 gotten to yet on our list will be relevant to whether
17 they want to be in the transition cluster, and that will
18 give them a little more time to think about it, but also
19 less time to cure any issue that PacifiCorp talked
20 about.

21 Okay. So, I think the next item on the list was
22 Commissioner Thompson, you know, we talked a little bit
23 about kind of PPA availability, and I think all three
24 Commissioners have recognized that something does seem
25 real about the timing crunch created when there's simply

1 no contracting activity until you have, you know,
2 completed your interconnection process, you know, does
3 that essentially create a big crush of, you know, PPA
4 requests and then, you know, we get into trouble with
5 the interconnection deadlines and things. I think those
6 are important issues to address. You wanted to address
7 some of them today, so I'm going to pass it to you to do
8 that. But I say those things more because for Staff
9 that are carrying forward AR 631. I do think those are
10 important to talk about there.

11 But I'll turn it over to you to facilitate
12 additional discussion on this issue to the extent you
13 want to.

14 COMMISSIONER THOMPSON: Chair Decker, you're
15 speaking to me, is that right?

16 CHAIR DECKER: Yes. Yep.

17 COMMISSIONER THOMPSON: Thanks. Yeah, I guess
18 if I could just ask -- maybe ask PacifiCorp just a
19 couple of questions that have been on my mind on this
20 topic.

21 I guess there's just something that feels a
22 little bit funny to me that we are saying, you know,
23 part of the reason for the cluster study and these
24 readiness requirements for at least the larger
25 generators, is you want to make sure that you really

1 have viable projects before you run into the
2 interconnection study process, because you don't want
3 them to drop out. And then at the same time, now we're
4 hearing that, you know, PacifiCorp's policy is that you
5 won't sign a Power Purchase Agreement with a small
6 generator unless they have gone through the
7 interconnection study process.

8 And to me, if I was putting together a project,
9 one of the first things I would want to know is what my
10 price was, which means that I need to get a Power
11 Purchase Agreement with the utility. So, to me that
12 would seem to very much favor, you know, put a real
13 emphasis on readiness requirements if PacifiCorp is
14 willing to contract and sign PPAs prior to the
15 interconnection cluster study process. I'm just finding
16 kind of the -- the proposed event, the current approach
17 doesn't match very well with what I feel like we're
18 trying to get done in a cluster study.

19 So, I guess the question on my mind is, does this
20 cluster study cause a big enough shift in the way that
21 the scheduling works to get your project interconnected
22 that it means that the Commission should be addressing
23 this question sooner rather than just bumping -- bumping
24 it to another docket. But if you could respond to that
25 quandary that I'm having, that would be helpful. I

1 don't know if it's Mr. Lowney or Ms. Kruse or someone
2 else.

3 MR. LOWNEY: Yes, thank you, Commissioner
4 Thompson, I'll take a stab at it, and Ms. Kruse can step
5 in and fill any gaps I might leave.

6 So, I guess it's important sort of just to step
7 back and just reiterate the reason that the policy
8 exists is so that the company, when it executes a PPA,
9 has a reasonable assurance that the COD that is included
10 in that PPA can actually be achieved by the QF. I think
11 this was, you know, basic due diligence that the company
12 does for every PPA, QF or otherwise, and it reflects,
13 frankly, some direction from this Commission about the
14 due diligence that should occur before utilities sign QF
15 PPAs. And so that's the providence of this policy was
16 really grounded in basic due diligence to make sure we
17 sign -- by the time we sign a PPA and start accounting
18 for that PPA in our -- in our planning and eventual
19 power cost modeling, we have a reasonable assurance that
20 it's actually a real PPA that can be achieved by -- by
21 the QF developer.

22 So, in -- under the future or soon to be future
23 paradigm of cluster studies, from the company's
24 perspective, there's no need to -- to revisit that
25 policy, because from -- you know, I think from

1 historical practice you've heard many people point out
2 correctly that the interconnection study process under
3 this serial queue paradigm took a long, long time,
4 sometimes years before a developer could attain a system
5 impact study sufficient to demonstrate that -- that they
6 can actually achieve the COD.

7 And under the cluster study model, there is
8 expected to be greater certainty around the delivery
9 timelines for cluster studies, which is equivalent of
10 the system impact studies that were previously issued.
11 And frankly, it's not going to take as long, we don't
12 expect, to get those study results for QF developers.
13 And so, keeping in mind the original rationale for that
14 policy, all that's changed now with the cluster study
15 paradigm, is there is more certainty around when those
16 studies are going to be conducted and when they're going
17 to be delivered than there was under the prior policy,
18 and that's why, from the company's perspective, there's
19 no reason in this context to -- to go back and re-
20 examine that contracting practice.

21 The flipside of that is, a change to that
22 contracting practice also has potential ripple effects
23 in other aspects of both the contract and a contracting
24 practice, and in AR 631, that process of and terms of
25 the standard contracts are being looked at in a holistic

1 sense, so if you change one component of it, you can
2 account for that change in other aspects of it. And so
3 to make a change in isolation in this docket would be
4 particularly problematic from the company's perspective,
5 because it's not a holistic examination of the entire
6 contracting practice. You can't account for the
7 possibility that you could end up signing a bunch of
8 PPAs with unachievable CODs, and then you're left
9 wondering what to do with all of those contracts, and
10 that's why it just makes more sense to address it in the
11 docket where it's already being investigated as part of
12 the holistic examination of QF contracting practices.

13 COMMISSIONER THOMPSON: I guess that's part of
14 my question, would you agree though that if a contract
15 did in fact have a PPA already signed and still
16 determine that it was a viable project and going to go
17 forward, wouldn't it be less likely to drop out of the
18 cluster study, or the interconnection process than the
19 current process which allows all QFs, you know, into the
20 interconnection study process even without a PPA?

21 MR. LOWNEY: I think that that's quite possible.

22 MS. KRUSE: Karen Kruse -- go ahead, Adam.

23 MR. LOWNEY: What I would just add is that
24 there's -- and again, this sort of goes back to the
25 notion of, you need to look at this in a holistic way so

1 that all elements of the QF PPA are examined in total.
2 There's not a lot of -- of skin in the game, so to
3 speak, for QFs under the current paradigm to sign a PPA.
4 And so, if -- if the model is the QF asks for a PPA and
5 they sign it, they may be well -- they may be no more
6 ready in the vernacular sense of the word to actually
7 bring that project to fruition going into a cluster than
8 a QF that doesn't have that PPA. And that's why I think
9 if you're going to -- if you're going to change this
10 paradigm and require projects -- or require utilities to
11 execute contracts without that due diligence, then there
12 needs to be corresponding changes to other aspects of
13 the QF PPA to mitigate that risk.

14 So, I can see some merits of that observation,
15 but I think there's also concerns on the other side as
16 well.

17 And Ms. Kruse, feel free to flush that out if
18 I --

19 MS. KRUSE: No, I -- I agree with what you said,
20 if it's okay I make an additional comment?

21 COMMISSIONER THOMPSON: Sure. From my
22 perspective that's okay.

23 MS. KRUSE: Okay. I guess I would say, you
24 know, we looked at whether it would be appropriate to
25 apply, in the transition, all of the same commercial

1 readiness standards that we are applying to for
2 jurisdictional large generators, and ultimately we
3 decided not to. And -- and part of the reason is
4 because there is this connection between the
5 interconnection study and the PPA. And I think you
6 could connect them -- well, first of all, you could
7 certainly decide to disconnect them, that's a choice.
8 You could connect them the way that they're currently
9 being connected, which is that the interconnection study
10 is important for the PPA, whether that goes to price or
11 whether that goes to some non-rate term or just the
12 timing.

13 In that case, which is the current lay of the
14 land, it really doesn't make sense to also then connect
15 them on the interconnection side, and specifically
16 meaning ask them to produce a form of commercial
17 readiness that may be proven with a PPA.

18 So that's why you don't see commercial readiness
19 being a requirement for Oregon large generators, because
20 this was characterized as something called the catch-22
21 in a lot of different forums for a while by the
22 advocacy, because they were essentially making, I
23 thought, an excellent point. If you're going to require
24 an interconnection study as part of the PPA process, you
25 can't require a PPA for the interconnection process,

1 because then you have made this impossible.

2 I do think a third option, which is not the one
3 that we're proposing today, but it sounds kinda more
4 along the lines of, if I'm hearing you correctly, what
5 you might be thinking about is to actually connect those
6 two things in the interconnection process. So don't
7 necessarily look at the interconnection study when
8 you're negotiating a PPA, but do look at whether a QF
9 has a PPA, you know, as a threshold question to get into
10 an interconnection cluster. That's not the proposal
11 today, but to me that is a different approach, and I
12 think mixing and matching those can be very problematic,
13 but I just want to be really clear, we're -- we're not
14 requiring a PPA for QFs for this exact reason, the
15 catch-22 would be, we agree, problematic.

16 I hope that's helpful.

17 COMMISSIONER THOMPSON: Yeah, that is helpful,
18 and I knew that you weren't necessarily trying to
19 institute that catch-22, but I was struggling with, you
20 know, why you didn't go the other direction and say
21 actually it would make a lot more sense to give a -- you
22 know, require a PPA or offer a PPA prior to the
23 interconnection process.

24 That's helpful to hear some of the dilemma there.
25 I will -- I will note, you know, you kinda convinced me

1 there's probably a lot to talk about here, which might
2 mean that it's best to take up in a different docket.

3 And then I also feel like the other decision that
4 we just talked about, which is kind of opening the door
5 a little bit wider to allow projects to get into the
6 cluster study, you know, that also makes me feel better
7 because now we don't necessarily have projects that are
8 going to be waiting for years to get into the cluster
9 study so that they can sign a PPA. Hopefully they have
10 an opportunity to move a little quicker, but it sounds
11 like there's a lot here to consider.

