

ORDER NO. 20-334

ENTERED Oct 07 2020

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2108

In the Matter of

DALREED SOLAR, LLC,

Application for Rehearing and  
Reconsideration of Order No. 20-268 and/or  
Request for Waiver of PacifiCorp's Queue  
Reform Proposal.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on October 6, 2020, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



**Nolan Moser**  
Chief Administrative Law Judge



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: October 6, 2020**

REGULAR  X  CONSENT       EFFECTIVE DATE            October 6, 2020

**DATE:** September 28, 2020

**TO:** Public Utility Commission

**FROM:** Caroline Moore

**THROUGH:** Bryan Conway and JP Batmale **SIGNED**

**SUBJECT:** PACIFIC POWER:  
(Docket No. UM 2108)  
Dalreed Solar, LLC'S Application for Rehearing and Reconsideration of  
Order No. 20-268 and/or Request for Waiver of PacifiCorp's Queue  
Reform Proposal.

**STAFF RECOMMENDATION:**

Deny Dalreed Solar, LLC's (Dalreed Solar) Request for Rehearing and Reconsideration and/or Waiver of the PacifiCorp d/b/a Pacific Power (Company) Queue Reform Proposal.

**DISCUSSION:**

Issue

Whether the Oregon Public Utility Commission (Commission) should approve Dalreed Solar LLC's request for reconsideration or rehearing of the Commission's order approving PacifiCorp's Queue Reform Proposal or alternatively, waive certain requirements in the order, to allow Dalreed Solar to proceed with interconnection in PacifiCorp's serial queue.

Applicable Rule or Law

Oregon Revised Statute (ORS) 756.581 provides,

- (1) After an order has been made by the Public Utility Commission in any proceeding, any party thereto may apply for rehearing or reconsideration thereof within 60 days

Docket No. UM 2108  
September 28, 2020  
Page 2

from the date of service of such order. The commission may grant such a rehearing or reconsideration if sufficient reason therefor is made to appear.

- (2) No such application shall excuse any party against whom an order has been made by the commission from complying therewith, nor operate in any manner to stay or postpone the enforcement thereof without the special order of the commission.
- (3) If a rehearing is granted, the proceedings thereupon shall conform as nearly as possible to the proceedings in an original hearing, except as the commission otherwise may direct. If in the judgment of the commission, after such rehearing and the consideration of all facts, including those arising since the former hearing, the original order is in any respect unjust or unwarranted, the commission may reverse, change or modify the same accordingly. Any order made after such rehearing, reversing, changing or modifying the original determination is subject to the same provisions as an original order.

Oregon Administrative Rules (OAR) 860-001-0720 requires that an application for rehearing or reconsideration specify,

- (a) The portion of the challenged order that the applicant contends is erroneous or incomplete;
- (b) The portion of the record, laws, rules, or policy relied upon to support the application;
- (c) The change in the order that the Commission is requested to make;
- (d) How the applicant's requested change in the order will alter the outcome; and
- (e) One or more of the grounds for rehearing or reconsideration in section (3) of this rule.

Section (3) of the rule provides that the Commission may grant an application for rehearing or reconsideration if the applicant shows that there is:

- (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.

Under OAR 860-001-0720, an application for reconsideration or rehearing is deemed denied if the Commission has not issued an order granting the application by the 60<sup>th</sup>

Docket No. UM 2108  
September 28, 2020  
Page 3

day after filing. If the application is granted, the Commission may affirm, modify, or rescind its prior order or take other appropriate action.

Staff is unaware of any statute, rule, or precedent addressing the Commission's general authority to waive application of an order. In addition to ORS 756.581 authorizing the Commission to reconsider or rehear an order, ORS 756.568 authorizes the Commission to rescind, suspend, or amend an order. It is not clear that the Commission's general authority allows it to simply waive application of an order for one person. Assuming that it is, the waiver cannot be arbitrary.<sup>1</sup>

## Analysis

### *Background*

#### **Commission Order No. 20-268**

After an informal stakeholder process in 2019, PacifiCorp submitted a Queue Reform Proposal (QRP) with the Federal Energy Regulatory Commission (FERC) on January 31, 2020.<sup>2</sup> The FERC process involved several rounds of notices and responsive pleadings, with involvement from Oregon stakeholders.<sup>3</sup> On April 12, 2020, FERC approved PacifiCorp's proposal and deficiency letter response, subject to conditions.<sup>4</sup>

Following FERC approval, PacifiCorp submitted an application to include Oregon-jurisdictional interconnection requests in its QRP.

