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October 27, 2020

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
201 High Street SE, Suite 100
P.O. Box 1088
Salem, Oregon 97308-1088

Re: Docket UM 2108 – PacifiCorp’s Application for an Order Approving Queue Reform Proposal.

Attention Filing Center:

Attached for filing in the above-captioned docket is PacifiCorp’s Response to Applications for Rehearing or Reconsideration.

Please contact this office with any questions.

Sincerely,

Cheyenne Aguilera
Office Manager

Attachment

**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.

**PACIFICORP'S RESPONSE TO APPLICATIONS FOR REHEARING OR
RECONSIDERATION**

October 27, 2020

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I. INTRODUCTION

1 In accordance with OAR 860-001-0720(4), PacifiCorp, dba Pacific Power submits this
2 response to the Interconnection Customer Coalition’s Application for Rehearing or
3 Reconsideration of Order No. 20-268¹ (hereinafter the Interconnection Customer Coalition’s
4 Application) and the Application for Rehearing or Reconsideration of Community Renewable
5 Energy Association (CREA), Oregon Solar Energy Industries Association (OSEIA), and
6 NewSun Energy LLC (NewSun) (hereinafter CREA/OSEIA/NewSun Application). The Public
7 Utility Commission of Oregon (Commission) should deny both applications and affirm its
8 approval of the queue reform, which was made effective at the August 12, 2020, Special Public
9 Meeting and memorialized in Order No. 20-268.²

10 Both the Interconnection Customer Coalition and CREA/OSEIA/NewSun claim that the
11 Commission committed legal error when approving queue reform. But their legal arguments
12 misread applicable regulatory precedent from both the Commission and the Federal Energy
13 Regulatory Commission (FERC), and they deliberately ignore large parts of the record. Their
14 arguments do not withstand scrutiny and instead demonstrate that the Commission’s order is well
15 reasoned, compliant with state and federal law, and supported by a robust record.

16 First, both Interconnection Customer Coalition and CREA/OSEIA/NewSun claim that the
17 Commission committed legal error when it approved queue reform without also modifying the
18 process for obtaining a qualifying facility (QF) power purchase agreement (PPA) and the terms

¹ The Interconnection Customer Coalition is the Northwest and Intermountain Power Producers Coalition (NIPPC) and the Oregon Solar Energy Industries Association (OSEIA).

² *In the Matter of PacifiCorp’s Application for an Order Approving Queue Reform Proposal*, Docket No. UM 2108, Order No. 20-268 (Aug. 19, 2020).

1 and conditions contained in the PPA. For many years PacifiCorp has required QFs to provide an
2 interconnection study that supports the commercial operation date (COD) that the QF requests for
3 its PPA. This requirement is standard due diligence that PacifiCorp performs for all PPAs,
4 regardless of whether the counterparty is a QF. Ensuring that the QF has a reasonable likelihood
5 of achieving the COD included in the PPA better ensures consistency between the PPA and
6 interconnection agreement, ensures that the avoided cost prices in the PPA are not stale, and
7 prevents PacifiCorp from executing speculative PPAs with projects that are unlikely to actually
8 reach commercial operation. Performing this basic due diligence before executing a QF PPA is
9 not only good policy, it is consistent with the Commission’s specific direction to utilities,
10 PacifiCorp’s Standard Avoided Cost Rate Schedule (formerly Schedule 37 and for consistency
11 with the Applications, referred to hereinafter as Schedule 37), FERC precedent, and the
12 Commission’s rules. Indeed, FERC recently directed states to adopt new rules to “raise the bar”
13 to better ensure only commercially viable QFs execute PPAs or form Legally Enforceable
14 Obligations (LEO). FERC provided states with flexibility to establish factors that can be
15 considered before requiring a PPA and PacifiCorp’s practice of verifying a QF’s proposed COD
16 with an interconnection System Impact Study is consistent with FERC’s general guidance and not
17 specifically prohibited.

18 Importantly, PacifiCorp did not propose any change to its PPA due diligence as part of its
19 request for approval of interconnection queue reform and the Commission reasonably concluded
20 that approving queue reform did not require any changes to PacifiCorp’s due diligence or the
21 terms and conditions of the standard QF PPA. Indeed, the only change to PacifiCorp’s PPA
22 process that will result from queue reform is indirect and positive—the interconnection study

1 timeline is now more certain and QFs are expected to receive their interconnection studies sooner
2 than under the former serial queue framework.

3 Second, the Commission’s approval of queue reform is supported by substantial evidence
4 in the record. CREA/OSEIA/NewSun submitted a study by ZGlobal Power Engineering and
5 Energy Solutions (ZGlobal) that purported to show that PacifiCorp’s interconnection power flow
6 studies were flawed. They claim that the Commission simply ignored the study and approved
7 queue reform despite their concerns over the power flow modeling and therefore the
8 Commission’s order lacks substantial evidence. But CREA/OSEIA/NewSun reach this
9 conclusion only after ignoring large portions of the record and minimizing others. When taken
10 as a whole, the record fully supports the Commission’s decision.

11 As in initial matter, PacifiCorp’s evidence responded to the ZGlobal study by pointing
12 out that the premise underlying the study is entirely wrong. CREA/OSEIA/NewSun’s argument
13 essentially boils down to a claim that PacifiCorp’s interconnection studies should use unrealistic
14 or speculative assumptions in order to minimize the interconnection requirements for QFs. For
15 example, CREA/OSEIA/NewSun argue that PacifiCorp should assume an interconnecting QF
16 will serve Bonneville Power Administration (BPA) load, not PacifiCorp’s load. Or PacifiCorp
17 should assume speculative load growth to minimize the need for potential network upgrades
18 required to safely and reliably interconnect a QF. These types of assumptions—which form the
19 backbone of the ZGlobal study—are entirely inconsistent with how a reasonable utility would
20 perform its interconnection studies for any generator, do not reflect how QF resources in
21 particular are used under the PURPA construct (i.e., to serve the purchasing utility’s load), and
22 the Commission committed no legal error by approving queue reform when substantial evidence
23 supported a wholesale rejection of the ZGlobal study based on its flawed underpinnings. When

1 faced with the same evidence, FERC also rejected concerns over PacifiCorp’s power flow
2 modeling and approved queue reform.

3 Not only is there substantial evidence in the record debunking the ZGlobal study, but
4 there is also substantial evidence in the record supporting the Commission’s decision to approve
5 queue reform despite the QF community’s misplaced concerns about power flow modeling.

6 Both Staff and PacifiCorp emphasized that delaying approval of queue reform risked
7 disadvantaging Oregon QFs by effectively sidelining them from the interconnection study
8 process, potentially until the conclusion of the first prospective cluster study process in 2021.

9 Because of the potential adverse impact of delay, substantial evidence supports the
10 Commission’s reasonable decision to approve queue reform and defer consideration of the power
11 flow assumptions issues to docket UM 2111.

12 CREA/OSEIA/NewSun next claim that the Commission committed legal error by not
13 allowing large QFs to have 60 days to decide whether to proceed to the Facilities Study stage and
14 post financial security for the QFs’ share of the required network upgrades. There is nothing
15 remotely illegal about this aspect of queue reform. To the contrary, granting
16 CREA/OSEIA/NewSun’s relief would affirmatively harm FERC-jurisdictional generators and
17 small Oregon QFs, both of which will be required to decide whether to proceed to the Facilities
18 Study stage before knowing if a restudy could be required because of the withdrawal of a large
19 Oregon QF. Providing preferential treatment to a small subset of generators, while actively
20 harming everyone else, is unduly discriminatory and does not encourage the development of QFs
21 in Oregon.