12 So, Chair Decker, I appreciate the chance to ask
13 those questions and to think about it, but I'm assuming
14 you're still on the same spot where you were?

15 CHAIR DECKER: Yeah. Yeah.

16 MR. STEPHENS: Could I -- could I comment on
17 this as well?

18 CHAIR DECKER: Sure, briefly.

19 MR. STEPHENS: So, I -- I think -- this is Jake
20 Stephens with NewSun. I think Commissioner Thompson
21 keyed in on a key issue here, and I think there's other
22 simpler solutions. I mean, jump straight to the
23 punchline, I think what would be reasonable is if we
24 could get pricing and proceed with contracting year
25 round and -- and then look at potentially having the

1 PPA's being executed after the study, but not being
2 totally bottlenecked behind it, that way we'd have that
3 information to deal with then.

4 And I think, you know, per his point about
5 punting this issue, you know, the backdrop here is that
6 we haven't been able to get PPA's for years because of
7 studies, and if the other issues we've raised about a
8 quagmire from dropouts and so forth occur, we may also
9 not be able to get PPA's again for a long time.

10 The other concern is, is ultimately if PacifiCorp
11 asserts discretion, as they said earlier, about what the
12 schedule is in a study outcome, then merely writing a
13 date four years out or five years out into a study
14 outcome would provide them the means to deny you of a
15 PPA, which is another concern.

16 But I think providing some basic guidance here
17 that the utilities shouldn't be, you know, preventing
18 the contracting and pricing process, you know, before
19 interconnection studies are done, although I think
20 filing an application is a reasonable request, would --
21 would be very helpful in the near term and also provide
22 guidance to go into the AR 631 process. So that's, you
23 know, sort of an anchor to that and would address most
24 of those issues.

25 The one other thing I wanted to highlight is --

1 is there's a real dichotomy here around the way the
2 study deposits are being treated at the end of this in
3 terms of commercial readiness. If you make the RFP
4 short list, which, you know, one, you know, small group
5 out of that group will potentially get a PPA, you don't
6 have to post these network deposits, which are really
7 huge at the end of it. But if you get to the end of the
8 cluster and you're at large gen QF, when you're entitled
9 under federal law to a power contract, you don't meet
10 the readiness criteria that somebody who made the short
11 list, an RFP would, then you have to post these huge
12 deposits that all of those folks are going to be
13 negotiating PPAs and PacifiCorp will be negotiating with
14 them for months and months, you'd have to post this huge
15 deposit while you wait to eventually, you know,
16 negotiate a PPA that you actually have a right to and
17 they don't, but you'd have this huge burden. And I'm
18 flagging that per Commissioner Tawney's comments about,
19 you know, not letting the QFs have a slacker situation
20 in the FERC jurisdictional. But that's an example of
21 really the opposite where, when we have a right to a
22 PPA, they could get exempted from having to make those
23 huge deposits at that point. When in practice --

24 CHAIR DECKER: Okay.

25 MR. STEPHENS: -- they will move forward with

1 power contracting. Thanks.

2 CHAIR DECKER: We'll -- we'll flag that for
3 future discussion.

4 And the first point that Mr. Stephens raised is
5 something, you know, that I started off this -- this
6 PURPA topic talking about, which is that, you know,
7 regardless of what the final solution is about after a
8 holistic review of what should be needed to actually
9 sign a PURPA contract, I am, you know -- you know,
10 concerned that functionally if there is no contracting
11 activity of the type that Mr. Stephens is talking about
12 in terms of exchanging, you know, getting pricing or
13 something, then -- then perhaps you have a pretty
14 significant bottleneck at the end of that cluster study
15 in terms of, you know, the company turning around PPA
16 requests.

17 So, I don't know all the implications of that and
18 I don't really want to address that in our order today,
19 you know, without all the kind of other moving -- moving
20 parts. But certainly for that rule-making, I would hope
21 that Staff is taking a close look, not just at the
22 requirements to sign a PPA, which I tend to think should
23 -- should be stronger, but -- but also sort of some
24 expectations for contracting process and practice.

25 Commissioner Tawney, do you have anything more

1 you want to say on this issue? I think with where we
2 stand here, we're not particularly addressing this in
3 our order, but just having this conversation in the
4 forum and discussion on AR 631.

5 COMMISSIONER TAWNEY: I've appreciated the
6 exchange of views and still comfortable with dealing
7 with this in a more holistic manner. I think with the
8 cluster study in place as opposed to the sort of
9 uncertainty and never-ending nature of the serial queue,
10 there's a lot to think through. So, I'm comfortable
11 with where we've landed.

12 And, you know, I would note that due diligence,
13 you know, certainly as we've -- we've learned in other
14 dockets and complaints, it's something that is done
15 throughout and at the end of the contracting process.
16 And so, you know, to the degree that Pacific Power can
17 make this work, I would really encourage them to,
18 because a significant number of PURPA complaints isn't
19 going to help us move the cluster study forward, and
20 it's not going to help us move the PURPA regime forward
21 in a productive way.

22 So, I just encourage good customer service to the
23 degree possible. But that doesn't need to go in the
24 order.

25 CHAIR DECKER: Okay. Commissioner Thompson,

1 anything further on that?

2 COMMISSIONER THOMPSON: No, I think -- I think
3 we've had a good discussion and said some things that
4 might be important for looking at this issue in
5 different dockets.

6 CHAIR DECKER: Okay. Thanks.

7 So, next on my list is a category that I think we
8 may have largely addressed with the discussion about
9 what PacifiCorp would be clarifying when it files those
10 -- the -- the, you know, kind of conformed written
11 procedures. But that has to do with kind of additional
12 exemptions whether for existing projects who aren't
13 changing their size and -- you know, I think PacifiCorp
14 clarified that if the system changes around them or
15 requirements change around them, there may be more study
16 required, but -- but not -- not including them in a
17 cluster study. And I expressed a view about the
18 recommendation that we exempt projects that meet
19 community solar program, you know, kind of pilot
20 interconnection process thresholds that I guess I just
21 wanted to give the other Commissioners a chance to weigh
22 in on that and indicate whether they agree or disagree
23 with the view I expressed there.

24 COMMISSIONER THOMPSON: I -- I don't disagree
25 with that.

1 COMMISSIONER TAWNEY: So to clarify, you are
2 proposing that we exempt other --

3 CHAIR DECKER: I'm proposing that we not
4 exempt --

5 COMMISSIONER TAWNEY: That we not exempt them.
6 Yes.

7 CHAIR DECKER: Okay.

8 COMMISSIONER TAWNEY: Right. Okay, good. I
9 wanted to be clear on what I was agreeing to.

10 I am not comfortable exempting more projects, and
11 so I agree that we not add -- add more customers to the
12 serial queue -- to the other serial queues we've created
13 already.

14 CHAIR DECKER: Yeah, and just to clarify,
15 they're not serial queues, they're sort of like outside
16 the -- the process.

17 COMMISSIONER TAWNEY: Yeah. Yeah.

18 CHAIR DECKER: But anyway, I --

19 COMMISSIONER TAWNEY: The community solar queue.

20 CHAIR DECKER: Yeah. I -- I don't -- I think
21 people want us to move on so --

22 COMMISSIONER TAWNEY: Mmm-hmm.

23 CHAIR DECKER: -- I think there's nothing that
24 we need to address beyond what Staff talked about there.

25 So, you know, now we've got kind of the -- the

1 three, you know, kind of -- well, at least I categorize
2 in three categories, you know, the issues that are
3 really related to what it takes and what the rules of --
4 to -- to be part of the -- the cluster and what the
5 rules of the road are there.

6 You know, I think I expressed when I opened up
7 here, some fairly strong hesitancy to -- to deviate from
8 what FERC has decided, and I think on the question of
9 sort of like how you -- what you have to show to get in
10 here. I think we've already had some discussion of how
11 that's different for, you know, QFs. You know, there
12 may be some more discussion that is warranted there.

13 I -- I think -- I heard Commissioner Tawney just
14 indicated the general principle that she wouldn't want
15 large Oregon jurisdictional generators to have kind of
16 different rules of the road from FERC generators, which
17 I thought was a, you know, a very reasonable principle
18 to set forth particularly with the change to that
19 threshold that Staff has recommended.

20 So, you know, in the category of kind of study,
21 cost deposits, which I understand really aren't
22 changing, study costs, you know, timing, I think that
23 that is one change, maybe it all has to be paid up
24 front. You know, my understanding for the transition
25 cluster, you know, based on today's discussion, there

1 actually aren't withdrawal penalties, but those, for
2 large generators, are more significant, you know, going
3 forward.

4 And then I think that there are some, you know,
5 some, I guess, maybe there's some clarifications around
6 why PacifiCorp has kind of drawn some lines around site
7 control where it has. There -- there may be other
8 things in this bucket, but I don't -- I don't -- I'm not
9 feeling a kind of real burning desire to talk about much
10 more than the -- possibly the withdrawal penalties
11 issue. I think if there's a -- and not understanding
12 the serious concern about the site control element very
13 well perhaps, but, you know, those are kind of the --
14 the -- the two that seem somewhat reasonable to -- to
15 talk about.

16 But given, you know, if -- if -- Commissioner
17 Thompson, you're largely in a place where Commission
18 Tawney is in terms of maintaining that consistency at
19 least for large generators, then maybe we just need to
20 kind of keep this discussion short, because I think
21 there may be more significant discussion of your topics
22 around the reasonableness standard as it relates to the
23 cost allocation.