On August 12, 2020, the Commission issued Order No. 20-268 approving PacifiCorp's interconnection QRP for Oregon-jurisdictional interconnections.<sup>5</sup> Now, interconnection customers will interconnect with PacifiCorp on a first-ready, first-served basis rather than the first-in-time, first served basis PacifiCorp has used historically. The first-ready, first-served interconnection process is facilitated by use of annual cluster studies in which the system impact of interconnecting a generator is studied contemporaneously with the impact of interconnecting other electrically and geographically relevant

---

<sup>1</sup> See e.g., *Jones v Employment Department*, 30 Or. App. 103 (1977) ("Judicial scrutiny of the decisions of an administrative agency . . . is for the purpose of requiring the administrative agency to demonstrate that it has applied the criteria prescribed by statute and by its own regulations, and has not acted arbitrarily or on an ad hoc basis").

<sup>2</sup> See *generally* FERC Docket No. ER20-924-000, PacifiCorp Tariff Filing, January 31, 2020.

<sup>3</sup> The Renewable Energy Coalition (REC), the Community Renewable Energy Association (CREA), the Northwest and Intermountain Power Producers Association (NIPPC), Solar Energy Industries Association (SEIA), Renewable Northwest, and NewSun Energy (NewSun) all applied for, and were granted, intervener status in the FERC proceeding.

<sup>4</sup> See FERC Docket No. ER20-924-000, Order No. 171 FERC ¶ 61,112 (May 12, 2020).

<sup>5</sup> See Docket No. UM 2018, Commission Order No. 20-268, August 19, 2020.

Docket No. UM 2108  
September 28, 2020  
Page 4

generators. Once the annual cluster studies are completed and total upgrades necessary to interconnect all participating generators are identified, the generators that are prepared to pay their allocated share of any necessary interconnection facilities and Network Upgrades are allowed to proceed with a Facilities Study and Interconnection Agreement.

Oregon's Small Generator Interconnection Procedures (SGIP)<sup>6</sup> and Large Generator Interconnection Procedures (LGIP)<sup>7</sup> follow a serial queue interconnection process which includes the following steps for each generator:

- Interconnection Application,
- Feasibility Study (the generator can waive this),
- System Impact Studies (SIS),
- Facilities Studies, then
- Interconnection Agreement.

The generator and PacifiCorp execute a study agreement prior to conducting each study listed above.

The first ready, first served cluster study process adopted by Commission Order No. 20-268 includes several modifications to the serial interconnection process:

- Annual Cluster Studies take the place of serial System Impact Studies (SIS).
- Interconnection customers must apply for interconnection before the close of an annual Cluster Request Window.
- Feasibility Studies, which preceded the SIS, are no longer offered. Instead, PacifiCorp will provide Interconnection Information Studies upon request prior to submitting an Interconnection Application (before the close of the Cluster Request Window).
- PacifiCorp will hold a 30-day Customer Engagement Window following the Cluster Request Window. PacifiCorp will post a draft plan for the Cluster Study and hold a scoping meeting that will assist in the estimation of the potential scope of network upgrade costs given the number and size of other interconnection projects in the Cluster.
- Generator-specific Facilities Studies are performed after the Cluster Studies, followed by the execution of a generator-specific Interconnection Agreement.

---

<sup>6</sup> OAR Chapter 860, Division 82.

<sup>7</sup> See Docket No. UM 1401, Commission Order No. 10-132, April 7, 2010.

Docket No. UM 2108  
September 28, 2020  
Page 5

### **Transition Cluster Study Process**

The first Cluster Study, scheduled to begin after October 31, 2020, is a “Transition Cluster Study.” The Transition Cluster Study is intended to clear out PacifiCorp’s backlog of existing interconnection requests prior to the implementation of an annual “Prospective Cluster Study” that will commence in April 2021.