22 Finally, both the Interconnection Customer Coalition and CREA/OSEIA/NewSun
23 question the sufficiency of the Commission’s written order. To the extent that the Commission

1 wants to bolster its factual findings and legal conclusions and provide more detailed reasoning
2 behind its decision to approve queue reform, the Commission can do so in its order denying the
3 requests for reconsideration.

II. LEGAL STANDARD

4 The Commission may grant an application for reconsideration or rehearing if the
5 applicant shows that there is:

6 (a) New evidence that is essential to the decision and that was unavailable and not
7 reasonably discoverable before issuance of the order;

8 (b) A change in the law or policy since the date the order was issued relating to an
9 issue essential to the decision;

10 (c) An error of law or fact in the order that is essential to the decision; or

11 (d) Good cause for further examination of an issue essential to the decision.³

12 Both the Interconnection Customer Coalition and CREA/OSEIA/NewSun argue that the
13 Commission committed legal error.⁴ In addition, CREA/OSEIA/NewSun argue that there is also
14 good cause to further examine certain portions of the Commission's order.⁵ As discussed below,
15 the Commission made no legal error when approving queue reform and there is no good cause to
16 re-examine any portion of the Commission's order.

³ OAR 860-001-720(3).

⁴ See Interconnection Customer Coalition's Application at 1; CREA/OSEIA/NewSun Application at 1.

⁵ CREA/OSEIA/NewSun Application at 1.

III. ARGUMENT

1 **A. Verifying a QF’s requested COD with an interconnection study before executing a**
2 **PPA is not unlawful.**

3 Before queue reform, PacifiCorp required a QF to provide an interconnection study
4 verifying its requested COD before PacifiCorp would execute a PPA. This basic due diligence
5 was the same for non-QFs and better ensured that PacifiCorp was not executing speculative
6 PPAs for projects that would never achieve commercial operations. PacifiCorp did not request
7 any change to this due diligence as a result of queue reform.

8 The Interconnection Customer Coalition and CREA/OSEIA/NewSun argue that the
9 Commission committed legal error by approving queue reform without also requiring PacifiCorp
10 to abandon its due diligence and execute QF PPAs without verifying the proposed COD with an
11 interconnection study.⁶ Contrary to their arguments, PacifiCorp’s due diligence is consistent
12 with Commission direction, Schedule 37, FERC precedent, and the Commission’s rules.
13 Moreover, exercising reasonable due diligence is good policy. Staff agrees that the “proposal to
14 allow QFs to enter into PPAs prior to obtaining an interconnection study and then let the QFs
15 refresh their scheduled CODs to a later date accommodate interconnection ignores the potential
16 harm to ratepayers associated with stale avoided cost prices.”⁷

17 **1. Verifying a QF’s requested COD is consistent with Schedule 37.**

18 The Commission “generally consider[s] it reasonable for electric companies to complete
19 the due diligence process before sending final draft executable contracts for signature by QFs.”⁸

⁶ CREA/OSEIA/NewSun Application at 29; Interconnection Customer Coalition’s Application at 21-22.

⁷ Order No. 20-268, App. A at 25.

⁸ *Blue Marmot v. Portland Gen. Elec. Co.*, Docket No. UM 1829, et al., Order No. 19-322 at 16 (Sept. 30, 2019).

1 The Commission very recently confirmed that utilities should be able to rely on a QF fulfilling
2 its obligations in an executed PPA.⁹ To ensure PacifiCorp is able to perform this due diligence,
3 and that a QF can meet its obligations under a PPA, Schedule 37 requires QFs to provide certain
4 information before PacifiCorp must provide a “project specific draft [PPA].”¹⁰ Specifically, the
5 QF “must provide in writing to the Company, general project information required for the
6 completion of a power purchase agreement, including, *but not limited to. . . proposed on-line*
7 *date [and] status of interconnection or transmission arrangements.*”¹¹ It is critical that the QF
8 provide this information before receiving a draft PPA because once the draft PPA is issued there
9 is an expedited timeline for providing a final executable contract.¹²

10 Consistent with Schedule 37, before providing a PPA, PacifiCorp verifies that the QF has
11 a reasonable likelihood of achieving its COD.¹³ To verify the COD, PacifiCorp requires that the
12 QF provide at least an interconnection System Impact Study.¹⁴ PacifiCorp’s due diligence is
13 consistent with reasonable commercial practices and PacifiCorp applies the same requirement to
14 non-QF PPAs. Failure to perform this basic due diligence could result in inconsistent CODs in
15 the PPA and interconnection agreement and/or result in a PPA with a COD that is simply

⁹ See *Fossil Lake Solar, LLC v. Portland Gen. Elec. Co.*, Docket No. UM 2051, Order No. 20-340 at 14 (Oct. 12, 2020).

¹⁰ Schedule 37 at 11.

¹¹ *Id.* (emphasis added).

¹² Within 15 days of receiving the necessary information, PacifiCorp must provide a draft PPA; if there are no changes to the draft PPA, PacifiCorp must then provide a final PPA within 15 days; if there are no changes to the final PPA, PacifiCorp must provide a final executable PPA within 15 days.

¹³ See Transcript of August 12, 2020, Public Meeting at 95-97 (hereinafter, August 12 Tr.).

¹⁴ There appears to be some confusion in the record regarding the type of study PacifiCorp historically required. PacifiCorp has never required a QF provide a Facilities Study, contrary to some statements made by QF developers in this proceeding.

1 unachievable or uneconomic for the QF. PacifiCorp cannot rely on a QF to fulfill its obligations
2 under the PPA if the QF cannot achieve COD.¹⁵

3 In this case, Staff agreed with PacifiCorp’s approach and rejected the Interconnection
4 Customer Coalition recommendation to allow a PPA without verifying a COD: “Staff believes
5 allowing QFs to enter into PPAs with no idea whether they will actually be able to interconnect
6 necessarily results in speculative contracting.”¹⁶ Staff pointed specifically at the risk of customer
7 harm from “stale avoided cost prices” that could occur if the Commission were “to allow QFs to
8 enter into PPAs prior to obtaining an interconnection study and then let the QFs refresh their
9 scheduled CODs to a later date accommodate interconnection[.]”¹⁷ In this way, PacifiCorp’s due
10 diligence conforms with PURPA’s legal requirement that customers remain indifferent to QF
11 generation.¹⁸ This customer-indifference standard is firmly established in Oregon and the
12 Commission has repeatedly emphasized that its implementation of PURPA must not cause
13 customer harm.¹⁹

¹⁵ See Order No. 20-340 at 14.

¹⁶ Order No. 20-268, App. A at 25.

¹⁷ *Id.*; see also Transcript of August 11, 2020 Public Meeting at 13 (hereinafter, August 11 Tr.) (“Staff believes that a cluster study offers QF developers more certainty to align interconnection and contracting, and that this QF proposal counteracts efforts to reduce speculation and processes and could potentially harm ratepayers with stale avoided cost prices.”).

¹⁸ 16 U.S.C. § 824a-3 (rate for QF purchases may not exceed “the cost to the electric utility of the electric energy which, **but for** the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source.” (emphasis added)); *S. Cal. Edison Co., San Diego Gas & Elec. Co.*, 71 FERC ¶ 61,269 at P 62,080 (1995) (“The intention [of Congress] was to make ratepayers indifferent as to whether the utility used more traditional sources of power or the newly-encouraged alternatives.”).