24 So, Commissioner Thompson, I guess I'm looking
25 for kind of a temperature from you on whether there are

1 elements of kind of the study costs and penalties and --
2 and the requirements for being in the -- in the cluster
3 that you wanted to dig into more.

4 COMMISSIONER THOMPSON: No, there aren't. I --
5 I don't know the specific instances that strike me that,
6 you know, they're completely unfair or outlandish costs.
7 And I -- I understand the point that these are also
8 important elements of a cluster study proposal because
9 there is an emphasis on getting projects in there that,
10 you know, are likely to proceed and have some skin in
11 the game.

12 I did hear, you know, Mr. Stephens throw out an
13 example just a minute ago about, you know, a project
14 that goes into the interconnection study process with a
15 PPA is exempted from some requirements down the road and
16 yet PacifiCorp is not allowing other projects, the QF
17 projects that actually get a PPA prior to proceeding,
18 and so there's some unfairness there. I probably
19 wouldn't mind hearing maybe one more minute on that,
20 just to -- just to make sure that we understand it, and
21 then maybe from the company as a response to that.

22 CHAIR DECKER: Okay. Great.

23 Mr. Stephens, go ahead and address that.

24 Mr. Stephens, I don't know if you're speaking on
25 mute or --

1 MR. STEPHENS: Oh, thank you. Yes.

2 CHAIR DECKER: -- unclear about what the -- the
3 question is.

4 MR. STEPHENS: Yeah, sorry, I was muted.

5 I think the backdrop here is that these deposits
6 that will be required to go from the cluster to the --
7 the facility study are substantial, and the proposal is
8 this 100% deposit type thing. Context here quite
9 literally can be 100 or 200 or 300 million dollars based
10 on examples. And I think -- I would really recommend we
11 spend a few minutes talking through some of these
12 examples, because they bear into the key issues here
13 that I -- I think really are not quite being understood
14 in terms of -- of how all of this works and how the
15 downsizing issues and the restudies work, because it's
16 not as like PacifiCorp represented and there's --
17 there's a lot in here.

18 The specific question that's asked, though, is
19 essentially that would have -- currently, if you make
20 the short list in RFP, you are deemed that readiness
21 criteria and, therefore, you would not have to post that
22 100% deposit, which a million dollars would be a lot, a
23 hundred million dollars won't exist. You know, there's
24 sort of functionally unachievable things for QFs and
25 non-QFs in that situation.

1 And again, as I was saying, they have -- they are
2 going to proceed for the next six to nine months with
3 their contracting negotiations with PacifiCorp, whereas
4 we have a right to a contract, but because they're "more
5 ready" than we are and might some day get a PPA if they
6 get picked in the RFP lottery, they don't have to post
7 that deposit. So obviously that's discriminatory
8 towards the Qfs.

9 And fundamentally, there's some dynamics in there
10 to think through about -- about the discretion be given
11 to PacifiCorp and the dynamics around those deposits and
12 how that relates to direct access and merchant projects
13 and -- and all of these things, and how that then works
14 with downgrade decisions and -- and so forth. There's
15 -- there's a lot there that I really think would be very
16 worthwhile discussing before you make these final
17 decisions.

18 CHAIR DECKER: When you say deposit --

19 COMMISSIONER TAWNEY: *(inaudible - talking over*
20 *each other)*. Go ahead.

21 CHAIR DECKER: -- let me just verify, you mean
22 the financial security for network upgrades, that's what
23 you're -- you're specifically talking about?

24 MR. STEPHENS: Right. Your --

25 CHAIR DECKER: Okay. Perfect.

1 MR. STEPHENS: -- study result says that -- that
2 you've got allocated ten million or five million or a
3 hundred million dollars, you have 30 days to post that
4 or you get kicked out of the queue.

5 CHAIR DECKER: Okay.

6 MR. STEPHENS: And there's a question about the
7 contracting process related to Commissioner Thompson's
8 question earlier, so you get those results, you have 30
9 days, you now might want to sign a PPA, how do you post
10 that money before you get your PPA?

11 CHAIR DECKER: Right. No, I -- I understand. I
12 wanted to make sure they -- I wanted -- I just wanted to
13 make sure we were talking about the same thing. Okay.

14 MR. STEPHENS: Okay.

15 CHAIR DECKER: So -- and so what's different is
16 -- let me help -- help me understand kinda what's
17 different from the status quo. Is it the amount that
18 you're required to post to move to the next stage, which
19 presumably you have to post something today to move to
20 the next stage, I don't -- I don't know.

21 MR. STEPHENS: Yes. Currently --

22 CHAIR DECKER: Or is it -- or is it the timing?

23 MR. STEPHENS: Currently, you would have 30 or
24 45 days to post \$100,000 to move into the facility
25 study, at which point, you would get more information

1 about your results and you would refine your -- your
2 interconnection more specifically to your project. Some
3 things might change, you might downsize to avoid some
4 upgrades, et cetera, but you would get more information
5 before you, at the end of that, decided whether or not
6 you were going to proceed and build your project and
7 negotiate and execute an interconnection agreement. And
8 when you execute that, you would pay some schedule of
9 payments over the period of construction that were
10 deposits on the way to eventually building that
11 interconnection facility.

12 PacifiCorp's current proposal is, you know,
13 potentially three or four years in advance of those
14 facilities, for you to post 100% of the money that you
15 are going to have to pay to interconnect your facilities
16 before you even have those results. And by the way,
17 when the dropouts occur, when everybody gets their crazy
18 interconnection results, people have to post those and
19 all of those dynamics occur, you have posted this money
20 that may have nothing to do with your final costs.

21 And this is where my really simple, practical
22 proposal like a CAISO cluster, was that you have some
23 skin in the game proposal deposit that you post, like
24 10% of the upgrades, or a million dollars, the lesser of
25 that, you know, a real number and then you can proceed

1 from there and it would accomplish that objective of
2 making sure you're serious without, you know, being so
3 dysfunctionally huge as to be impossible to ever occur.

4 CHAIR DECKER: So, help me understand, aren't
5 you proceeding -- isn't what you receive from the
6 cluster study more robust than the point that you're
7 talking about, the \$100,000 to move onto the facility
8 study?

9 MR. STEPHENS: No. The study is the equivalent
10 of the old system impact study. So you would get that
11 result as a group. So say if you were, you know, or
12 four people that had 50 megs each plugging into some
13 area that had 50 megs of capacity from the info study,
14 you know, they all file, the results of that is a few
15 hundred million dollar upgrade, which we've seen in
16 multiple studies, and now all of them have to post 50
17 million dollars each. If they're in the RFP short list,
18 they don't have to post it, so only the QF has to post
19 it. But you functionally can't build all of them
20 because there's only 50 megs of capacity, but somebody
21 gets forced to do that. If one of those is a direct
22 access or merchant customer, they'd have to decide to do
23 that while renegotiating their deal or whatever the
24 commercial terms, and still post ungodly amounts of
25 money in short times, when you know nobody in their

1 right mind should make that deposit, so therefore, the
2 study results are going to change because people are
3 going to drop out, and it would be sort of illogical to
4 assume otherwise, right?

5 CHAIR DECKER: And what is -- what is the, you
6 know, remind me exactly what the -- your -- your view is
7 that for Oregon -- for all of Oregon jurisdictional
8 generators there should be sort of a different level at
9 which that security has to be posted at the end of 30
10 days. So, you know, FERC jurisdictional generators
11 would post 100% at that point, except in the situation
12 where they're on the RFP shortlist, and -- well, and I
13 guess I don't know where direct access or merchant
14 generators fall out here, but if we -- if we changed
15 this for Oregon jurisdictional generators to, you know,
16 be, you know, 25% or 20% or 50% or something, or
17 whatever it was you just said, 10% --

18 MR. STEPHENS: Okay.

19 CHAIR DECKER: -- the -- the risk that I
20 understand PacifiCorp, I guess, to be raising is that --
21 is that all of the other participants in the -- or that
22 have posted 100% or -- or maybe you're saying they're
23 not actually doing that from a business perspective, but
24 you know, run the risk of, there's not actually enough
25 funding to complete the network upgrade that everyone's

1 relying on. How -- how does your --

2 MR. STEPHENS: It's not so much about the --

3 CHAIR DECKER: -- proposal --

4 MR. STEPHENS: Right, it's not so much about the
5 completion of the upgrades. I mean, typically with most
6 utilities, you eventually fund the things you build when
7 you build them and there's sort of a progress payment
8 that's typical for that for an EPC contract. But this
9 is more about, at that point, you know, using the same
10 example, and you could add a variation with the merchant
11 or direct access project there, but, you know,
12 essentially PacifiCorp's model sort of assumes that the
13 only people that matter are the people with the short
14 list and the RFP.

15 So if there's only 50 megs of capacity and one of
16 those is their cheap project, you know, three of those
17 RFP projects go forward, they only pick one of them.
18 None of them had to post that security, they're going to
19 go through nine months of intensive negotiation, where
20 there's no way any but one of them gets picked, if any.
21 Meanwhile, you have this right to a contract, but you
22 had to post all this money at risk and if they pick that
23 other project, then now you're both splitting a new
24 upgrade cost, maybe now your upgrades went up to 100
25 million each, how does that relate to their RFP economic

1 result and how does that relate to -- I mean, neither of
2 your projects are sort of, you know, make sense in that
3 context yet, because you need to be restudied. The
4 restudy process and accounting for it are clear, but the
5 QF that's being asked to make this deposit, meanwhile,
6 they actually have a right to a contract, which the RFP
7 customer does not. And so, if the idea is that being
8 ready and having a real -- being serious and having a
9 power contract is the criteria to not have to post these
10 deposits, then you automatically should qualify because
11 you're entitled to a contract.