For Oregon-jurisdictional interconnections, every interconnection customer that submitted an interconnection application prior to August 12, 2020, is eligible to participate in the Transition Cluster Study if it pays the necessary study deposit and can demonstrate Site Control (or pay the in-lieu deposit) by October 15, 2020. Interconnection customers that had at least executed a Facilities Study Agreement but not yet executed an Interconnection Agreement by April 30, 2020, (“Late-stage Requests”) have the option to continue with the serial queue process rather than opt-in to the Transition Cluster Study.<sup>8,9</sup>

The Transition Cluster Study differs from the Prospective Cluster Study process in several ways. First, there are no withdrawal penalties for large generators if the interconnection customer chooses to withdraw from the queue after the Transition Cluster Studies and re-studies. Second, PacifiCorp is not providing Interconnection Information Studies prior to the Transition Cluster Studies. PacifiCorp explains that any Informational Interconnection Study conducted prior to the establishment of the Transition Cluster will not reflect any clearing of the queue facilitated by the Transition process.<sup>10</sup> Third, PacifiCorp will not conduct a 30-day Customer Engagement Window for the Transition Cluster. Instead, the Company will post draft Cluster Study plans and hold a scoping meeting with this group of customers by October 25, 2020. Interconnection customers will then be required to return their executed Cluster Study Agreements by October 30, 2020.

---

<sup>8</sup> PacifiCorp Open Access Transmission Tariff, Attachment W, Section 2.1.

<sup>9</sup> Order No. 20-278. The Commission ordered different cut-off dates for eligibility for the Transition Cluster and as a Late-Stage Request than those originally proposed by PacifiCorp. In PacifiCorp’s original filing, PacifiCorp proposed that only interconnection customers that had submitted an application prior to January 31, 2020, would be eligible for the Transition Cluster Study and that any interconnection applications that came in after that date would be processed in the first Annual Cluster Study. The Commission changed this cut-off date to the date of its order, August 12, 2020. PacifiCorp also proposed that April 1 would be the date by which a project would have had to receive a Facilities Study to be a Late-Stage Request. The Commission changed this date to April 30, 2020. The Commission also delayed the date by which interconnection customers have to provide notice to PacifiCorp of their intent to participate in the Transition Cluster Study from August 15, 2020 to September 15, 2020.

<sup>10</sup> PacifiCorp’s Application, p. 35.

Docket No. UM 2108  
September 28, 2020  
Page 6

### **Dalreed Solar**

Dalreed Solar is a 40 MW solar photovoltaic and battery storage project that developer Energy Utah, LLC plans to construct in Gilliam County, Oregon. Dalreed Solar filed an application for interconnection on April 20, 2020, and presented PacifiCorp with an executed Feasibility Study Agreement on July 17, 2020.<sup>11</sup> PacifiCorp has not executed the Feasibility Study Agreement or provided the Feasibility Study. Prior to approval of the QRP, PacifiCorp's QF-LGIA required the Company to complete the Feasibility Study no later than forty-five (45) Calendar Days after it receives the fully executed Interconnection Feasibility Study Agreement.<sup>12</sup>

Energy of Utah submitted comments in Docket No. UM 2108 prior to the Commission's consideration of PacifiCorp's Queue Reform Proposal on August 11 and 12. Energy of Utah asserted that it had been working for years to bring its 40 MW Dalreed Solar project online in Oregon.<sup>13</sup> Energy of Utah asserted that it had recently learned PacifiCorp was waiting for the Commission to approve its QRP and that Energy of Utah had not previously been aware that Energy of Utah may be subject to a different interconnection process than the one in effect at that time it applied for interconnection.<sup>14</sup>

### **Request for reconsideration or rehearing**

Dalreed Solar asks the Commission to reconsider and modify its order in three ways. Dalreed Solar asks the Commission to:

- (1) Clarify that the Order did not release PacifiCorp from its obligation to provide Dalreed Solar its now-overdue Feasibility Study, and order PacifiCorp to issue the Feasibility Study (or a substitute Informational Study);
- (2) Grant a deadline extension for Dalreed Solar to decide whether to proceed in the interconnection process until after PacifiCorp provides Dalreed Solar with its overdue Feasibility Study (or a substitute Informational Study), and after Dalreed Solar has had adequate time [30 days] to review the study; and
- (3) Designate Dalreed Solar as a Late-Stage Request that can decide whether its project is studied in the existing Serial Queue or in the Transition Cluster Study, or otherwise grant Dalreed Solar access to a concurrent Serial Queue.<sup>15</sup>

---

<sup>11</sup> Pro forma Feasibility Study Agreements are provided in PacifiCorp's Open Access Transmission Tariff.