¹⁹ See, e.g., *In the Matter of the Investigation into Electric Utility Tariffs for Cogeneration and Small Power Production Facilities*, Docket No. R-58, Order No. 81-319 at 3 (May 6, 1981) (stating goal of PURPA is “to provide maximum economic incentives for development of qualifying facilities while insuring that the costs of such development do not adversely impact utility ratepayers who ultimately pay these costs”); *In the Matter of the Public Utility Commission of Oregon, Investigation into Qualifying Facility Contracting and Pricing*, Docket No. UM 1610, Order No. 14-058 at 12 (Feb. 24, 2014) (“We first return to the goal of this docket: to ensure that our PURPA policies continue to promote QF development while ensuring that utilities pay no more than avoided costs.”).

1 Although Schedule 37 does not specifically require that the QF provide an
2 interconnection study, the items listed are not exclusive and the Company could not conduct the
3 due diligence the Commission requires without the information provided by a System Impact
4 Study. If Schedule 37 simply required that the QF inform PacifiCorp that it had requested
5 interconnection, as the Interconnection Customer Coalition argues,²⁰ then the provision would be
6 largely meaningless and there would be no reason to include it in the list of information required
7 to prepare a draft PPA. PacifiCorp cannot verify a QF's proposed COD if all it knows is that a
8 QF has requested interconnection.

9 CREA/OSEIA/NewSun argue the Commission has previously ruled that QFs are not
10 required to provide an interconnection study to verify their COD, pointing to a prior Commission
11 discussion of the contracting process for non-standard PPAs.²¹ PacifiCorp's current
12 Commission-approved Non-Standard Avoided Cost Rate Schedule, however, states that
13 PacifiCorp is not required to provide a proposed PPA until the QF provides "evidence that any
14 necessary interconnection studies *have been completed* and assurance that the necessary
15 interconnection arrangements are being made."²²

16 Because PacifiCorp's practice of requiring an interconnection study before providing a
17 draft PPA is not prohibited by Schedule 37, is consistent with the underlying purpose of the
18 contracting process to allow reasonable due diligence, and is necessary to ensure customer
19 indifference, the Commission made no error of law when approving queue reform without
20 requiring PacifiCorp to abandon its due diligence.

²⁰ Interconnection Customer Coalition's Application at 28.

²¹ CREA/OSEIA/NewSun Application at 23-24.

²² PacifiCorp's Non-Standard Avoided Cost Rate Scheduled at 4-5 (emphasis added).

1 **2. Approving queue reform does not impact the Commission’s existing LEO**
2 **standard.**

3 Under PURPA, a QF has the option to sell its output to the utility pursuant to a LEO,
4 based on the avoided cost rates calculated at the time the obligation is incurred.²³ FERC has
5 made clear that the QF may establish a LEO, without entering a fully executed contract, and
6 thereby obligate the utility to purchase its output, in order to prevent utilities from circumventing
7 the requirement to purchase from QFs by refusing to enter a contract.²⁴ FERC defers to state
8 regulatory authorities to determine when a LEO is created,²⁵ and the Commission has ruled that a
9 QF may establish a LEO by signing a final draft of an executable contract provided by a utility.²⁶

10 The Interconnection Customer Coalition claim that queue reform has created an
11 unworkable LEO standard because a QF will be unable to execute a standard PPA until after it
12 receives the results of a cluster study that verify its requested COD.²⁷ CREA/OSEIA/NewSun
13 and the Interconnection Customer Coalition further argue that the Commission somehow
14 adopted a new LEO standard without justifying the decision to depart from its prior one.²⁸ But
15 there was no change to PacifiCorp’s due diligence because of queue reform—PacifiCorp would
16 not execute a standard PPA until the QF could demonstrate the a reasonable likelihood that it
17 could achieve the COD requested in the PPA. The only difference is that now there is greater

²³ 18 C.F.R. § 292.304(d).

²⁴ See *FLS Energy, Inc.*, 157 FERC ¶ 61,211 at P 23 (December 15, 2016).

²⁵ *New PURPA Section 210(m) Regulations Applicable to Small Power Production and Cogeneration Facilities*, 119 FERC ¶ 61,305 at PP 136 & 139 (2007).

²⁶ *In the Matter of Public Utility Commission of Oregon, Investigation into Qualifying Facility Contracting and Pricing*, Docket No. UM 1610, Order No. 16-174 at 3 (May 13, 2016).

²⁷ Interconnection Customer Coalition’s Application at 26.

²⁸ Interconnection Customer Coalition’s Application at 25-26; CREA/OSEIA/NewSun Application at 31.

1 certainty surrounding the timing of interconnection studies.²⁹ The Commission’s LEO standard
2 remains perfectly workable and consistent with PURPA.

3 Moreover, the notion that a QF could create a LEO without knowing the costs or timing
4 of its interconnection is questionable. The Interconnection Customer Coalition concedes that a
5 LEO is not formed until a QF “unequivocally” commits itself to sell its output to the utility.³⁰
6 The Interconnection Customer Coalition argue that the Commission “violates the law because it
7 prevents the QF from being able to obtain a PPA or form a LEO for months and potentially years
8 after the QF is ready to commit itself.”³¹ But the Interconnection Customer Coalition does not—
9 and cannot—explain how a QF can *unequivocally* commit itself before it even knows if it can
10 interconnect by its requested COD or that its interconnection is economically feasible.

11 **3. Verifying a QF’s requested COD is not contrary to FERC precedent.**

12 The Interconnection Customer Coalition and CREA/OSEIA/NewSun argue that FERC
13 has held it is illegal to require a QF to obtain an interconnection study before forming a LEO.³²
14 This is incorrect. According to FERC, a utility cannot require a *Facilities Study* or *executed*
15 *interconnection agreement* in order to form a LEO, a fact that CREA/OSEIA/NewSun
16 concedes.³³ PacifiCorp has required a System Impact Study, not a Facilities Study or executed
17 interconnection agreement. PacifiCorp’s policy therefore is consistent with FERC precedent.

²⁹ August 11 Tr. at 13 (Staff concluded that “a cluster study offers QF developers more certainty to align interconnection and contracting”).

³⁰ Interconnection Customer Coalition’s Application at 22.

³¹ Interconnection Customer Coalition’s Application at 22.

³² CREA/OSEIA/NewSun Application at 30; Interconnection Customer Coalition’s Application at 23-24.

³³ *FLS Energy*, 157 FERC ¶ 61,211 at P 20; *see also* CREA/OSEIA/NewSun Application at 22 (“in *FLS Energy, LLC*, FERC explained that a requirement for a facilities study or an interconnection agreement as a predicate for a LEO is inconsistent with PURPA and FERC’s regulations under PURPA. . .”).

1 Both CREA/OSEIA/NewSun and the Interconnection Customer Coalition also rely on
2 FERC’s recently issued Order No. 872.³⁴ The Interconnection Customer Coalition quotes a
3 lengthy passage from Order No. 872 and argues that it is unlawful to require a QF to obtain an
4 interconnection study prior to forming a LEO.³⁵ FERC did not, however, preclude PacifiCorp’s
5 contracting practice, and the passage quoted by Interconnection Customer Coalition in and of
6 itself does not capture the broader context and process within which FERC made the referenced
7 statements.

8 In Order No. 872, FERC required “QFs to demonstrate that a proposed project is
9 commercially viable and that the QF has a financial commitment to construct the proposed
10 project, pursuant to objective, reasonable, state-determined criteria in order to be eligible for a
11 LEO.”³⁶ FERC found that “requiring a showing of commercial viability and financial
12 commitment, based on objective and reasonable criteria, will ensure that no electric utility
13 obligation is triggered for those QF projects that are not sufficiently advanced in their
14 development, and therefore, for which it would be unreasonable for a utility to include in its
15 resource planning.”³⁷ FERC acknowledged that by adopting this provision, it was “raising the
16 bar to prevent speculative QFs from obtaining LEOs, and the associated burden on purchasing
17 utilities.”³⁸ Even though the bar was raised, FERC concluded that requiring a showing of

³⁴ Interconnection Customer Coalition’s Application at 23-24; CREA/OSEIA/NewSun Application at 30.