12 The idea that I had with the deposit, and then
13 this is not -- this is pretty similar to what the CAISO
14 does. They have a two-step cluster process where they
15 do phase one and then there's initial, you put some
16 money down, some skin in the game, some people drop out,
17 some people stay in, and then they update the studies.
18 And essentially what I'm proposing is at the end of
19 this, you have to post, you know, basically a million
20 dollars and I proposed 250K for a small gen, but that
21 there's -- maybe they're exempt and I got that wrong,
22 but there would be a cap so that you show you're
23 serious in order to proceed, but it's not, you know, as
24 is very likely to occur, and I can show you the studies,
25 it's not some crazy number. You know, if you're a

1 merchant in that situation, the current structure is
2 essentially that you get your 50 million dollar deposit
3 you have to post and now whatever your commercial deal
4 is that you thought you had with Facebook or Apple for
5 an offtake, you have to renegotiate that deal, figure
6 out the terms, confirm it, you know, update all of your
7 economics and simultaneously you don't know who's going
8 to drop out, and you have 30 days to post that money,
9 which is a spectacular amount.

10 CHAIR DECKER: So, Commissioners, you know, I
11 think we've been circling around this issue to some
12 degree or another all day, but you know, getting a
13 little more clear on that, do you want to follow up with
14 Mr. Stephens here to get a better understanding of what
15 he's talking about or are you ready to go to our
16 response from PacifiCorp?

17 COMMISSIONER THOMPSON: Yeah, I'm ready to go to
18 a response from PacifiCorp.

19 COMMISSIONER TAWNEY: Same here.

20 CHAIR DECKER: Okay. PacifiCorp, so why is the
21 -- the kind of amount of money that's sort of required
22 very soon after the results of the cluster study
23 reasonable and, you know, fair to generators that are
24 not part of the RFP process?

25 MR. LOWNEY: Thank you, Chair Decker.

1 This is -- this is Adam Lowney, and I'll take a
2 first stab at it, and I will invite my colleagues from
3 PacifiCorp to weigh in if I miss something.

4 So -- so, first, as an initial observation, I
5 just want to clarify, the financial security deposit
6 requirement applies only to large generators, so small
7 generators can walk away from a cluster study without
8 incurring with the penalties, without having -- you
9 know, they can move forward without having to pay this
10 deposit.

11 So, we're talking about a fairly small universe
12 of potential QFs in Oregon. They would be subject to
13 the same requirements as their FERC jurisdictional
14 counterparts in terms of this financial security
15 requirement. The potential difference that could arise
16 is that because the FERC jurisdictional generators are
17 required to demonstrate commercial readiness depending
18 on how they demonstrate that commercial readiness, they
19 have a different obligation to -- to pay the financial
20 security for the network upgrade costs. And so that's
21 -- that's where the difference might arise.

22 So it's not -- it's not unique to the RFP, this
23 is unique to the fact that FERC jurisdictional
24 generators are subject to additional requirements just
25 to get into the cluster study. So I guess that's an

1 important clarification.

2 And again, I think that the -- the -- the --

3 CHAIR DECKER: So to clarify -- sorry -- if you
4 had the example of a merchant or a direct access example
5 that Mr. Stephens raised, that those would be examples
6 where unlike QFs they had to meet some other kind of
7 commercial readiness, even if they weren't going through
8 the RFP?

9 MR. LOWNEY: Correct. And so -- so just to get
10 into a cluster, they would need to -- to meet the
11 commercial readiness requirements applicable FERC. And
12 that could happen via the 2020 AS RFP, it could happen
13 via a future RFP, or it could happen via one of the
14 other conditions by which a generator could demonstrate
15 readiness.

16 And so, this financial security requirement then
17 applies to FERC jurisdictional generators, again,
18 depending on the type of readiness -- or the type of --
19 of how they meet the readiness criteria.

20 In Oregon, obviously, we're not applying
21 readiness criteria, so this is, again, a -- a mechanism
22 that's put in place that's -- that is designed in part
23 to prevent withdrawals from the cluster study once
24 projects get their cluster study results and are -- are
25 ready to move into that facility study phase.

1 CHAIR DECKER: So how -- how do you respond to
2 the concern that -- you know, we've reached this topic
3 right after talking about the PPA issues, how do you
4 respond to the -- the concern that, you know, I may have
5 had no contracting activity and no chances, you know,
6 understanding what my PPA looks like at the point that
7 I'm being asked to make this financial security?

8 MR. LOWNEY: Well, again, I think what the -- I
9 would go back to the discussion we had earlier around
10 that if -- if we were to -- to change the contracting
11 practices relative to QF PPA, it needs to change in a --
12 in a more holistic way where it would not just remove
13 the one requirement that says you need to be able to
14 demonstrate you can meet your COD. Because what -- what
15 could potentially happen in those scenarios then is --
16 is a QF could just sign a PPA, it's -- it's -- it would,
17 at some point, be a potentially risk free option, and so
18 they could demonstrate commercial readiness via a PPA
19 that in fact doesn't indicate that they are commercially
20 ready or -- or ready to actually develop their project.
21 In which case then that -- that sort of gating mechanism
22 that's designed to -- to weed out speculative projects
23 and to only allow those that are ready to move forward
24 into the cluster study becomes *(inaudible - talking over*
25 *each other)*.

1 CHAIR DECKER: I -- I understand that, but is it
2 -- is it feasible to get a PPA within that 30 day
3 window?

4 MR. LOWNY: I mean, it would be very unlikely
5 that a large generator could get a PPA within the 30
6 days. I guess -- yeah, if that's -- if that was your
7 question, the answer is, that's very unlikely.

8 CHAIR DECKER: Commissioners, any other --

9 MS. KRUSE: This is Karen Kruse, I would --

10 CHAIR DECKER: Oh, yeah.

11 MS. KRUSE: Sorry.

12 CHAIR DECKER: Go ahead.

13 MS. KRUSE: It's just a small point, I'm not
14 sure this is completely obvious, but the network upgrade
15 security deposit is 100% refundable. Maybe that is
16 obvious, but that's the same for FERC and state as
17 proposed before you.

18 CHAIR DECKER: Right. Understood. It's -- it's
19 -- I think the challenges that I understand are being
20 raised are -- are the difficulty of, you know, despite
21 the deposit, you know, the deposit or whatever security
22 being refundable, sort of being able to achieve the
23 financing to come up with that, you know, when it's
24 really not possible to have a PPA to -- to show. I
25 think I'm understanding that correctly.

1 And I guess my other question would just be how
2 would it affect the kind of rest of the -- the FERC --
3 you know, it is my sense that -- that relaxing that
4 deposit requirement might put the completion of the
5 network upgrades that others are relying on at risk or
6 is, you know, is Mr. Stephens correct that there's going
7 to be sort of so much resetting dropping out that that's
8 not a reasonable concern?

9 MS. KRUSE: This is Karen Kruse. I think I
10 would -- I would encourage Rick or Kris to weigh in, but
11 I don't -- I agree with your observation that I'm not
12 sure relaxing it would have some kind of detrimental,
13 you know, massive effect on the broader cluster.

14 Rick and Kris, is that okay with you?

15 MR. BREMER: Yeah, I don't see any issues with
16 that, Karen.

17 MS. KRUSE: I think to get nothing -- I mean, I
18 suppose I would just say to get absolutely nothing could
19 probably, you know, increase the type of risk we were
20 talking about before with withdrawals, which would have
21 a, you know, broadly speaking an impact on the cluster.
22 But relaxing it at that facility study stage, reducing
23 it, or you know, staging it or whatever the options were
24 proposed earlier, I think to your smaller question, I
25 don't think that's fundamentally problematic for the

1 process overall.

2 CHAIR DECKER: Yeah. And it's something that
3 I'm inclined to, you know, let's just say it's not
4 something that we can't revisit, but given where we are
5 with that contracting conversation, you know, and
6 recognizing the desirability of approaching that
7 holistically, sort of putting off that conversation and
8 retaining this full 100% requirement feels, you know,
9 like it really is creating a pretty unworkable
10 situation.

11 I don't know -- you know, I don't have the
12 expertise to know, you know, what is meaningful. I
13 think Mr. Stephens is suggesting that -- I can't -- I
14 honestly can't remember, 10% or one million dollars or
15 something like that is meaningful. That doesn't mean
16 anything to me. I don't know if you have a particular
17 response to -- to that suggestion.

18 MS. KRUSE: This is Karen Kruse. I would
19 actually invite Rick or Kris to speak up. I think they
20 have honestly more day to day experience with this.
21 Sorry to put you on the spot, but do you have an opinion
22 on options?

23 MR. VAIL: I don't know if I have them off the
24 top of the head. This is Rick. But, you know, I'm
25 trying to remember the number -- numbers that Mr.

1 Stephens threw out. I mean, again, I think what we want
2 to do is, you know, have some kind of skin in the game,
3 and again, we're trying to encourage to not have
4 significant, you know, dropouts after we get the cluster
5 study results and then head into the facility study
6 stage. So I think a fairly meaningful deposit, but I
7 don't see that the requirement of a hundred percent is
8 needed. So if it's, you know, 10% or, you know,
9 \$250,000, something where, you know, you know you're
10 getting serious projects to commit to moving forward
11 with the cluster, I think that that would be completely
12 adequate.

13 COMMISSIONER TAWNEY: *(inaudible - talking over*
14 *each other)*.

15 CHAIR DECKER: So let me ask if --

16 COMMISSIONER TAWNEY: Oh, sorry. Go ahead.

17 CHAIR DECKER: Let me just ask if Mr. Sanger has
18 a view of this kind of number. Do you have a view of
19 what is skin in the game in this context?