<sup>12</sup> See UM 2108, PacifiCorp's Queue Reform Proposal, Attachment A, p. 29.

<sup>13</sup> August 6, 2020 Energy of Utah Comments re: UM 2108 – PacifiCorp's Queue Reform Proposal, p. 1.

<sup>14</sup> Id.

<sup>15</sup> Dalreed Solar, LLC's Application for Rehearing, p. 2.

Docket No. UM 2108  
September 28, 2020  
Page 7

Dalreed Solar asserts rehearing or reconsideration of Order No. 20-268 is warranted under OAR 860-001-0720(3)(c) or (d), or both, because the order contains an error of fact or law that is essential to the decision and because there is good cause for reconsideration or rehearing.

Dalreed Solar does not identify the error of fact or law warranting reconsideration or rehearing. Dalreed Solar argues there is good cause to require PacifiCorp to provide Dalreed Solar with a Feasibility Study or Interconnection Information Study and extend the time in which Dalreed Solar must elect to participate in the Transition Cluster Study because PacifiCorp should have provided Dalreed Solar with the Feasibility Study by August 31, 2020, and it has not done so.<sup>16</sup> Dalreed Solar asserts that if PacifiCorp had provided the Feasibility Study, Dalreed Solar would have had time to review the study before deciding whether to participate in the Transition Cluster Study.

Dalreed Solar argues that if the Commission denies its request, “Dalreed Solar is taking on financial and logistical risks if it is forced to join the Transition Cluster Study without better information, or the project is not likely to be constructed if it is required to withdraw from the interconnection process.”<sup>17</sup>

Dalreed Solar also argues there is good cause to allow it to proceed with the serial queue as a Late-Stage Request because Dalreed Solar would have asked for interconnection earlier had it known of PacifiCorp’s plan to ask for queue reform.<sup>18</sup> Dalreed Solar also notes that if it had known in April 2020 about queue reform in Oregon, it could have executed the Feasibility Study Agreement earlier than July 27, 2020, which would have ultimately led to a Facilities Study Agreement prior to the October 31, 2020, date that Cluster Study areas are scheduled to be finalized.<sup>19</sup>

Dalreed Solar asks that if the Commission denies reconsideration or rehearing, the Commission waive the provision in PAC’s Transition Study Process that specifies a generator must have at least received a Facilities Study Agreement by April 30, 2020, in order to choose to proceed with the serial interconnection process as a Late-Stage Request.

### *Analysis & Review*

Dalreed Solar’s claim that reconsideration or rehearing is warranted because there is an error of law or fact essential to the order is unsupported. Under OAR 860-001-0720, Dalreed Solar was required to support such a claim by identifying the error of fact or

---

<sup>16</sup> Dalreed Solar, LLC’s Application for Rehearing, p. 5.

<sup>17</sup> Dalreed Solar, LLC’s Application for Rehearing, p. 4.

<sup>18</sup> Dalreed Solar LLC’s Application for Rehearing, p. 12.

<sup>19</sup> Dalreed Solar LLC’s Application for Rehearing, pp. 12-13.



Docket No. UM 2108  
September 28, 2020  
Page 8

law. It did not do so. Without any indication of an error that was essential to the decision in Order No. 20-278, the Commission should not grant reconsideration or rehearing on that ground.

Dalreed Solar attempted to identify the circumstances underlying its argument as good cause for rehearing or reconsideration. However, the circumstances are not compelling. Dalreed Solar's arguments that there is good cause to reconsider Order No. 20-268 rely on Dalreed's arguments that it did not have notice of PacifiCorp's queue reform proposal. Dalreed Solar suggests that had it known earlier that PacifiCorp intended to ask for interconnection queue reform in Oregon, Dalreed Solar would have submitted a request for interconnection sooner and would have been eligible to proceed as a Late-Stage Request. Staff disagrees that a lack of notice warrants reconsideration or rehearing.