³⁵ Interconnection Customer Coalition’s Application at 23-24.

³⁶ *Implementation Issues Under the Public Utility Regulatory Policies Act of 1978*, 172 FERC ¶ 61,041 at P 684 (July 16, 2020) (hereinafter, FERC Order No. 872).

³⁷ FERC Order No. 872 at P 684.

³⁸ *Id.* at P 688.

1 commercial viability “strikes the right balance for QF developers and purchasing utilities and
2 should encourage development of QFs.”³⁹

3 FERC followed these findings with a discussion of its view of various potential financial
4 viability factors a state might require, but ultimately made it clear that it was allowing states
5 flexibility.⁴⁰ FERC found that “states are in the best position to determine what specific factors
6 would best suit the specific circumstances of that state, so long as they are objective and
7 reasonable[.]”⁴¹ NIPPC, CREA, REC, and OSEIA specifically asked FERC to “further define
8 the terms commercial viability and financial commitment” that would apply to QFs, but FERC
9 refused.⁴² Indeed, FERC rejected requests that it limit states’ flexibility in any way, including by
10 establishing specific factors for the states to apply, or even a *baseline* for eligible factors.⁴³
11 FERC explained that “existing [FERC] precedent establishes boundaries of what would be
12 considered reasonable and not discriminatory limits for requirements in establishing a LEO.”⁴⁴
13 FERC noted, for example, that a state could not require an *interconnection agreement* or a fully
14 executed PPA “as a condition precedent to obtaining a LEO[.]”⁴⁵

15 With this overall context in mind, the FERC language cited by the Interconnection
16 Customer Coalition is FERC’s refusal to adopt specific factors for determining commercial
17 viability. FERC noted that several commenters asked FERC to require completion of an
18 interconnection System Impact Study in order to form a LEO and FERC declined to do so, just

³⁹ *Id.* at P 684.

⁴⁰ *Id.* at P 688.

⁴¹ *Id.* at P 690.

⁴² *Id.* at P 693 (“NIPPC, CREA, REC, and OSEIA request that we further define the terms commercial viability and financial commitment. We decline.”).

⁴³ *Id.* at P 690.

⁴⁴ *Id.* at P 693.

⁴⁵ *Id.* at n. 1038.

1 as FERC declined all requests to adopt specific requirements for the formation of a LEO.⁴⁶
2 FERC did not explicitly preclude states from imposing such a requirement, however, consistent
3 with the broad flexibility FERC granted states to “raise the bar” for forming a LEO.

4 Moreover, FERC’s Order No. 872 is not yet effective,⁴⁷ is subject to multiple requests for
5 rehearing on a vast array of substantive issues, including a rehearing request from members of
6 the Interconnection Customer Coalition, and the order has been appealed. And even when the
7 order is effective, the next critical step will be for states to implement FERC’s high-level
8 guidance on QF financial viability in a way that addresses the individual circumstances and
9 needs of the state. Order No. 872, therefore, did not change FERC precedent to now prohibit
10 requiring a System Impact Study before executing a PPA or forming a LEO.

11 **4. QF contracting practice will be addressed shortly in docket AR 631.**

12 The Interconnection Customer Coalition agrees the process for obtaining QF PPAs,
13 including whether an interconnection study should be required, will be addressed in the
14 rulemaking docket AR 631.⁴⁸ Interconnection Customer Coalition misleadingly claims that the
15 docket AR 631 proceeding “has not yet begun.”⁴⁹ Although the formal rulemaking has not
16 begun, the informal stakeholder process began in late 2019 and Staff held several informal
17 workgroup meetings well into 2020. Interconnection Customer Coalition’s statement that the
18 proceeding has not yet begun is particularly misleading because the members of Interconnection
19 Customer Coalition have participated in the multiple workgroups and even requested that the

⁴⁶ Interconnection Customer Coalition’s Application at 23 (quoting Order No. 872 at P 694-695).

⁴⁷ See CREA/OSEIA/NewSun Application at 22.

⁴⁸ Interconnection Customer Coalition’s Application at 17.

⁴⁹ Interconnection Customer Coalition’s Application at 17.

1 Commission stay other proceedings related to standard contracting processes to allow
2 docket AR 631 to proceed first.⁵⁰

3 Addressing the relationship between interconnection and standard contracting in a
4 proceeding like docket AR 631 is critical because it allows a holistic examination of all
5 contracting terms, conditions, and processes.⁵¹ When recommending that the Commission open
6 docket AR 631, Staff noted that the “terms of a contract are interdependent and previous changes
7 to certain terms of a contract after a complaint proceeding or general investigation can have
8 unintended consequences for the application or implementation of other terms.”⁵² Therefore,
9 Staff recommended a “holistic examination of PURPA standard contracts, with emphasis on
10 obtaining internal consistency that balances the interests of the utility and QFs [to] benefit the
11 Oregon wholesale market and ratepayers.”⁵³ If the Commission, for example, were to require
12 utilities to execute PPAs without basic due diligence regarding the COD, then it will be
13 necessary to modify other terms and conditions of the PPA to protect customers and account for
14 that lack of due diligence, including potential changes to the security requirements, damage
15 provisions, and termination provisions, among others.

16 Moreover, FERC has directed the Commission to adopt additional criteria a QF must
17 satisfy to demonstrates commercial viability before executing a PPA and those additional factors
18 could be addressed in docket AR 631. The Commission should not adopt the Interconnection
19 Customer Coalition’s proposed change to contracting practices in isolation, which is why docket

⁵⁰ See *In the Matter of Portland General Electric Company, Request to Update its Schedule 201 and Standard Power Purchase Agreements*, Docket No. UM 1987, Ruling (Dec. 23, 2019).

⁵¹ August 12 Tr. at 96-98.

⁵² *In the Matter of Public Utility Commission of Oregon Request to Adopt a Scope and Process for the Investigation into PURPA Implementation*, Docket No. UM 2000, Order No. 19-254, App. A at 27 (July 31, 2019).

⁵³ *Id.*

1 AR 631 is examining the contracting terms, conditions, and processes in a thorough and
2 comprehensive way.

3 **5. OAR 860-029-0120 does not allow QFs unfettered discretion to choose a**
4 **COD.**

5 The Interconnection Customer Coalition argue that OAR 860-029-0120(4) allows a QF
6 the unilateral right to select a COD anytime within three years of the execution of the PPA and
7 utilities must sign the PPA without question or due diligence.⁵⁴ That rule, however, cannot be
8 read so broadly. The rule states that a QF “may specify a scheduled commercial on-line date
9 consistent with the following: (a) Anytime within three years from the date of agreement
10 execution; (b) Anytime later than three years after the date of agreement execution if the
11 qualifying facility establishes to the utility that a later scheduled commercial on-line date is
12 reasonable and necessary and the utility agrees.” When the Commission adopted this rule, it
13 codified a stipulation that was first approved in Order No. 15-130.⁵⁵ The purpose of the
14 stipulation and the rule was to specify the maximum time between execution of the PPA and the
15 COD; the rule was never intended and cannot be reasonably read to allow unfettered selection of
16 a COD even if the COD is unachievable.⁵⁶ The Commission has never interpreted the rule as a

⁵⁴ Interconnection Customer Coalition’s Application at 24-25.

⁵⁵ *In the Matter of Rulemaking Regarding Power Purchases by Public Utilities from Small Qualifying Facilities*, Docket No. AR 593, Order No. 18-422 (Oct. 29, 2018).