20 MR. SANGER: Well, it's -- it's difficult to say
21 what the exact skin in the game amount needs to be, but
22 I would generally support Mr. Stephens' statements on
23 this. So I think that he's appropriately articulated
24 what is the correct amount for skin in the game here.

25 CHAIR DECKER: Commissioner Tawney, did you -- I

1 thought I heard you trying to jump in there.

2 COMMISSIONER TAWNEY: I wonder if this is -- let
3 me make a suggestion and perhaps this is helpful, if
4 it's not then -- then just say so, or maybe Ms. Andrus
5 has a view. You know, there's been reference to the
6 California -- to the CAISO cluster approach, I don't
7 know a lot about it in detail, but could we -- given
8 that we are sort of fishing in the dark right now for
9 something without a lot of data or a lot of records,
10 could we do something like mimic what they've got or
11 look to -- look to them and follow the -- the deposits
12 they require?

13 I'm not sure the -- I'm not sure that theirs are
14 a perfect mirror to ours, but it would feel a little
15 less like pulling things out of the air.

16 MR. STEPHENS: If -- if I may, I -- I appreciate
17 that suggestion, and the reason that I anchored and
18 picked these numbers is these numbers are slightly lower
19 than the CAISO. I think their numbers cap at two
20 million, it might be 15%, but for the reasons I
21 described earlier, in the CAISO process, they're
22 actually systematically downsizing people and have a
23 method and a clarity on dealing with the dropouts in the
24 -- in the queue, and it's not tied to an RFP process,
25 it's for the entire market. And you don't get kicked

1 out of the queue at the end of the cluster if you don't
2 move forward, whereas PAC's proposing to sort of clear
3 the queue each time based on who proceeds on the RFP.

4 So the risk profile that we're taking at posting
5 this, this is -- this is meaningful, this is skin, this
6 will be hard to do anyways in a -- in a 30 day timeline
7 no less, but we are still taking the risk of all of the
8 dropouts and restudies and picking up the costs of
9 those, and whoever PAC does or doesn't pick in the RFP.
10 So the risk profile is still pretty substantial around
11 this, and I think that should be taken into account.

12 CHAIR DECKER: Okay. That's -- that's helpful
13 to hear what the California number is.

14 I -- I know we need to -- these are big issues
15 and we're trying to do them in a very short period of
16 time, but I think I like Commissioner Tawney's
17 suggestion of, you know, using California
18 notwithstanding the differences that Mr. Stephens has
19 articulated, and I think it gives us, you know, some
20 kind of grounding, I don't have a strong feeling about
21 it.

22 But, you know, I want to offer Staff an
23 opportunity to input whether, you know, they have
24 anything to add here before we reach a decision.

25 MS. MOORE: Sure. Thank you, Chair Decker.

1 I think Staff is open to the California as a --
2 as a starting place and then we can observe over time.
3 But I'll just note that -- that it's 15% of network
4 upgrades in the phase one, or \$20,000, or just 7,000 --
5 or seven million five hundred thousand dollars, and
6 *(inaudible - talking over each other)*.

7 CHAIR DECKER: Whichever is -- whichever is
8 lower or higher?

9 MS. MOORE: It -- it does -- it says an amount
10 equal or lesser of, and then it lists the three options.
11 So I would assume whichever is lower the generator would
12 choose, but...

13 CHAIR DECKER: Okay.

14 MS. MOORE: And then it bumps up to 30% at the
15 point at which, in their process, that's comparable to
16 the *(inaudible)* impact process.

17 CHAIR DECKER: Yeah. I think given what you
18 just said, that we're talking about a point comparable
19 to -- that it's 30%, a point comparable to PAC's
20 process.

21 I guess what I want to propose is that, you know,
22 again, this -- this is -- we are just going into this I
23 think using those -- that first set of California
24 numbers that you cited and that will allow PacifiCorp to
25 go and, you know, verify that with its compliance filing

1 it's conforming to those, is basically what I would
2 propose for the Commissioners' consideration. And then
3 I think we'd be kind of done with this category and
4 ready to move on to cost allocation.

5 But Commissioners, what do you think?

6 COMMISSIONER THOMPSON: I'm sorry, Chair Decker,
7 could you clarify again just the dollar -- the amounts
8 or percentages that you meant to indicate?

9 CHAIR DECKER: I meant to refer to what I think
10 Caroline, Ms. Moore, was just trying to offer us, but
11 obviously subject to check. But it was taking
12 Commissioner Tawney's suggestion that we order
13 PacifiCorp to adjust the, you know, whatever we're
14 calling, network upgrade facility deposits or whatever,
15 to those used in California after their first phase.

16 COMMISSIONER THOMPSON: Which we --

17 MR. STEPHENS: Can I make one last --

18 COMMISSIONER THOMPSON: Which we believe might
19 have been around 15% or two million or something like
20 that?

21 CHAIR DECKER: I think Ms. Moore said it was 15%
22 or seven million.

23 COMMISSIONER THOMPSON: Yeah. *(inaudible)*.

24 MR. STEPHENS: If I might suggest, in terms of
25 the seven million, you know, those are really big

1 numbers, and again as I commented, in California you get
2 to keep your queue position forever, and there's sort of
3 different dynamics around that.

4 In addition to that, the other issues that --
5 that it sounds like the current proposal on power flow
6 is to put that issue off, but we have a history of one
7 and 40 megawatt projects getting 100, 200, 300 million
8 dollar upgrades and essentially you'll be sentencing all
9 of those projects to posting seven and a half million
10 dollars each in order to proceed further, including
11 while you're working out the rest of these policy
12 issues. And I think that area deserves some merit, but
13 there's a lot of reason to believe that that's wrong and
14 thus taking a more conservative approach here that's
15 consistent with policies designed to encourage and
16 protect QFs would be appreciated. Thanks.

17 CHAIR DECKER: Okay.

18 Commissioner Tawney, what do you think? I know
19 you were sort of resistant to shooting in the dark the
20 California numbers, you know, seven million's a little
21 higher than kind of what we were circling around. Do
22 you have a perspective here?

23 COMMISSIONER TAWNEY: I think that I'm
24 comfortable with the California numbers and the idea
25 that it's the first phase, it's not -- I think it gives

1 us more grounding than we would otherwise have, and I
2 think we can keep working through these -- you know,
3 these issues as we get through the contracting questions
4 and so on, but we've not left all of the projects stuck
5 in a -- in a dead-end with no contract and a 100% bond.

6 CHAIR DECKER: Yeah. I presume that -- that
7 this is, you know, quite difficult and -- and I am a
8 little uncertain, you know, about that, but I appreciate
9 the -- the grounding in California despite the
10 differences, and I think what we're proposing here is,
11 you know, pretty different than where we started today,
12 you know, whether it's different enough I guess is the
13 question.

14 Commissioner Thompson, what do you think?

15 COMMISSIONER THOMPSON: Yeah, I'm -- I also like
16 the idea of grounding it in something and this is a hard
17 call to make obviously somewhat on the fly here, but I
18 do think it's worth noting that this only applies to the
19 large generators, and so I think we're talking about a
20 pretty small set here and kind of a different type of
21 entity that's pretty sophisticated. And I do think this
22 is a substantial mitigation to the issue that was
23 identified, so I'm comfortable moving forward with it.

24 CHAIR DECKER: Okay. All right. Let's -- let's
25 consider that the decision -- and Judge Moser, the

1 decision will reference, you know, you can work a little
2 with Staff to, you know, reference what, you know, she's
3 referring to in order to produce the order.

4 MR. STEPHENS: Chair Decker, can we confirm --
5 and the clarity on this is maybe lost on me, but that if
6 you did drop out later and didn't proceed, that you'd
7 actually get your deposit back, notwithstanding the
8 withdrawal penalties question?

9 CHAIR DECKER: I -- I think that's what I heard
10 Ms. Kruse say. Do you want to confirm that?

11 MS. KRUSE: Yes, unless Kris tells me I'm wrong.
12 Kris or Adam?

13 MR. LONEY: Yeah, this -- this is Adam Loney.
14 I just pointed -- there's a specific provision in the
15 revised version of the QF LGIP that was with our filing,
16 it's section 13 -- or excuse me, Article 13.3 that talks
17 exactly about what happened to those refunds and how,
18 you know, like for example, they'll get applied to your
19 study costs if -- if there's an outstanding balance
20 there, etcetera. But it describes exactly how the
21 refunds happen.

22 MR. STEPHENS: Thank you.

23 CHAIR DECKER: Okay. So, Commissioner Thompson,
24 so for these last two issues, cost allocation -- and
25 really, we -- you know, we're obviously maybe not going

1 to get to all of the downsizing and alternative POI
2 issues related to the period after the cluster study,
3 but I think this is a material change that we just
4 arrived at.

5 But I want to give Commissioner Thompson a chance
6 to articulate and remind everyone of your perspective
7 around sort of not being well equipped to secondguess
8 the cost allocation approach right now, but, you know,
9 wanting to have some layer of reasonableness.

10 I will note that, you know, I'm not super
11 inclined to change these. I'm really relying on -- on
12 Staff's view that they'll be able to look at these over
13 time and -- and -- and -- and that we'll have, you know,
14 more information as we go forward about how this would
15 -- would work. But do you want to articulate what
16 exactly your thinking in terms of a reasonable standard
17 and then maybe get a response from the company on that?

