

**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

NIPPC, THE COALITION AND
CREA COMMENTS ON STAFF’S
DRAFT ISSUES LIST

I. INTRODUCTION

The Northwest & Intermountain Power Producers Coalition (“NIPPC”), the Renewable Energy Coalition (“the Coalition”), and the Community Renewable Energy Association (“CREA”) (collectively “the Industry Associations”) hereby respond to the request from the Oregon Public Utility Commission (“Commission”) Staff soliciting comments on its draft issues list for this docket circulated on March 10, 2020 (“Staff’s issue list”). Staff’s draft issues list goes beyond simply identifying issues for resolution in this docket, but rather identifies the factors that may inform how the Commission will resolve issues, specifically the issues regarding treatment of network upgrade costs and whether to allow energy resource interconnection service (“ERIS”). The Industry Associations agree that network upgrades and ERIS are two of the most important issues to address in this proceeding and the Commission should address them in Phase I. However, there are other issues related to interconnection costs that have a pressing need for resolution in the near term and that are related to and impact the network upgrade cost and ERIS issues. Further, there are a variety of factors that could influence the

Commission’s decisions that may not be known until the parties engage in a robust substantive analysis. Therefore, the issues list for this docket should, at this time, not expand beyond the broader issues listed below, and the parties should not limit their analysis to a review of only a particular set of factors that the Commission will likely weigh in its analysis.

In addition to the network upgrade cost and ERIS issues identified in Staff’s issue list, this docket should also explore a few limited and highly important issues in Phase I, and address a broader list of issues in Phase II.

II. COMMENTS

In opening this docket, the Commission adopted Staff’s recommendation in Docket No. UM 2000 to open a separate docket to “investigate the treatment of network upgrade costs,”¹ but the Commission went further and decided that “[t]he Administrative Hearings Division shall consider, following a prehearing conference and after considering recommendations from the parties, whether the scope of the investigation . . . should be expanded to include a limited number of additional, discrete issues related to interconnection.”² Staff’s issue list primarily focuses on various factors affecting the initial “network upgrade cost” issue, but that overlaps other cost-related issues that the Commission should consider in this first phase of the docket:

1. How the utilities recover those costs for utility-owned resources or for large non-QF and QF projects as compared how it is done for QFs in Oregon;

¹ Order 19-254 at Appendix A at 1.

² Order 19-254.

2. The impacts on retail and transmission rates if Oregon-jurisdictional interconnection costs were allowed in rate base;
3. The impacts of allowing ERIS;
4. The circumstances under which it would be appropriate to allocate network upgrade costs to the utility or other users and the factors to consider in this determination; and
5. Industry trends and varying state approaches to how interconnection-related upgrades are recovered, including whether third-party studies are used to verify or establish costs and identify alternatives.

A. Utility Cost Recovery Information

As a preliminary matter, the Industry Associations note that Staff's first three questions ask about utility cost recovery data and other information available only to the utilities. The Industry Associations understand that Staff is not seeking substantive input on these questions at this time. But because this data is accessible only by the utilities, Staff is encouraged to facilitate a process through which stakeholders will have access to the same information and can engage in discovery of this data to review and analyze any utility claims, assertions, or facts. All parties need access to this information to provide the Commission with a more complete picture, rather than simply accepting what responses the utilities provide.

B. Phase I Issues

The primary issues impacting interconnection challenges in Oregon center around costs, including the costs of network upgrades, transparency into what is driving the costs, and options to reduce costs, which include exploring alternatives or hiring engineering experts to help verify the costs or construct the facilities. In Oregon, the utilities have engaged in a practice of requiring interconnection customers to interconnect with network resource interconnection service ("NRIS") where they evaluate and forecast

the whole cost of network upgrades in the interconnection process. Further, the utilities generally take the position that under the Oregon interconnection rules, the single interconnecting customer that triggered the upgrade must pay 100 percent of the costs without any allocation to the system as a whole or to other customers who also benefit from the upgrade, in contrast to the policy under federally jurisdictional interconnections where the interconnection customer receives a refund over time after making upfront payment for network upgrades. However, this is only part of the cost issue. The Commission should consider other potential improvements at the same time. Even Staff's initial issue list asks questions that overlap with the Phase I issues proposed by the Industry Associations illustrating that the other proposed Phase I issues are interrelated to the network upgrade cost and ERIS issues and should appropriately be included.

1. The Appropriate Treatment of Network Upgrade Costs

The factors identified in Staff's issue list are all appropriate for the Commission to consider in deciding the appropriate treatment of network upgrade costs. Specifically, the Industry Associations agree that this proceeding should consider issues relating to how the utilities recover costs for utility-owned resources and non-QFs, the impacts on rates, the circumstances that would make it appropriate for the utility or other users to cover some or all of the costs, and the approaches used in different states.

In addition to these considerations, the Commission should also consider guidance from the Federal Energy Regulatory Commission ("FERC") on the appropriate treatment of network upgrades. The Industry Associations submitted comments in Docket No. UM 2000 regarding FERC's concern that utilities have "an interest in frustrating rival generators" and that the "but for" pricing approach "creates opportunities

for undue discrimination.”³ FERC, therefore, adopted policies to help mitigate this opportunity for undue discrimination.⁴ Further, FERC found that all network upgrades benefit all customers and should be paid by all customers accordingly.⁵ Therefore, FERC established a policy to provide credits to interconnection customers that paid for system upgrades for all network upgrades initially funded by the interconnection customer without attempting to evaluate whether there was in fact a system benefit on a case-by-case basis.⁶ It will, therefore, be helpful for the Commission to review FERC policies and procedures in analyzing what approach makes sense for Oregon, including how each of the Oregon utilities implemented FERC directives in their respective Open Access Transmission Tariffs and the Commission’s existing precedents.