⁵⁶ *See In the Matter of Public Utility Commission Of Oregon, Investigation into Qualifying Facility Contracting and Pricing*, Docket No. UM 1610, Order No. 15-130 at 2 (Apr. 16, 2010) (“Currently, no Commission order specifies a minimum or maximum amount of lead time a QF should be allowed for the scheduled COD in a standard contract. The stipulating parties agree that QFs can select a scheduled COD anytime within three years of contract execution, and that a QF can elect a scheduled COD that is more than three years from contract execution if the QF can establish that a period in excess of three years is reasonable and necessary and the utility agrees to the scheduled COD.”)

1 prohibition on performing due diligence prior to executing a PPA and such a reading would be
2 entirely unreasonable based on the text of the rule.

3 **6. The Interconnection Customer Coalition misrepresents the impact of**
4 **queue reform, which is expected to provide greater certainty and more**
5 **timely interconnection studies.**

6 The Interconnection Customer Coalition claim the Schedule 37 process should take three
7 to four months for a QF to execute a PPA but that PacifiCorp queue reform application proposed
8 to “extend the process to take at least 5 to 17 months.”⁵⁷ This claim, however, mischaracterizes
9 PacifiCorp’s request and in doing so mischaracterizes what the Commission approved.
10 PacifiCorp proposed no changes to the contracting process for QF PPAs and therefore the
11 Commission approved no changes to the contracting process for QF PPAs. The Interconnection
12 Customer Coalition is correct that the Schedule 37 process should take three to four months *once*
13 *the QF provides all the information required to obtain a draft PPA*. That timeline remains the
14 same and is entirely unchanged by the queue reform proposal.

15 The only change that occurred as a result of queue reform is that a QF will now produce a
16 Cluster Study Report to verify its proposed COD instead of a System Impact Study Report. Far
17 from harming QFs, all things being equal, the timing of cluster studies and the issuing of reports
18 are expected to be more certain. As PacifiCorp explained,⁵⁸ the annual cluster study process
19 begins April 1 each year—a date certain set forth in PacifiCorp’s Open Access Transmission
20 Tariff (OATT) and approved by the Commission in Order No. 20-268.⁵⁹ The cluster study
21 process will proceed according to a defined timeline that anticipates issuance of a cluster study

⁵⁷ Interconnection Customer Coalition’s Application at 3-4.

⁵⁸ PacifiCorp’s Reply Comments at 15-17.

⁵⁹ See Order No. 20-268, App. A at 8.

1 report within 150 days of its commencement.⁶⁰ This means that a QF could submit an
2 interconnection request in April and receive its Cluster Study Report in November. This
3 timeline is substantially faster than the study process under the former serial process, as
4 discussed below. Further, because a customer’s queue position previously dictated the timing of
5 their study, the customer had less control over when their study occurred and there was less
6 certainty about when the study would occur because the study’s timing was dependent on many
7 factors outside of the QF’s and PacifiCorp’s control.

8 Staff agreed with PacifiCorp “that the current serial process can be unpredictable and
9 subjects generators to the timing and decisions of higher queued projects” and even though
10 “there is still the possibility of restudies and delays, there are also well established timelines for
11 each annual Cluster Study process that generators can rely on.”⁶¹ Staff acknowledged the
12 “concern[] that the rigidity in the cluster process is going to burden Oregon generators more than
13 help.”⁶² Staff concluded, however, that although “there might be some initial adjustment period .
14 . . the clusters would ultimately increase the predictability and certainty and speed that
15 interconnection requests and serial order don’t provide.”⁶³

16 Under the former serial queue study process, it could take years to obtain even a
17 Feasibility Study because of the backlog of higher priority interconnection requests and the
18 frequency of restudies when higher priority projects dropped out of the queue. Since 2014, on an

⁶⁰ If restudies are required, which is something that PacifiCorp cannot control, the cluster study report may be delayed several additional months, which would still provide an interconnection study to the QF on a faster timeline than the current process.

⁶¹ Order No. 20-268, App. A at 17.

⁶² August 11 Tr. at 12.

⁶³ August 11 Tr. at 12; *id.* (“we think that this process actually provides more predictability and certainty and speed and folks will know exactly when they’ll get their studies back.”).

1 annual basis, PacifiCorp performed an average of 20 to 25 Feasibility Studies, 40 to 50 System
2 Impact Studies, and 25 to 30 Facilities Studies. But delays remained through no fault of
3 PacifiCorp. For example, in southern Oregon, Q0687 (a 400 MW pump storage project) was
4 originally studied for both Network Resource Interconnection Service (NRIS) and Energy
5 Resource Interconnection Service (ERIS) and its request also had to be studied by several
6 Affected Systems, including BPA, the California Independent System Operator, and the Western
7 Area Power Administration. That study process took nearly two years to complete. While the
8 Q0687 study was in progress, PacifiCorp issued many studies for lower priority requests that
9 assumed NRIS for Q0687. But Q0687 ultimately chose ERIS. In addition, at roughly the same
10 time, Q0877 (a 400 MW solar facility) withdrew from the interconnection queue. Because of
11 these two changes, PacifiCorp was required to issue restudies for ten lower priority projects,
12 which had to be completed before PacifiCorp could move on to new interconnection requests.
13 The Company's experience in southern Oregon provides an example of the delays that were
14 inherent in the serial study process and that impacted a QF's ability to timely obtain an
15 interconnection study to verify its requested COD. Similarly, as PacifiCorp recently explained in
16 response to Dalreed Solar LLC's request for reconsideration of queue reform, because of the
17 sheer volume of higher priority requests, before the Company could provide even a Feasibility
18 Study for Dalreed Solar LLC, it would have been required to complete 42 higher priority studies
19 first.

20 Under the streamlined process approved by the Commission, PacifiCorp will only
21 perform one cluster study per year—but the start date will be fixed and the timeline for
22 completing the study will be more certain because it is not dependent on the myriad factors that
23 created uncertainty and delay under the serial order framework.

1 **7. The Commission did not acknowledge that PacifiCorp’s contracting**
2 **practices are illegal.**

3 The Interconnection Customer Coalition claim that the “Commission’s Order appears to
4 recognize the inconsistency in PacifiCorp’s actions and obligations, but postpones resolution
5 until a future rulemaking, Docket AR 631.”⁶⁴ To support this statement, the Interconnection
6 Customer Coalition cite to a portion of the transcript where Chair Decker correctly explained that
7 concerns over standard PPA contracting practices raise a *policy* issue, not a *legal* issue, that the
8 Commission would address more fully in another proceeding where it was comprehensively
9 examining standard contracts terms, conditions, and processes.⁶⁵ Nothing in the transcript
10 suggests that the Commission found that verifying a proposed COD with an interconnection
11 study was illegal.

12 **B. The Commission’s decision to not address power flow modeling is supported by**
13 **substantial evidence in the record.**

14 CREA/OSEIA/NewSun argue that the Commission ignored their concerns over the
15 assumptions used in PacifiCorp’s power flow modeling and therefore Order No. 20-268 lacks
16 necessary findings of fact and is not supported by substantial evidence and substantial
17 reasoning.⁶⁶ CREA/OSEIA/NewSun is wrong on all counts.

18 First, there is substantial evidence in the record refuting CREA/OSEIA/NewSun’s claim
19 that PacifiCorp’s interconnection study process is flawed. PacifiCorp explained in its written

⁶⁴ Interconnection Customer Coalition’s Application at 30.

⁶⁵ August 12 Tr. at 23-24 (“I would suggest that we not . . . 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 given this new environment . . .”) (emphasis added).

⁶⁶ CREA/OSEIA/NewSun Application at 16-21.

1 comments that the ZGlobal study is entirely unreliable because it is premised on assumptions
2 that are fundamentally at odds with how interconnection power flow studies are conducted.

