

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 2032**

In the Matter of  
  
Public Utility Commission of Oregon,  
  
Investigation into the Treatment of Network  
Upgrade Costs for Qualifying Facilities

NORTHWEST AND INTERMOUNTAIN  
POWER PRODUCERS COALITION’S  
1) NOTICE OF INTENT TO SEEK  
INTERVENOR FUNDING THROUGH  
ISSUES FUND  
2) REQUEST TO CERTIFY CASE AS  
ELIGIBLE FOR ISSUE FUND  
GRANTS, AND  
3) REQUEST TO BE CASE-CERTIFIED  
AS PARTY ELIGIBLE TO RECEIVE  
ISSUE FUND GRANT

**I. INTRODUCTION**

In accordance with OAR 860-001-0120, the Northwest and Intermountain Power Producers (“NIPPC”) submits this: 1) Notice of Intent to Seek Intervenor Funding Through Issues Fund; 2) Request to Certify Case as Eligible for Issue Fund Grants, and 3) Request to Be Case-Certified as Party Eligible to Receive Issue Fund Grant. The NIPPC is seeking intervention in this Docket No. UM 2032, and will participate on behalf of interconnection customers that are independent power producers directly affected by the Commission’s determinations on this topic, since they are subject to the interconnection and network upgrade assignment rules and principles that will be the subject of this docket. NIPPC’s petition to intervene is being filed separately, concurrently with the filing of this motion.

## II. BACKGROUND

In Order No. 19-254, the Commission adopted Staff's recommendation on various topics related to the Commission's implementation of the Public Utility Regulatory Policies Act ("PURPA").<sup>1</sup> One of those items involved the review of how network upgrade costs should be allocated when the interconnection of qualifying facilities ("QFs") results in such upgrades being required. In Staff's memo on that topic, Staff explained:

After reviewing comments by Stakeholders, Staff now proposes an investigation into the treatment of network upgrade costs for QFs rather than addressing this issue exclusively through a rulemaking. Staff is persuaded that this issue could benefit from a more thorough development of a factual record. Depending on the results of the initial investigation, there could be a subsequent rulemaking, should the Commission decide there is a need for changes to the current process.<sup>2</sup>

In a White Paper that accompanied that memo, Staff also described some of the issues associated with utilities' current practices related to assigning the costs of network upgrades associated with QF interconnections. Staff explained:

Other interconnection issues relate to the type of interconnection service available to small QFs subject to Oregon's jurisdiction and the allocation of costs associated with upgrades to the utility's transmission system associated with interconnection. Currently utilities require QFs to apply for Network Resource Integration Service (NRIS). NRIS can necessitate more "Network Upgrades" than other interconnection service such as Energy Resource Interconnection Service. Network Upgrades are upgrades to the transmission provider's transmission system at or beyond the point of interconnection. And, unlike FERC's policy for non-independent transmission providers such as PGE, PacifiCorp, and Idaho Power, Oregon's small and large generators are generally required to pay for Network Upgrades to the transmission provider's transmission system. Staff intends to examine whether it is appropriate to require QFs to select NRIS and in any event, whether it is appropriate to allocate costs of Network Upgrades to QFs.<sup>3</sup>

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<sup>1</sup> *In re 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 (July 31, 2019).

<sup>2</sup> Order No. 19-254, Appendix A at 3.

<sup>3</sup> *Id.* at 20.

NIPPC actively participated in UM 2000.

The Commission opened this proceeding, Docket No. UM 2032, on September 10, 2019 to address these issues and seek comment and participation on the question of whether and how utilities' practices regarding the assignment of network upgrade costs should be modified.

The Commission also investigated interconnection issues in the community solar proceeding ("CSP"), Docket No. UM 1930. The Commission adopted "Staff's recommendations covering the CSP interconnection process."<sup>4</sup> Staff recommended that a number of interconnection issues raised in that proceeding be addressed in Docket No. UM 2032.<sup>5</sup> NIPPC actively participated in UM 1930 but only on interconnection issues.