If Dalreed Solar was unaware of the fact PacifiCorp might propose interconnection queue reform in Oregon in 2020, it is not due to action or inaction on PacifiCorp's part. PacifiCorp commenced a public process to solicit input on a potential queue reform proposal in the summer of 2019. PacifiCorp held two workshops regarding its queue reform proposal, one in Oregon and one in Utah. PacifiCorp solicited and accepted written comments on its proposal. All of these activities were noticed on PacifiCorp's OASIS website. During the Oregon workshop, the OPUC Staff questioned PacifiCorp about its intent to file a queue reform proposal in Oregon. PacifiCorp's response indicated it was considering the possibility. Staff finds it reasonable to expect Dalreed Solar would review PacifiCorp's OASIS site for notices about potential changes to the interconnection process while developing a QF interconnecting to PacifiCorp's system.

In any event, Dalreed Solar's argument that it would have acted sooner to obtain a Feasibility Study had it known of PacifiCorp's intentions ignores the circumstances underlying PacifiCorp's QRP. A review of PacifiCorp's Generator Interconnection Queue indicates that there are 195 active interconnection requests with queue positions ahead of Dalreed Solar (Q1219) that have not received a Feasibility Study, System Impact Study, or Facilities Study.<sup>20</sup> Instead, PacifiCorp has issued a notice for generators stating:

Due to a significant number of Interconnection Requests proposing to interconnect in the same geographical area of PacifiCorp's electrical system as the Interconnection Request submitted by Interconnection Customer, PacifiCorp was unable to provide the Interconnection Customer's studies within the timelines outlined in PacifiCorp's Large Generation Interconnection Procedures.<sup>21</sup>

---

<sup>20</sup> PacifiCorp's Generator Interconnection Queue, accessed September 25, 2020.

<sup>21</sup> *Id.*

Docket No. UM 2108  
September 28, 2020  
Page 9

Even if Dalreed Solar had applied for interconnection after PacifiCorp announced its queue reform process in 2019, there is no reason to believe it would have received a Feasibility Study, let alone a Facilities Study, by April 1, 2020. Review of PacifiCorp's Generator Interconnection Queue indicates that the last active interconnection request to receive a Facilities Study applied for interconnection in July 2018 (Q1045).<sup>22</sup> The last interconnection request to receive a Feasibility Study applied in August 2018 (Q1059).<sup>23</sup> And, although these circumstances are unfortunate, they are applicable to hundreds of generators. Further, PAC's QRP is designed to provide relief for these circumstances in a manner that requires tradeoffs to balance the interests of all generators.

Dalreed Solar's claim that it would have received a Feasibility Study because it is the only generator in an area where there is 40 MW of capacity also undercuts its request for relief. If this is true, the cost and result of the Transition Cluster Study should be no different than the results of a generator-specific, serial System Impact Study. If this isn't true, it would not be fair to other generators that may be electrically or geographically relevant to Dalreed Solar to give Dalreed Solar unique treatment that may be prejudicial to these generators.

Under the facts as represented by Dalreed Solar, there can be no good cause to allow Dalreed Solar to proceed with the serial queue process.

#### **Request for waiver**

Assuming the Commission has authority to waive requirements of Order No. 20-278 specifically for Dalreed Solar, the Commission should not for the same reasoning discussed above. Dalreed Solar is in the same position as more than 200 generators.

#### **Conclusion**

Dalreed Solar has not shown there is good cause to reconsider the Commission's order or waive any of its requirements. PacifiCorp provided sufficient notice and opportunity to engage with its queue reform proposal, and Dalreed Solar has failed to identify a reason it should be treated differently than a large number of interconnection customers who were waiting for a Feasibility Study when the Commission issued Order No. 20-278.

#### **PROPOSED COMMISSION MOTION:**

Deny Dalreed Solar, LLC's Request for Rehearing and Reconsideration and/or Waiver of PacifiCorp's Queue Reform Proposal.

---

<sup>22</sup> Id.

<sup>23</sup> Id.