3 Second, the Commission did not ignore the power flow issue. The Commission correctly
4 concluded the issue was not directly relevant to the queue reform proposal and that approving
5 queue reform was in the public interest despite concerns over power flow modeling. Notably,
6 like the Commission, FERC also approved queue reform over the same objection raised by the
7 same parties.

8 CREA/OSEIA/NewSun’s arguments here ignore entire portions of the record and
9 mischaracterize others. The record in this case, viewed as a whole, would permit a reasonable
10 person to make the same findings as the Commission.⁶⁷ To the extent CREA/OSEIA/NewSun is
11 concerned that the Commission did not explicitly or sufficiently explain its factual findings and
12 reasoning, the Commission can easily remedy this perceived deficiency in Order No. 20-268 by
13 providing more explicit factual findings in its order denying reconsideration.

14 **1. Substantial evidence demonstrates the need for and benefits of queue**
15 **reform.**

16 As an initial matter, CREA/OSEIA/NewSun incorrectly claim that Order No. 20-268
17 “does not address the need for the queue reform or contain any reasoning on the subject.”⁶⁸
18 CREA/OSEIA/NewSun admit that Staff’s Memorandum attached to Order No. 20-268 “touched
19 on” the need for reform but CREA/OSEIA/NewSun claim that Staff “simply deferr[ed] to the
20 FERC’s decision that queue reform was necessary without determining whether it was necessary

⁶⁷ *Calpine Energy Solutions LLC v. Pub. Util. Comm’n of Or.*, 298 Or App 143, 158, 445 P.3d 308, 317 (2019).

⁶⁸ CREA/OSEIA/NewSun Application at 20.

1 for Oregon[.]”⁶⁹ This argument ignores an entire section of Staff’s Public Meeting
2 Memorandum entitled: “Threshold Issue: Whether to include Oregon-jurisdictional
3 interconnection requests in PAC’s Cluster Study process.”⁷⁰ Staff devoted a full six pages to
4 explaining why it believed queue reform was necessary in Oregon. Staff found “that moving
5 applicable Oregon-jurisdictional generators to the first ready, first served cluster process offers
6 several benefits”⁷¹:

- 7 • “Staff finds that operating a serial queue and Cluster Study process in tandem will
8 increase confusion, Oregon-jurisdictional study timelines, and disparity between the
9 interconnection service different generators in the same queue receive.”⁷²
- 10 • “Staff shares the QF Parties’ interest in protecting small generators from overly
11 burdensome cost allocation, but finds that the potential disadvantages raised are not
12 severe enough to reject a cost allocation that FERC has deemed reasonable to protect
13 small generators. Particularly, they do not outweigh the burden that network upgrade
14 costs already place on small Oregon-jurisdictional generators in the serial queue.”⁷³
- 15 • “Standardized study windows and the ability to study all requests simultaneously
16 increase the certainty and speed of interconnection study timelines. This can help
17 generators plan for other milestones, such as permitting and QF [PPAs].”⁷⁴
- 18 • “[D]eparting from the serial process removes the incentive for generators to seek
19 queue priority for speculative projects to the harm of lowered queued generators that
20 may be ready to commit to interconnection.”⁷⁵
- 21 • “Clearing the queue through the Transition Cluster and increased skin in the game
22 will also provide commercially ready generators with a more efficient process and
23 higher likelihood of success. These changes to the FERC process will benefit Oregon
24 QFs regardless of the Commission's decision in this docket. However, implementing

⁶⁹ CREA/OSEIA/NewSun Application at 20.

⁷⁰ Order No. 20-268, App. A at 12.

⁷¹ *Id.* at 13.

⁷² *Id.* at 14.

⁷³ *Id.* at 15.

⁷⁴ *Id.* at 16.

⁷⁵ *Id.*

1 the Transition Cluster and increased skin in the game for Oregon QF's will increase
2 these benefits for all generators.”⁷⁶

- 3 • “Staff agrees with PAC that the current serial process can be unpredictable and
4 subjects generators to the timing and decisions of higher queued projects. Although
5 there is still the possibility of restudies and delays, there are also well established
6 timelines for each annual Cluster Study process that generators can rely on.”⁷⁷

7 Based on these findings, among others, Staff recommended approval of queue reform
8 because the “efficiency, certainty, and cost sharing benefits of PAC’s proposal outweigh the
9 generators’ desire to apply for interconnection at any time or enter the interconnection process
10 without a commercially ready project.”⁷⁸

11 Staff reiterated these conclusions at the August 11, 2020, Public Meeting when Staff
12 explained that it “found that the efficiency and certainty in cost sharing benefits of the cluster
13 should outweigh the loss of flexibility that parties participating in a . . . cluster process might
14 have” and that “it’s valuable to keep all the generators on equal footing.”⁷⁹ Staff recognized that,
15 “[t]here are some tradeoffs with this process, as with any, but Staff is having a hard time
16 understanding how QFs are going to be worse off as participants in the cluster than processed
17 individually between clusters from a certainty cost and efficiency standpoint.”⁸⁰

18 Both Staff and the Commission recognized the factual reality that FERC-jurisdictional
19 generators were moving to a cluster study process, but both Staff and the Commission conducted
20 an independent review of the evidence to conclude that it was in the public interest to include

⁷⁶ *Id.*

⁷⁷ *Id.* at 17.

⁷⁸ *Id.* at 17-18.

⁷⁹ August 11 Tr. at 11-12.

⁸⁰ *Id.*

1 Oregon-jurisdictional generators in the same cluster study process. Neither Staff nor the
2 Commission “simply deferred” to FERC.

3 **2. Substantial evidence supports PacifiCorp’s power flow modeling.**

4 CREA/OSEIA/NewSun argue that the Commission’s order is not supported by
5 substantial evidence because “evidence in the record demonstrated that power flow study
6 assumptions contributed to the queue backlog” and “[t]here is no evidence countering those
7 points anywhere in the record[.]”⁸¹ This is untrue. After stakeholders raised this issue, including
8 through the inclusion in the record of the ZGlobal study, PacifiCorp responded in its Reply
9 Comments filed on July 24, 2020. In those comments, PacifiCorp explained that there was no
10 merit to the power flow concerns raised by intervenors and set forth in the ZGlobal study
11 because the fundamental premise of the ZGlobal study was wrong.⁸²

12 First, the ZGlobal study rests on the incorrect the assumption that the entire queue
13 backlog would be solved and generators could interconnect at lower cost if PacifiCorp would just
14 “model” the output of an interconnecting generator onto a neighboring system when study area
15 load has been exhausted in an interconnection study. For example, CREA/OSEIA/NewSun
16 argue that when studying an interconnecting QF that intends to sell all of its output to
17 PacifiCorp, the interconnection study should assume the QF is actually serving BPA load to get
18 around the fact that PacifiCorp may have insufficient load to absorb the QF generation.⁸³ Using
19 intentionally incorrect assumptions in an interconnection study would undermine the reliability

⁸¹ CREA/OSEIA/NewSun Application at 19.

⁸² PacifiCorp’s Reply Comments at 48-51.

⁸³ CREA/OSEIA/NewSun Application at 13.

1 of the study and fail to provide the information necessary to determine what is required to safely
2 and reliably interconnect a QF to PacifiCorp’s system.

3 Moreover, even if the interconnection customer were not a QF selling its output to
4 PacifiCorp to serve PacifiCorp load, the Company cannot simply assume in an interconnection
5 study that an interconnection customer will sell their output to an off-taker on a neighboring
6 system. PacifiCorp would have no way of knowing if the off-system customer exists and even if
7 it did, PacifiCorp would have no way of knowing if the neighboring system has load to absorb
8 the generation. Implementing ZGlobal’s study assumptions would create havoc because every
9 utility in the Western Interconnect would be assuming that its interconnecting generators would
10 be dumping their output onto neighboring systems without regard for the impacts on those
11 neighboring systems. To assume the generation is exported to serve a specific third-party’s load
12 would create a situation where PacifiCorp exports a reliability problem to a neighboring region.
13 And conversely, if neighboring utilities used the same assumptions, they would be exporting
14 reliability problems to PacifiCorp.