### III. NOTICE OF INTENT

In accordance with Section 6.2 of the Fourth Amended and Restated Intervenor Funding Agreement ("Intervenor Funding Agreement") approved by the Commission in Order No. 18-017,<sup>6</sup> NIPPC hereby provides notice of its intent to seek assistance in the form of an Issue Fund grant for its participation in this proceeding. NIPPC also specifies that the accounts from which it seeks to receive an Issue Fund grant include the accounts for PacifiCorp and Portland General Electric. These accounts are appropriate because each of these utilities administers processes for qualifying facility interconnections, and each utility's processes will presumably be governed by

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<sup>4</sup> *In re Public Utility Commission of Oregon, Community Solar Program Implementation*, Docket No. UM 1930, Order No. 19-392 at 5 (Nov. 8, 2019).

<sup>5</sup> *See In re Public Utility Commission of Oregon, Community Solar Program Implementation*, Docket No. UM 1930, Order No. 19-392 at Attachment A at 4, 8-9, 12-14, 18 (Nov. 8, 2019).

<sup>6</sup> *In re Public Utility Commission of Oregon, Approval of the Fourth Amended and Restated Intervenor Funding Agreement*, Docket No. UM 1929, Order No. 18-017 (Jan. 17, 2018) at Attachment A at 15-16 (citations are to Attachment A not Appendix A).

the Commission’s decisions in this docket regarding how required system upgrades are determined and how the costs of such upgrades are allocated.

**IV. REQUEST TO CERTIFY CASE AS AN ELIGIBLE PROCEEDING**

Under the Intervenor Funding Agreement, before a party may receive a grant from a utility’s Issue Fund for the costs of its participation in a proceeding, that proceeding must be designated as an “Eligible Proceeding for Issue Funds.”<sup>7</sup> Eligible proceedings include general rate cases, acquisition or merger cases, integrated resource planning dockets, annual power cost cases, or “any other proceeding so designated by the Commission.”<sup>8</sup> Specifically, the Commission must find that the proceeding “directly affects one or more of the Participating Utilities and is anticipated to have a substantial impact on utility rates or service, a significant impact on utility customers or the operations of the utility, is likely to result in a significant change in regulatory policy, or raises novel questions of fact or law.”<sup>9</sup>

**A. This Proceeding “Directly Affects One or More of the Participating Utilities”**

This proceeding involves the interconnection and cost allocation practices of Portland General Electric, PacifiCorp, and Idaho Power. This proceeding thus directly affects one or more of the utilities participating in the Intervenor Funding Agreement, and satisfies the Commission’s first criteria for being designated an eligible proceeding.

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<sup>7</sup> *Id.* Attachment A at 5.  
<sup>8</sup> *Id.*  
<sup>9</sup> *Id.*

**B. This Proceeding Will Have a Substantial Impact on Utility Rates or Service, a Significant Impact on Customers or Utility Operations, and May Result in a Significant Change in Regulatory Policy or Raise Novel Questions of Fact or Law**

In this proceeding, the Commission is likely to have robust participation by the utilities and intervenor groups, all of which will have input and recommendations for how the Commission determines the appropriate methods for allocating costs of system upgrades necessitated by QF interconnections. The utilities have already claimed that these issues have a substantial impact on utility rates or service through various forums, including in Docket No. UM 2000 and various complaint proceedings pending before the Commission.<sup>10</sup> NIPPC also asserts that these issues have a significant impact on utility services to customers, since interconnection of generation is an important and integral part of a utility's duty and function.

The Commission's investigation into these issues also could result in a significant change in regulatory policy. For example, the Commission could find that a review of the Federal Energy Regulatory Commission's ("FERC's") policies on assigning the costs of transmission system network upgrades point toward the conclusion that system upgrade costs should be assigned to all utility customers, since those upgrades are deemed to benefit the integrated transmission system that broadly serves a utility's loads. The Commission could also expand upon prior policy determinations it has made, regarding the circumstances under which an

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<sup>10</sup> See, e.g., generally, *Blue Marmots V, LLC et al. v. Portland General Electric Co.*, Docket No. UM 1892 (case addressing cost responsibility for system upgrades that PGE argued were required due to deliveries of power from QFs); See also *In re Public Utility Commission of Oregon, Community Solar Program Implementation*, Docket No. UM 1930 (Commission determination of program implementation details for community solar, including how cost allocations for system upgrades associated with QF interconnections would work).

interconnection customer would be entitled to credits for costs it incurs to shoulder network upgrades. Any of these developments would constitute a significant change in regulatory policy for the Commission.