18 COMMISSIONER THOMPSON: Oh, sorry, I was on
19 mute. Yes. Yeah. Sure. I'm responding to the sense
20 that's out there, I think, that there's allocation
21 methodologies that strike some people of feeling
22 arbitrary, and the company I think is asserting, you
23 know, that they make sense. But then we've had, you
24 know, some numerical examples thrown out there that I
25 think would show, you know, a result that would feel a

1 little bit crazy if it were to happen. And so I -- I'm
2 feeling a little bit unable to judge whether or not
3 those are realistic or not.

4 And so just as a way of giving myself comfort
5 that we've done the right thing here and that we don't
6 get a crazy result that we can't fix later, that's what
7 led me to think that it would be nice to require some
8 insertion that says, you know, the Commission can review
9 a cost allocation application if the circumstances --
10 you know, if the Commission finds that the allocation is
11 unreasonable, or we could put a higher standard on that,
12 that we would have some opportunity to provide relief,
13 because I just don't want to get into a situation where
14 we -- we understand the craziness of a cost allocation
15 for the first time once it's presented to us and feel
16 like our hands are tied because we -- we didn't
17 understand that that could possibly happen.

18 With that said, I could use a little bit of
19 clarification, you know, I probably would like to hear
20 from the company and then I don't know if -- if someone
21 -- if anyone from the interconnection customer side
22 feels like they have to chime in. We could decide if we
23 do that or not. But I'd like to hear kind of the -- the
24 potential -- I'm sorry, just to refresh, I guess, the
25 costs that we're talking about here. I think since we

1 re-characterized small generators to include those under
2 20 megawatts, maybe we're less concerned about -- about
3 this than we were before. And I understand there's a
4 one percent threshold and -- and I guess my question is,
5 are we really just looking, talking about system upgrade
6 costs, which are allocated based on the science of the
7 projects?

8 And then station upgrade costs with standard
9 allocated on a per capita basis, or is there other
10 things that play here that I'm not contemplating that
11 could yield a crazy result?

12 So yeah, I'd love to hear from the company
13 briefly on that.

14 MR. LOWNEY: Thank you. This is -- this is Adam
15 Lowney on behalf of PacifiCorp.

16 So, I guess to -- just to recap the way that the
17 cost allocation works is -- is, I think you're correct,
18 Commissioner Thompson, that station upgrades, which are
19 really dependent on the number of interconnecting
20 customers rather than their size are allocated based on
21 the number of customers, whereas, other network upgrades
22 are allocated based on the relative capacity of the
23 various interconnection customers that make up a
24 particular cluster. The only costs that are allocated
25 this way are network upgrade costs, so that would not

1 apply to, for example, interconnection facilities, which
2 are what we call direct assigned facilities that are
3 usually just tied to a specific generator that requires
4 those facilities to interconnect.

5 I would note, you know, I don't know that there's
6 an objection, obviously the Commission can always review
7 any sort of cost allocation outcome down the road. I
8 would just note that the scenario where there's a
9 dispute about cost allocation is probably going to be a
10 dispute amongst interconnection customers, not
11 necessarily the company, just because those costs have
12 to get allocated to somebody. So one generator is
13 saying that they received too big of an allocation, the
14 remedy is to shift that allocation or some portion of it
15 to a different customer that's also in that cluster.

16 So, I think we would need to be mindful of that
17 relationship between FERC customers and state customers,
18 and then any sort of dispute resolution process or
19 bringing these disputes to the Commission would also
20 need to be mindful that -- that there's -- it may well
21 not be a dispute between the company and a customer, it
22 could be a dispute between two customers.

23 COMMISSIONER THOMPSON: And, Mr. Lowney, I
24 appreciate that. The logic for allocating these station
25 upgrade costs on a per capita basis is because the

1 company's asserted that the costs that were incurred by
2 virtue of the fact that there is a customer
3 interconnecting, and it has -- and the costs really are
4 independent of how large that project is. And I guess
5 what I'm wondering is, is there some way that we could
6 craft the tariff to make it clear that per capita
7 allocation is appropriate for costs that are of that
8 nature, rather than making it apply to, you know,
9 station upgrade costs? Because I think where I get
10 concerned about having a crazy result is if something
11 can be deemed a station upgrade cost, but it becomes
12 apparent after the fact that it is, in fact, incurred
13 because of the size of the project.

14 So I wonder if we could reframe the cost
15 allocation category just a little bit to, you know, give
16 me a little bit more comfort. Do you have any thoughts
17 on that? And I know we're talking on the fly here.

18 MR. LOWNEY: Yeah, I guess I'm not sure that I'm
19 opposed to it, and I would -- I would offer one
20 statement and then maybe I would defer to Rick Vail
21 and/or Kris Bremer, because they could probably offer
22 some potential language solutions here.

23 But, you know, I think one of the reasons that
24 the terminology was selected was because it was fairly
25 bright line. I mean, what is or is not a station

1 upgrade is fairly clear, and so the idea was sort of to
2 minimize disputes. And so I would just want to be
3 mindful that if we replace that language with something
4 else, that we try to create as clear a line as we can
5 just to avoid those disputes going forward.

6 And maybe then I'll turn it over and put Rick
7 Vail and/or Kris Bremer on the spot to see if you have
8 any idea on how that language could perhaps be revised
9 to capture that, Commissioner Thompson's concern without
10 also creating a standard which can be vague or confusing
11 to customers.

12 MR. VAIL: Yeah, so this is Rick Vail,
13 PacifiCorp.

14 I think -- so one initial response that I'd have
15 is, you know, there's a big difference as to the voltage
16 level and what the station upgrades would be required
17 based on the size, the likelihood that a, you know, two
18 or three megawatt generator is going to connect at 115
19 KV where, you know, maybe an 80 megawatt generator would
20 have to connect at that voltage level is extremely
21 unlikely. It would be, you know, very cost prohibitive
22 for a very small generator to connect to that high of a
23 voltage and a larger generator just would not have the
24 capability of connecting at a lower voltage.

25 So I think the -- at least I see the

1 possibilities, the chances of that happening where this
2 per capita allocation and substation level would really
3 impact the small generator I just think is extremely
4 unlikely. I'm not sure how we would want to, you know,
5 phrase or put into writing what -- you know, what a
6 reasonableness test would be on that. But I just -- I
7 don't see that a small generator would connect at a high
8 voltage and a larger generator is unable to connect at
9 the lower voltage. Those station upgrades and kind of
10 the idea behind that per capita is, if you had two or
11 three smaller generators that are connecting to the
12 substation and now you need a new breaker position in
13 that substation, well, rather than just dividing up
14 between megawatts it's, you know, we've got three or
15 four going in, that breaker position now has to be
16 added, and they would share on a per capita basis in
17 that case. And then like the distribution line portion
18 of that would then be, you know, more on the pro rata
19 share.

20 So that was kind of the thought process behind
21 that, and I'm just not seeing an example where you'd
22 have, you know, two or three large generators and one
23 small one, and the small one would be getting hit with a
24 large per capita share of the substation upgrade. I
25 just don't see how that's possible, it would just be

1 connecting at a much lower voltage.

2 COMMISSIONER TAWNEY: Mr. Thompson, can I ask a
3 clarifying question? I didn't want to interrupt your
4 flow.

5 COMMISSIONER THOMPSON: Sure. Please. No, that
6 would be great.

7 COMMISSIONER TAWNEY: So just to be really clear
8 -- this is Commissioner Tawney -- when you say a per
9 capita charge, it's not that you're going to sum up all
10 of the station upgrades that are caused by the number
11 and divide them up across the three megawatt project and
12 the 80 megawatt project. There are some, it sounds
13 like, that are specific to individual projects, and
14 those will be assigned to those individual projects.
15 So, the four projects require a new breaker, that's one
16 where you would take a cost and divide it, but the two
17 different kinds of voltages for interconnecting, you
18 wouldn't charge the three megawatt project with a
19 portion of -- you wouldn't say, oh this is all of the
20 system upgrades, now let's divide by two in that case,
21 right?

22 MR. VAIL: Yeah. And, you know, I guess I'd
23 just clarify it, certainly, depending on which specific
24 substation they're interconnecting to. But, you know, a
25 larger project connecting at 115 KV, which adds a 115 KV

1 breaker to that substation, you're not going to allocate
2 those 115 KV upgrades to, you know, the two megawatt
3 project that's interconnecting on the distribution
4 feeder of that substation.

5 COMMISSIONER TAWNEY: So there's some of these
6 costs that are actually going to be more leaned to
7 specific projects and others that are more clearly per
8 capita, and then yet others that are pro rata?

9 MR. VAIL: So, again, I'll just clarify, I mean,
10 the per capita is for the substation charges. Like I
11 said, I just don't see a scenario where you're going to
12 have a small and a couple of larges that create
13 substation upgrades that will be allocated to that small
14 generator. But when you start talking about like the
15 distribution line, then that is going to be on the pro
16 rata share.

17 COMMISSIONER TAWNEY: Thank you.

18 Go ahead, Commissioner Thompson.

19 COMMISSIONER THOMPSON: And I think, Rick,
20 you're saying that's a pro rata share because it's not a
21 station upgrade?

22 MR. VAIL: Correct. Yeah.

23 COMMISSIONER THOMPSON: So you're not talking
24 about having to make an exception to your rule, you're
25 talking about implementing the rule as written, right?

1 MR. VAIL: Yeah. And, again, I just -- I mean,
2 I'm really hard pressed to see, you know, our small
3 generator can get hit with a large per capita share on
4 the substation project. And I'm not sure how we would
5 write it in, but I would be in agreement that if there's
6 some way, or if that situation came up, you know, if
7 that's one that, you know, we definitely should look at
8 what the cost allocation is, because I don't know why
9 you would hang a per capita cost for like let's say a
10 115 KV substation upgrade on a small generator unless
11 they were the only generator connecting to that station,
12 you had to have that upgrade just to allow them to
13 interconnect. But if there's other projects that are
14 larger, connecting at that higher voltage, I don't know
15 why you would hang that cost on this generator.