15 PacifiCorp further explained that the OATT already provides for studying the impacts of
16 an interconnection on a neighboring system (called an “Affected System” under the OATT) and
17 that PacifiCorp’s modeling conforms to the OATT requirements. Consistent with standard
18 industry practice, PacifiCorp uses WECC power flow base cases that include the full
19 transmission topology of the Western Interconnection and identify power flow impacts on
20 neighboring systems, not just the PacifiCorp system. When power flows affect one or more
21 neighboring systems, those Affected Systems are notified by PacifiCorp and included in the
22 interconnection study process. However, this process does not mean PacifiCorp has the

1 unilateral ability to assume that the generator will be serving loads on a third-party system, nor
2 does it obligate those Affected Systems to use the generator to serve loads on their system.

3 Second, contrary to CREA/OSEIA/NewSun’s claims, PacifiCorp explained that it does
4 not unreasonably ignore known changes to load and generation in its interconnection studies.⁸⁴
5 PacifiCorp uses standardized load forecasts and load as well as resource information provided by
6 PacifiCorp’s network customers when conducting interconnection studies. PacifiCorp cannot
7 include speculative load in the hopes that it might materialize in order to maintain system
8 stability in an interconnection study. Such a practice would be entirely irresponsible and unsafe.

9 Third, PacifiCorp explained that the fact that an interconnection study must match
10 generation and load (i.e., balance the system) does not mean that the Company is requiring
11 deliverability to a specific load as a condition of interconnection. When load exceeds generation,
12 the system is unstable, which creates potential reliability issues. That is why the interconnection
13 study power flows are problematic when generation exceeds load. But this not simply a matter
14 of the “model”; actual operations require the Company to balance load and generation within its
15 Balancing Areas and, in actual operations, PacifiCorp cannot achieve this balance simply by
16 exporting excess generation elsewhere.

17 Moreover, CREA/OSEIA/NewSun is incorrect that interconnection studies do not
18 examine deliverability.⁸⁵ In Order No. 2003-A, FERC was clear that NRIS studies do include a
19 deliverability analysis: “The purpose of [NRIS] is to provide for only those Network Upgrades
20 needed to allow the aggregate of generation in the Generating Facility’s local area *to be*

⁸⁴ PacifiCorp’s Reply Comments at 49-50.

⁸⁵ CREA/OSEIA/NewSun Application at 13.

1 *delivered* to the aggregate of load on the Transmission Provider’s Transmission System,
2 consistent with the Transmission Provider’s reliability criteria and procedures.”⁸⁶ Although
3 NRIS “does not ensure physical delivery to specific loads or locations, and it does not provide
4 delivery service rights to specific loads or locations,”⁸⁷ NRIS interconnection studies are
5 required to study aggregate deliverability. And even though ERIS studies do not include a
6 deliverability analysis, the load must still match generation to ensure system stability after the
7 generator interconnects.

8 Fourth, in response to claims that PacifiCorp caused the backlog itself through its
9 Business Practice 73,⁸⁸ PacifiCorp explained that Business Practice 73 had nothing to do with
10 the interconnection queue backlog because it was not implemented until June 2019 when the
11 backlog already existed (which is why PacifiCorp explained that Business Practice 73 was issued
12 *as a result of* the backlog) and the Company has never actually relied in Business Practice 73 to
13 issue a non-viable interconnection study report and Business Practice 73 was withdrawn.

14 Together, PacifiCorp’s evidence demonstrated that the underlying assumptions used in
15 the ZGlobal study and the claims made by stakeholders that PacifiCorp’s power flow modeling
16 created the queue backlog are without merit. Notably CREA/OSEIA/NewSun have not
17 specifically disputed any of PacifiCorp’s evidence. Instead, CREA/OSEIA/NewSun simply
18 claim the evidence does not exist.

⁸⁶ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 at P 531 (2003), *order on reh’g*, Order No. 2003-A, 106 FERC ¶ 61,220 (2004) (hereinafter Order No. 2003-A), *order on reh’g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2005), *order on reh’g*, 111 FERC ¶ 61,401 (2005).

⁸⁷ Order No. 2003-A at P 531.

⁸⁸ *See, e.g.*, CREA/OSEIA/NewSun Application at 10-11.

1 CREA/OSEIA/NewSun also claim that PacifiCorp has not explained how queue reform
2 is expected to reduce the imbalance between generation and load.⁸⁹ This too ignores the record.
3 As PacifiCorp explained, under the serial queue framework, each interconnection request had to
4 assume that all higher priority requests are in-service, even though many of those generators
5 ultimately withdraw from the queue and are never built.⁹⁰ Queue reform resolves this problem
6 because Cluster Studies no longer assume that ever generator that requests interconnection is in-
7 service. Rather, by requiring commercial readiness before entering a cluster study, queue reform
8 creates a higher likelihood that only those projects that will actually be built are assumed in-
9 service. This means that the study assumptions will no longer assume a generation level that far
10 exceeds what will likely occur in actual operations. By clearing the backlog, the Company
11 anticipates resolving the imbalance between load and generation.

12 **3. Substantial evidence supports approval of queue reform despite concerns**
13 **over power flow modeling.**

14 CREA/OSEIA/NewSun claim the Commission ignored evidence of the impact of
15 supposedly flawed power flow modeling when approving queue reform.⁹¹
16 CREA/OSEIA/NewSun once again fail to consider the record as a whole. The Commission
17 acknowledged concerns raised by stakeholders regarding power flow modeling but concluded
18 that the benefits of approving queue reform outweighed concerns over power flow studies, which
19 were insufficient to delay approval of queue reform.

⁸⁹ CREA/OSEIA/NewSun Application at 13.

⁹⁰ See PacifiCorp's Application for an Order Approving Queue Reform Proposal at 10-14.

⁹¹ CREA/OSEIA/NewSun Application at 19.

1 At the August 11, 2020, Public Meeting, Staff supported a process to review the power
2 flow issue, but concluded that the issue was not “directly related” to queue reform and should be
3 addressed in a subsequent docket and not delay approval of queue reform.⁹² Chair Decker then
4 explained that the issue of power flow studies was “interesting and worth pursuing in the
5 interconnection docket [docket UM 2111]” but was not an issue that should undermine or delay
6 queue reform.⁹³ The conclusion that queue reform should move forward despite concerns over
7 power flow studies was well supported in the record given the concerns that delaying approval of
8 queue reform would harm interconnection customers.⁹⁴ As Staff explained, “cluster and serial
9 studies cannot occur in parallel without using conflicting assumptions.”⁹⁵ Thus, if Oregon QFs
10 remained under serial processing, PacifiCorp would need to study Oregon QFs in between
11 clusters because the dates for the FERC-jurisdictional cluster studies are fixed.⁹⁶ According to
12 Staff, “Regardless of whether Oregon participates in the cluster process, Oregon generators will
13 benefit from PAC’s efforts to clear its system-wide backlog and establish a more efficient queue
14 through commercial readiness standards and withdrawal penalties.”⁹⁷ But because of the
15 potentially limited time between cluster studies, Staff concluded that, “if Oregon does not

⁹² August 11 Tr. at 16 (“So, we support a workshop process to review PAC’s power flow analysis. We think that this, along with several other issues raised by the QF parties that aren’t directly related to the cluster, but important for Oregon generators, should be addressed under UM 2111, which is the general interconnection reform docket.”).