Finally, the proceeding may raise novel questions of fact or law, because it may require the development of a record on the topic of FERC precedent, factual scenarios related to QF interconnections, and a review of a variety of policy proposals and legal advocacy.

Although the Commission's rules regarding "eligible proceedings" only require a finding that a proceeding *either* results in a substantial impact on utility rates or service, *or* a significant impact on customers or utility operations, *or* may result in a significant change in regulatory policy or raise novel questions of law or fact, this particular proceeding does all of the above. Thus, this proceeding clearly satisfies the Commission's second criteria for determining whether Issue Funds should be made available in the proceeding.

Because the proceeding satisfies both criteria set forth in the Intervenor Funding Agreement for being a "Eligible Proceeding for Issue Funds," the Commission should grant NIPPC's petition for that designation.

#### **V. REQUEST FOR CERTIFICATION AS PARTY ELIGIBLE TO RECEIVE ISSUE FUND ASSISTANCE**

The Commission's rules provide that a party may be certified as eligible to receive an intervenor funding grant on a case-specific basis where the organization meets the following criteria:

- a. The organization is a nonprofit organization, demonstrates that it is in the process of becoming a nonprofit organization, or is comprised of multiple customers of one or more of the utilities that are parties to the agreement and demonstrates that a primary purpose of the organization is to represent broad utility customer interests;

- b. The organization represents the interests of a broad class of customers and its participation in the proceedings will be primarily directed at public utility rates or terms and conditions of service affecting those customers, and not narrow interests or issues that are ancillary to the effect of the rates and terms and conditions of service on those customers;
- c. The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent;
- d. Those members of the organization who are customers of one or more of the utilities that are affected by the proceedings and are parties to the agreement contribute a significant percentage of the overall support and funding of the organization;
- e. The organization demonstrates or has demonstrated in past Commission proceedings the ability to substantively contribute to the record on behalf of customer interests related to rates and the terms and conditions of service, including in proceedings in which the organization was case certified and received a grant; and
- f. The organization demonstrates that:
  - 1. No precertified intervenor participating in the proceedings adequately represents the specific interests of the class of customers represented by the organization; or
  - 2. The specific interests of a class of customers will benefit from the organization's participation; and
  - 3. The organization demonstrates that its request for case certification will not unduly delay the proceedings.<sup>11</sup>

NIPPC meets each of the above requirements, as explained below. First, NIPPC is a 501(c)(6) non-profit corporation, organized in Washington state.

Second, NIPPC's mission is to represent electricity market participants in the Pacific Northwest, and the organization has a diverse membership including independent power

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<sup>11</sup> OAR 860-001-0120(4). *See also* Order No. 18-017, Attachment A at 10 (Intervenor Funding Agreement provision that “[a]ny intervening party that is precertified or case-certified will be eligible to apply for Issue Fund Grants”).

producers and developers, electricity service suppliers, transmission companies, marketers, storage providers, and others. NIPPC advocates for fair and open-access transmission service, cost-effective power sales, consumer choice in their energy supply, and fair, competitive power markets in the Northwest.

NIPPC’s members satisfy the criteria to obtain intervenor funding because they include independent power producers that are interconnection customers that have and will need to purchase interconnection services from Oregon’s utilities. ORS 756.040 addresses the Commission’s general powers, and states that in addition to any duties otherwise vested in the Commission, the Commission shall “protect [] customers, and the public generally, from unjust and unreasonable exactions and practices [by the utilities].” Customers include: “‘Customer’ includes the patrons, passengers, shippers, subscribers, users of the service and consumers of the product of a public utility or telecommunications utility.”<sup>12</sup> Thus, customers are individuals and companies use and consume utility products which, in turn, includes interconnection customers who purchase interconnection services provided by utilities.<sup>13</sup> ORS 757.072 allows for “financial assistance to organizations representing customer interests” and does not restrict the type of customers eligible for intervenor funding. As such, NIPPC represents a broad class of customers, and will focus its efforts in this proceeding on the terms and conditions that utilities impose on interconnection customers as they seek to develop and operate independent power projects in the region.