16 COMMISSIONER THOMPSON: Yeah, and I appreciate
17 that. And obviously I'm in a situation where I know
18 very little about this and you know a lot about it, and
19 that's what you're articulating is a principle that
20 makes sense to everybody and yet we have intervenors
21 saying that this could yield, you know, a crazy result.

22 And so it feels to me like a potential way for,
23 you know, to work on the language later, but to put in
24 our order clarity that the Commission would entertain,
25 you know, a party raising a concern if there's a view

1 that they're being allocated on a per capita basis, a
2 cost that really is being completely -- or largely
3 caused by a different customer. In other words, it's
4 maybe not appropriately characterized as a station
5 upgrade cost.

6 And so I don't if we need to tweak the language
7 that we approve, or maybe we could just make it clear in
8 our order that if this were to arise, we would deal with
9 -- we could deal with it, and then at least we're being
10 responsive to this concern that's been put out by the
11 intervenors and yet recognizing that we're out -- we
12 have alignment on the principles here.

13 MR. VAIL: Yeah. I think if we focus on, you
14 know, the language on that per capita charge, and you
15 had something you ordered that, you know, again, if it's
16 -- you know, if it's out of line or something like that,
17 it's subject to review, I don't think there's any
18 problem with that. The intent of the per capita --

19 COMMISSIONER THOMPSON: *(inaudible)*

20 MR. VAIL: Yeah. The intent of the per capita
21 charge was certainly not to, you know, hang, you know, a
22 high substation upgrade cost on, you know, a small
23 project when it's connecting to the same substation as a
24 couple of other large ones. That really was not the
25 intent.

1 COMMISSIONER THOMPSON: Right.

2 MR. SANGER: Chair Decker, this is Irion Sanger.
3 I'd like to comment if possible.

4 CHAIR DECKER: Go ahead.

5 MR. SANGER: Thanks. We would support having a
6 reasonableness requirement, and we'd recommend that it
7 go in the actual filing not just the order. It can be
8 hard for customers to have to know to go back and look
9 at an order to find information.

10 And when you and Commissioner Tawney make a
11 decision on this, we just want to point out that none of
12 the factual assertions that have been made have been
13 able to -- we've been able to vet, and you generally,
14 when making decisions at this level in court, allow
15 parties to investigate and cross-examine and get
16 information. And we think that -- you know, you don't
17 -- you don't know the answers to these, we don't know
18 the answers to these, and having some sort of process
19 like Commissioner Thompson's talking about would be
20 very, very helpful.

21 MR. STEPHENS: If I could add, overall --

22 CHAIR DECKER: Just very briefly.

23 MR. STEPHENS: Yes. I think PAC's position
24 overall here on this is actually pretty reasonable and
25 it's, among all the issues, probably the lowest

1 priority. I think the bigger context here is not the
2 per capita allocation of a small portion of this, but
3 things like the power flow studies resulting in hundred
4 million dollar upgrades, you know, getting assigned to
5 that small project instead of, you know, this issue,
6 which I think is actually a pretty reasonable proposal,
7 and I would hope we could focus some attention on that
8 issue.

9 Thank you.

10 CHAIR DECKER: Yeah, I am looking for
11 Commissioner Thompson to articulate sort of what -- I
12 mean, I hear what's happening here is a, you know,
13 something that we would put in our order directing
14 PacifiCorp to, you know, indicate in the procedures that
15 it's developing that, you know, a -- you know, a
16 customer who believes they've been, you know -- I'm not
17 sure exactly how you want to articulate this, but
18 wronged by a costing categorized as appropriately per
19 capita instead of pro rata, you know, can bring that
20 issue to the Commission? Is that -- is that what you're
21 looking for? And I'm not going to belabor the point of
22 how that affects assignment of cost to, you know, others
23 who might have a different view of that and a different
24 expectation given that they're, you know, proceeding
25 under the FERC tariff. But anyway, um...

1 COMMISSIONER THOMPSON: Yeah. I think you've
2 characterized it well, so I -- you know, I threw out the
3 idea as a reasonableness standard and I -- I do, you
4 know, worry that just throwing that out there might
5 invite disputes around whether or not the cost as a
6 whole are reasonable, I didn't mean to do that, but I'm
7 talking about the cost allocation, and it sounds like
8 PacifiCorp's articulating that they're going to allocate
9 on a per capita basis, the station upgrade costs that
10 are really due to the fact that the customer exists, you
11 know, irrespective of its size. And then the other
12 costs will not be allocated on that basis.

13 And so, I think getting clarity on that point,
14 and I don't know unfortunately whether or not the
15 current language is fine already or not, but I -- I
16 guess what I'm leaning towards is clarifying in our
17 order that we expect that that's how it works and then,
18 you know, if PacifiCorp looks at the language and thinks
19 -- or Staff does and we decide that it needs to be
20 changed in order to effectuate the order, then it should
21 be changed. But if it's already susceptible to that
22 reading, then maybe our order is fine as it stands and
23 it just provides different contexts for how to interpret
24 that provision. I'd be comfortable moving forward under
25 that approach. Does that make sense?

1 CHAIR DECKER: I think so. You know, I'm
2 concerned about, you know, this creating sort of bigger
3 -- bigger problems than we intended to, but I guess I'll
4 just confirm with Staff that that's something they're
5 understanding and can look for in the -- in what
6 PacifiCorp files.

7 MS. ANDRUS: Yes. I'm -- I really apologize,
8 Commissioner Thompson, but could you say that one more
9 time?

10 COMMISSIONER THOMPSON: Sure. The proposal
11 would be that we clarify in our order, our understanding
12 of the principles upon which PacifiCorp's allocation of
13 station costs on a per capita basis lies. You know, we
14 understand that the reason allocated on a per capita
15 basis is because they are caused by the existence of a
16 customer irrespective of its size, and that we just
17 indicate that if a dispute comes up around whether or
18 not that is an appropriate allocation based on a certain
19 cost, that that dispute could come to us and the
20 customer won't be told, well, this is a station upgrade
21 cost. You can see that we've characterized it as a
22 station upgrade cost, and therefore, the Commission has
23 already decided that it's done on a per capita basis.

24 We're just making it clear that we could deal
25 with that if something weird happens in the future that

1 doesn't go right.

2 MS. ANDRUS: Right.

3 COMMISSIONER THOMPSON: And so --

4 MS. ANDRUS: Can I ask a clarifying question?
5 Do you -- in addition to that type of, I guess, issue,
6 one that's based on whether something is appropriately
7 addressed, or allocated on a pro rata basis as opposed
8 to a per capita basis, would you also anticipate kind of
9 that a customer can come ask for Commission review of an
10 allocation cost simply on, you know, its -- how large it
11 is, irrespective of why?

12 COMMISSIONER THOMPSON: No.

13 MS. ANDRUS: Okay.

14 COMMISSIONER THOMPSON: And that's not at least
15 what I'm getting at. I'm not -- you know --

16 MS. ANDRUS: So I --

17 COMMISSIONER THOMPSON: -- they may have
18 *(inaudible)* already to do that, but yeah. No, I'm
19 just --

20 MS. ANDRUS: Okay. I was just thinking that on
21 some of your earlier comments, but I understand what you
22 are proposing, yes.

23 COMMISSIONER THOMPSON: Okay.

24 CHAIR DECKER: Okay. With that, I would be
25 comfortable with that.

1 Commissioner Tawney, did you want to add
2 something?

3 COMMISSIONER TAWNEY: I'm comfortable with that,
4 particularly that narrower view that Mr. Thompson just
5 clarified with Ms. Andrus.

6 CHAIR DECKER: Yeah.

7 COMMISSIONER TAWNEY: Yeah.

8 CHAIR DECKER: Okay. All right. I want to
9 acknowledge that, you know -- you know, parties have
10 raised some bigger issues, and I acknowledge that
11 parties think that the costs that we're allocating are
12 inappropriate because of the way the power flow studies
13 are done. I don't think we're going to take that up
14 today.

15 I recognize that, you know, there are different
16 views of what the sort of exemption, whether that's one
17 percent or some other percent are, you know, I am
18 comfortable with that review and conclusion on that
19 point.

20 I, you know, think that we have taken action to
21 sort of make the period after the cluster study results
22 are received, you know, more viable for QFs in terms of
23 the, you know, financial circumstances. I understand
24 that there is a sense that there would be better ways to
25 do this, a la the CAISO model with sort of multiple

1 phases of opportunities for, you know, clear sort of
2 downsizing. I don't think that that's something that,
3 as the Oregon Commission, we can, you know, meaningfully
4 alter without significantly disrupting the FERC process.

5 You know, I think that there are valid, you know,
6 questions out there about how the cluster study results
7 will be reviewed and whether they'll be disputed. We
8 talked about that earlier today. You know, from my
9 perspective, we don't have a lot left to talk about here
10 that deviates from how Staff balanced the issues that
11 we'll, you know, take on today versus look at in the
12 future in terms of network upgrade, refunds, or things
13 like that, or, you know, how the one percent number is
14 working out, you know, for projects in reality.

15 And so I am -- I don't have a lot more that I'm
16 inclined to dig into here this afternoon. I want to
17 obviously offer my colleagues the opportunity to say
18 whether there's something else that they want to address
19 and potentially deviate from the Staff report on. And
20 I'll just acknowledge again that I know that there are
21 issues that parties want us to talk more about that we
22 likely won't today.