⁹³ August 12 Tr. at 21 (“we find this issue of the power flow studies, you know, interesting and worth pursuing in the interconnection docket, but you know, not something -- you know, and something that we would order to happen, but not something that would necessarily, at this point, be able to kinda undermine the whole setup that FERC has approved . . .”); *see also id.* at 30 (Chair Decker commenting the “in the interconnection docket it would be worthwhile to have a workshop related to this, but that it wasn’t necessarily something that we needed to order or that was meaningful at this stage to our decision here.”).

⁹⁴ *See* PacifiCorp’s Reply Comments at 4-8.

⁹⁵ Order No. 20-268, App. A at 13.

⁹⁶ *Id.*

⁹⁷ *Id.*

1 participate, Staff has concerns about whether Oregon generators would be able to take advantage
2 of the some of these benefits given PAC’s obligation to follow the timelines in its FERC-
3 approved OATT.”⁹⁸

4 PacifiCorp explained that if the Commission delayed approval of queue reform, it would
5 mean that Oregon QF developers will be unable to participate in the transition process that will
6 commence in October 2020.⁹⁹ If that occurs, Oregon QFs would be delayed because the
7 Company’s transition cluster study process will proceed ahead of Oregon QFs, as required by the
8 OATT. And because the transition cluster study process may well last until April 2021, when
9 the first prospective cluster process begins, Oregon QFs may be sidelined again if they are not
10 allowed to participate in the cluster study process. Recognizing that some stakeholders
11 recommended delay, for example, to address the power flow study issue, PacifiCorp explained
12 that delay was unlikely to benefit Oregon QFs and will likely place them at a disadvantage
13 relative to Oregon FERC-jurisdictional interconnection customers and QFs from other states that
14 participate in the cluster study process.

15 Based on this evidence, the Commission reasonably concluded that substantial evidence
16 supported approving queue reform despite concerns over the interconnection study assumptions,
17 which would be addressed in detail in another proceeding.

18 Notably, the Commission’s conclusion here is consistent with FERC’s. NIPPC, CREA,
19 and NewSun made identical arguments to FERC that PacifiCorp’s power flow studies were
20 flawed and justified rejection of queue reform. FERC, like the Commission, was

⁹⁸ *Id.*

⁹⁹ PacifiCorp’s Reply Comments at 25.

1 unpersuaded.¹⁰⁰ And because FERC-jurisdictional generators will be studied using PacifiCorp’s
2 long-standing methodology, it is unclear how a change to study assumptions for only Oregon-
3 jurisdictional projects could even be implemented or would have a meaningful impact.

4 **4. The Commission can include additional findings of fact to justify**
5 **approving queue reform despite concerns over interconnection study**
6 **assumptions.**

7 CREA/OSEIA/NewSun also criticize the Commission because Order No. 20-268
8 contains no specific discussion of the Commission’s factual findings on the study assumptions
9 used by PacifiCorp when performing interconnection studies.¹⁰¹ Factual findings “must be
10 sufficiently specific in order that the reviewing court does not have to delve into the record to
11 discern the inferences the [Commission] may have drawn in arriving at [its] conclusion.”¹⁰²
12 Here, to the extent the Commission is concerned that Order No. 20-268 lacks sufficient factual
13 findings, there is substantial evidence in the record supporting the Commission’s decision, as set
14 forth above, and the Commission can include those more robust factual findings in its order
15 denying reconsideration.

16 **C. Extending the timeline for large QFs to post financial security would create an**
17 **unworkable conflict with FERC’s reforms and harm small QFs.**

18 CREA/OSEIA/NewSun request that the Commission reconsider the requirement that
19 large QFs post financial security related to their network upgrade obligations within 30 days of
20 receiving the Cluster Study Report.¹⁰³ CREA/OSEIA/NewSun argue this requirement is illegal

¹⁰⁰ *PacifiCorp*, 171 FERC ¶ 61,112 at PP 150, 162-162 (May 12, 2020), *aff’d on rehearing*, 173 FERC ¶ 61,016 (Oct. 5, 2020).

¹⁰¹ CREA/OSEIA/NewSun Application at 16.

¹⁰² *Calpine Energy Solutions*, 298 Or App at 158.

¹⁰³ CREA/OSEIA/NewSun Application at 36-38.

1 because it does not encourage QF development and promote the development of sustainable
2 resources.¹⁰⁴ PacifiCorp disagrees.

3 At the outset, CREA/OSEIA/NewSun fail to explain how its proposal would actually
4 work. As approved by the Commission and FERC, interconnection customers have 30 days after
5 receiving their Cluster Study Reports to determine whether to continue to the Facilities Study
6 stage or withdraw. CREA/OSEIA/NewSun have not requested reconsideration of that 30-day
7 timeline. Instead, they have narrowly requested that Oregon large QFs have 60 days to post their
8 financial security, which effectively means that Oregon large QFs would have 60 days to decide
9 whether to move forward to the Facilities Study stage.

10 As PacifiCorp previously explained,¹⁰⁵ it is critical that both the FERC and state cluster
11 study processes move in tandem because whether projects move forward or withdraw will
12 determine whether restudies are required. FERC-jurisdictional interconnection customers and
13 Oregon small QFs must decide within 30 days whether to sign their Facilities Study agreement
14 or withdraw, which may trigger a restudy. If Oregon large QFs are allowed an additional 30
15 days to post their financial security and thereby commit to moving forward with their
16 interconnection, then Oregon small QFs and FERC-jurisdictional customers will be required to
17 sign a Facilities Study agreement or withdraw before knowing if a restudy will be required. A
18 mismatch here would create an unworkable process that would discriminate against Oregon
19 small QFs and FERC-jurisdictional customers.

¹⁰⁴ CREA/OSEIA/NewSun Application at 36-37.

¹⁰⁵ PacifiCorp's Reply Comments at 26.

1 Importantly, CREA/OSEIA/NewSun do not address any of these issues or explain how
2 adoption of its recommendation could be reconciled with the process approved for small QFs and
3 FERC-jurisdictional generators.

4 Providing preferential treatment to large QFs—at the expense of small QFs and all
5 FERC-jurisdictional generators—is not required to encourage QF development. On the contrary,
6 it would actively harm small QFs. There is nothing illegal about treating large QFs the same as
7 small QFs and FERC-jurisdictional generators.

8 CREA/OSEIA/NewSun also claims that the 30-day requirement is discriminatory to large
9 QFs because they cannot satisfy the requirement by demonstrating commercial readiness in some
10 other way.¹⁰⁶ On the contrary, CREA/OSEIA/NewSun has requested preferential treatment for a
11 small subset of Oregon QFs at the expense of the majority of QFs (who are small) and all FERC-
12 jurisdictional customers—all of whom will be actively harmed by CREA/OSEIA/NewSun’s
13 request. And while it is true that FERC-jurisdictional generators can demonstrate commercial
14 readiness in other ways, PacifiCorp removed that requirement for QFs specifically to
15 accommodate concerns expressed by QF developers.¹⁰⁷

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¹⁰⁶ CREA/OSEIA/NewSun Application at 37.

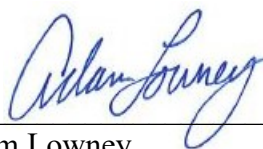
¹⁰⁷ See PacifiCorp’s Reply Comments at 47.

IV. CONCLUSION

- 1 For the foregoing reasons, the Commission should deny the requests for reconsideration.
2 The Commission committed no legal error when approving queue reform and the Commission's
3 order is supported by substantial evidence in the record.

Respectfully submitted this 27th day of October 2020.

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