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<sup>12</sup> ORS 756.010(3).

<sup>13</sup> OAR 860-082-0015(15-17).



NIPPC has appeared before the Commission for many years in its efforts to promote its members' interests, and has a staff, consultants, and experts that are able to effectively represent it and its members. It has helped develop the record in a variety of Commission proceedings through the development of expert testimony, the provision of comments and position papers, and through legal briefing and oral argument.

NIPPC is primarily funded by its members' contributions to its operations through the payment of fees and assessments, and thus it will be relying on assistance from the Issues Fund for only a portion of its overall costs.<sup>14</sup>

None of the pre-certified organizations participating in this docket as intervenors represent the specific interests that NIPPC will represent in this proceeding because none of those organizations represent the interests that are specific to interconnecting generation customers that are currently required to shoulder the costs of utility transmission system network upgrades.

Finally, NIPPC's participation in this proceeding will not delay the schedule in this proceeding, as a schedule has not yet been set, and NIPPC's participation will fall within the schedule and parameters established for other parties in this proceeding.

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<sup>14</sup> NIPPC notes that it will use its own funds, either in the form of in-house resources or outside funding to account for or pay at least 20% of the expenses for the work to be performed in this docket. Intervenor Funding Agreement, Section 6.3, Order No. 18-017, Attachment A at 16-17.

## **VI. PROPOSED ALLOCATION OF COSTS ASSOCIATED WITH ISSUE FUND GRANT**

Under the Intervenor Funding Agreement, the Commission determines how to allocate the costs of funds provided to intervening parties.<sup>15</sup> Although neither that agreement nor the Commission's rules require a party to propose the allocation of costs associated with its intervenor funding, NIPPC offers its views on this topic because it has been discussing this topic with other parties and believes the Commission may find it helpful. NIPPC proposes that an appropriate allocation would be to one of three options: 1) establish a new interconnection fee which is directly charged to new interconnection customers; 2) spread the costs among all power customers of the electric utilities, given that interconnection serves the function of allowing generation to be connected to the utilities' systems in order to serve all customers; or 3) directly charge interconnection customers themselves, through Schedule 75 for Portland General Electric and Schedule 247 for PacifiCorp. These latter schedules provide for service to customers that opt to have part of their power requirements served by the utilities, and to meet some of their own loads through their own generation.<sup>16</sup> NIPPC will continue to work with the Commission and other stakeholders to develop an appropriate cost recovery mechanism.

## **VII. CONCLUSION**

For all of the reasons described above, NIPPC requests that the Commission take notice of its request to seek assistance from the Issues Fund of PacifiCorp and PGE, that it certify this

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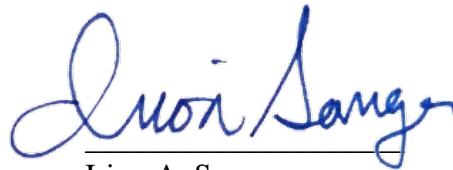
<sup>15</sup> Section 7.6 of Intervenor Funding Agreement, Order No. 18-017, Attachment A at 25.  
<sup>16</sup> Schedule 75 is available at: [https://www.portlandgeneral.com/-/media/public/documents/rate-schedules/sched\\_075.pdf](https://www.portlandgeneral.com/-/media/public/documents/rate-schedules/sched_075.pdf), and Schedule 247 is available at: [https://www.pacificpower.net/content/dam/pcorp/documents/en/pacificpower/rates-regulation/oregon/tariffs/rates/247\\_Partial\\_Requirements\\_Supply\\_Service.pdf](https://www.pacificpower.net/content/dam/pcorp/documents/en/pacificpower/rates-regulation/oregon/tariffs/rates/247_Partial_Requirements_Supply_Service.pdf).

case as eligible for the issuance of Issue Fund assistance, and that it find that NIPPC is eligible for receive assistance for its participation in this case, subject to the normal budget and filing processes associated with intervenor funding.

Dated this 16th day of December 2019.

Respectfully submitted,

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