23 Commissioner Thompson, why don't you let us know
24 where you are.

25 COMMISSIONER THOMPSON: Yeah, I think -- you

1 know, I know we're getting to a late hour here and we've
2 been talking for a long time, but I do want to make
3 clear I'm not saying this just because we're at a late
4 hour, I do think we worked through the issues that were
5 on my mind as I look over the lists that I have and look
6 at your list, Chair Decker, and Commissioner Tawney's,
7 and obviously she can share if that's true or not.

8 But I do think we've moved fairly efficiently
9 through these items, and I appreciate the framework that
10 you laid out about trying to make sure that we're acting
11 sensical on the state issues while still not disrupting
12 the general scheme here that's been approved by FERC,
13 and I feel like we're doing that. I think we've made
14 some good changes here.

15 The only category at all on my list that we
16 haven't really run to ground I'm comfortable with, but
17 because there are really just a bucket of issues that
18 are really asking the question about what can we do to
19 try to stave off litigation going forward and what can
20 we do to stave off, you know, the amount of disruption
21 and chaos that can come from a major shift like this.
22 But I do think we can continue to think about that from
23 a Commission process perspective. And we've already
24 talked about the fact that the public meetings may be an
25 available option under certain circumstances.

1 So, I don't think there's much more to discuss on
2 those topics today, and I'm comfortable with the -- with
3 the changes that we've talked about so far, but then
4 also with moving forward with those -- with those --
5 with those done, moving forward with approval.

6 CHAIR DECKER: Okay.

7 Commissioner Tawney?

8 COMMISSIONER TAWNEY: I think we've reviewed the
9 issues that I had. I think the only area that I -- we
10 didn't spend much time on was clarifying what's going to
11 be in the system impact study or the -- I'm using the
12 wrong terminology -- but the informational study, and I
13 think that's an opportunity for folks to explore the
14 downsizing in the POIs, the various POIs and so on that
15 some parties are asking for, so really would -- like I
16 said at the beginning, ask PAC to be very responsive
17 with those and try to make the most of them. But
18 appreciate Staff's recommendations that those were
19 posted and that the 45-day schedule for those is going
20 to be taken very seriously by PAC. I think those --
21 that is one of our key tools for staving off, or
22 managing through conflict and questions ahead of
23 litigation, so I'd encourage parties to try to use those
24 processes.

25 Otherwise, I think, you know, we've moved and

1 balanced interest in some of the places where this is
2 having the most disruption on the QF regime in Oregon,
3 and I'm looking forward to a new process, an
4 interconnection process that is, you know, it may be
5 bumpy, but I think it will be far more functional than
6 what we've had for the last couple of years, so we'll
7 continue to work at it. I'm sure it will be before us
8 just as often as the serial queue has been before us for
9 a while.

10 But I really appreciate Staff's very hard work to
11 pull this together and intervenors being patient with us
12 as we work through these issues.

13 CHAIR DECKER: Okay. And I appreciate that
14 note. I do think one of the ways that Staff has really
15 balanced from kind of lack of some loss of flexibility
16 on the back end in this process is by really putting
17 focus, as Commissioner Tawney pointed out, on -- on the
18 front end and making that information sharing, you know,
19 see a significant improvement.

20 So with that, I guess what I'd like to do is
21 check with Judge Moser and see if he thinks we're ready
22 for a motion to approve the Staff recommendation with
23 the modifications that we have outlined as we walked
24 through. Well, the Staff recommendations plus the
25 change to April 30th, with the, you know, modifications

1 that we've talked through here today.

2 MR. STEPHENS: Chair Decker, could I make two
3 quick comments before we do that?

4 CHAIR DECKER: No, sorry. I need to hear from
5 Judge Moser here.

6 CHIEF ALJ MOSER: Yes, thanks Chair Decker. Oh,
7 I'm sorry.

8 CHAIR DECKER: Go ahead.

9 CHIEF ALJ MOSER: Yeah, that motion works and
10 we've captured in notes the discussion over those eight
11 to ten items that you went through earlier today.

12 CHAIR DECKER: I think what I'd like to do is
13 take action on that, and I would, you know, given the
14 significance of this, you know, offer a party literally,
15 you know, sort of one minute of final comment after
16 we've sort of taken our actions.

17 So, Commissioners, I'd be prepared to entertain
18 the motion I just described.

19 COMMISSIONER TAWNEY: Chair Decker, I would so
20 move.

21 COMMISSIONER THOMPSON: Second.

22 CHAIR DECKER: I concur. The motion carries and
23 the Staff recommendation with those modifications is
24 adopted.

25 We'll work hard to get the order out just as I

1 know PacifiCorp will work hard to make these conforming
2 changes in a time frame that we described.

3 I know that this has been a big change in a
4 difficult process for many, and in recognition of that,
5 I guess I'll let, you know, any intervenor that's still
6 on the phone and the company just, you know, make a
7 minute of -- and literally that -- of sort of final
8 remarks.

9 Mr. Stephens, you wanted to say something, so why
10 don't you go first.

11 MR. STEPHENS: Sure. Thanks.

12 Specifically on the deposit after the cluster
13 study, you know, PacifiCorp, the intervenors, and all
14 agreed that a million dollars was acceptable and somehow
15 we ended up at seven and a half, and I -- I just think
16 there's a really big difference between those two
17 numbers and would appreciate you revisiting that before
18 you close this matter out. One of those is attainable
19 and one of them is essentially impossible.

20 On the power flow study issue, the discreet ask
21 was to have a short workshop session as soon as possible
22 so that you could understand what those issues are and
23 why that could be done in advance of the cluster study,
24 which we believe could occur, and given the scale of the
25 consequences and what it'll have past and future, I

1 think that's a very discreet, reasonable ask that is of
2 colossal importance and would ask you to consider making
3 available a few hours to have that discussion, which I
4 think all changes could be implemented as part of the
5 cluster study, and we could get the benefit of that, not
6 having a broke system after we fix it, and strongly I
7 consider you to do that.

8 Other proposals I made were designed to work with
9 the FERC process, and my only one other ask would be
10 that the 11 to 20 megawatt S-chips get the \$1,000
11 deposit, not a \$75,000 deposit starting at 11 megawatts
12 and/or consider the \$25,000 for the LGIP, which doesn't
13 mess with the FERC process at all.

14 Those would be all meaningful things to mitigate
15 some of the harm here.

16 Thank you.

17 CHAIR DECKER: Thank you, Mr. Stephens.

18 Anyone else want to make a closing comment?

19 MR. ADAMS: Chair Decker, this is Greg Adams for
20 CREA. I'm still on the phone.

21 Obviously we didn't get everything we want, but
22 that's the way it goes sometimes. I do think Mr.
23 Stephens has made some legitimate points with
24 clarification, though, that could still be implemented.

25 Thanks.

1 CHAIR DECKER: Anyone else wish to make a
2 closing comment?

3 MR. LOWNEY: Chair Decker, this is Adam Lowney
4 for PacifiCorp.

5 I just want to thank Commission Staff again and
6 thank the Commission for taking the time to address
7 this. I know that it's been expedited, and the company
8 very much appreciates everybody's attention to this
9 issue, so thank you.

10 CHAIR DECKER: Okay. Anyone else?

11 MS. SLIGER: Chair Decker, this is Joni Sliger
12 with Sanger Law. I don't have a closing comment, but
13 Irion just dropped and is calling back in. I'm sure if
14 you give him a minute, he would like to make a closing
15 comment.

16 CHAIR DECKER: Okay. Anyone else?

17 MR. SANGER: Yes, hi, this is Irion Sanger, I
18 dialed back in.

19 CHAIR DECKER: Just we had some desire to say
20 some additional things if you want to just make a kind
21 of one minute closing comment. Just trying to provide
22 the same opportunity to everyone.

23 MR. SANGER: Yes, thank you. Okay. Yeah, thank
24 you.

25 One, on the interconnection aspect of things, we

1 understand your reluctance to change anything that
2 FERC's done, but we would point out that the FERC
3 process generally results in PacifiCorp owning the
4 generation resource, so the interconnection customer
5 there is often something that PacifiCorp is going to
6 own. So a process that works well for an RFP doesn't
7 necessarily work well for Oregon, so we'd ask that you
8 revisit a lot of these items in UM 1000, or 111 or UM
9 2032.

10 And, two, on the PURPA contracting stuff, the --
11 this is one of the -- one of the worst things that's
12 happened in a long time, from my client's perspective,
13 and it's likely going to put a stop to PURPA contracting
14 with PacifiCorp in Oregon for a while.

15 Thank you for taking the time, though, today. I
16 really appreciate the seriousness which everyone took
17 this matter.

18 CHAIR DECKER: Thank you. Anyone else?

19 *(No audible response)*

20 CHAIR DECKER: I'll just, before we adjourn, say
21 that as Staff reviews the compliance filing, you know,
22 we are available to come back and look at anything that
23 comes up and, you know, in particular, you know, there
24 are -- there's some reason to believe that that
25 California analog isn't as useful as we thought and

1 Staff, you know, should indicate that and bring it to
2 our attention. However, we will stand with our
3 decisions for today and appreciate everyone's work to go
4 forward and implement those.

5 Commissioner Tawney, Commissioner Thompson,
6 anything final as we wrap up here?

7 COMMISSIONER TAWNEY: No. That was all very
8 well said.

9 COMMISSIONER THOMPSON: I agree. Thank you for
10 leading us all through that effort.

11 COMMISSIONER TAWNEY: Yeah.

12 CHAIR DECKER: Okay. All right, thank you all.
13 We are adjourned.

14 **(End of Meeting)**

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STATE OF OREGON)
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Dated: September 23, 2020.



Jean Mueller
Court Transcriber
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