Another important factor the Commission should consider is that interconnection customers are currently required to purchase goods and services from a monopoly utility and must be protected from unjust, discriminatory, and unreasonable exactions and practices by the utilities. Interconnection customers experience delays, cost overruns, gold-plated services, inaccurate cost estimates, etc. that the Commission would not permit if the utilities engaged in the same type of actions to residential, commercial, or industrial customers. If all customers paid for network interconnection costs, then there

³ *In re Pub. Util. Comm’n of Or. Investigation into PURPA Implementation*, Docket No. UM 2000, Responses of NIPPC, the Coalition, and CREA to Staff’s Questions to Stakeholders at 26 (Mar. 29, 2019) (citing *Standardization of Generator Interconnection Agreements & Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 696 (2003)).

⁴ *Id.*

⁵ *Id.* at 24-25.

⁶ *Id.* at 25.

would be less of an incentive or an ability for the utilities to use the imposition of network costs in a harmful manner for interconnection customers.

However, the scope of this docket should not be limited to only those factors. As the parties explore and analyze the appropriate treatment of network upgrades, additional factors may be identified, which would be useful for the Commission to consider in making its decision on this topic. Therefore, at this point in time, the issue list should simply include “the appropriate treatment of network upgrades” and not limit what factors the Commission is allowed to consider in its analysis to determine the appropriate treatment.

2. The Appropriate Use of ERIIS

Staff identifies one important factor that should be considered when evaluating the appropriate use of ERIIS: the impacts (including financial impacts) of allowing it in Oregon. In addition, the Commission should consider approaches used in other states and at FERC. However, as with the review of the appropriate treatment of network upgrade costs, the Commission should keep the issue broad and allow the parties to investigate and present which factors are important during the substantive part of this case. The use of ERIIS is more fully addressed in the Industry Associations’ comments in UM 2000⁷ and UM 1930,⁸ and will be an important issue in this proceeding.

⁷ *In re Pub. Util. Comm’n of Or. Investigation into PURPA Implementation*, Docket No. UM 2000, Comments of NIPPC, the Coalition, and CREA in Response to OPUC Workshop at 9-14 (July 9, 2019).

⁸ *In re Pub. Util. Comm’n of Or. Cmty. Solar Implementation*, Docket No. UM 1930, Comments of NIPPC, the Coalition, and CREA on Staff’s Draft Proposal for Community Solar Interconnection at 12-14 (July 24, 2019); *In re Pub. Util. Comm’n of Or. Cmty. Solar Implementation*, Docket No. UM 1930, Comments of

3. The Appropriate Circumstances Under Which an Interconnection Customer Should be Provided an Option to Build (or Hire Third-Parties to Build)

The Commission should also consider an option to build in Phase I because it provides another avenue for an interconnection customer to potentially achieve greater savings on interconnection costs. Not only can a customer-hired third party construct the required interconnection facilities at potentially lower costs but on a timeline that accounts for the customer's other development concerns such as the timing of the power purchase agreement ("PPA") and tax or financing issues. Delays in the interconnection process may result in litigation over the timing of the PPA, meaning a project may miss out on some sales under the PPA and incur litigation expense. However, giving the customer more control over the timing of the interconnection could not only avoid these PPA and litigation issues, but there may be an opportunity for even greater efficiencies through simply better coordination of all the pieces that go into project development. Therefore, in evaluating this issue, the Commission should consider not only direction from FERC, other states, and how the utilities currently handle the option to build with non-QF projects, but also the overall impact on cost, timing, and efficiency.

4. The Appropriate Circumstances Under Which an Interconnection Customer Should Have an Opportunity to Hire Third-Parties to Perform Interconnection Studies

The Commission should also consider the third-party interconnection study issue in Phase I because it can help ease interconnection customers' concerns over gold plating

NIPPC, the Coalition, and CREA on Staff's Draft Proposal for Community Solar Interconnection at 5-6 (Sept. 13, 2019).

and other cost inflation concerns. Staff's issue list asks whether other states allow the use of third-party studies from engineering firms to verify or establish costs of network upgrades and interconnection facilities, and to identify alternatives. This is framed in the context of the network upgrade cost issue, and it illustrates that the third-party study issue is interrelated. Third-party studies performed either in place of or in addition to the utility's studies may provide measurable assurances to interconnection customers. As such, it is appropriate to include a review of this issue in Phase I.

5. The Appropriate Process Through Which an Interconnection Customer May Challenge Utility Cost Estimates and Propose Alternatives

Finally, the Commission should also consider what process is appropriate to challenge utility cost estimates and alternatives. As just noted above, Staff's issue list asks not only about the appropriate treatment of network upgrade costs but whether other states have a process where third-party experts can help identify alternatives. Therefore, the Commission should also consider this issue in Phase I.

C. Phase II Issues

Phase II of this docket should center on a clean-up and modernization of the interconnection rules.

1. The Appropriate Rules Apply to Interconnections Sized Between 10 And 20 MW

The Commission's rules and orders governing Oregon-jurisdictional interconnections contains a "gap" for projects sized between 10 and 20 MW. The small generator interconnection rules apply to 10 MW and smaller interconnections, and the

larger generator interconnection procedures apply to interconnections 20 MW and larger.

Therefore, anything between 10 and 20 currently have no applicable rules.

2. Appropriate Amendments to the Interconnection Rules

Finally, there are a variety of rule changes suggested by the Industry Associations in Docket No. UM 2000, and in the recent Portland General Electric Company community solar docket, Docket No. UM 1930. If these suggested changes are considered, then they should be considered in Phase II. They include:

1. Interconnection dispute resolution;
2. Improving transparency, communication, access to in-person meetings with engineers, access to standards and assumptions, study inputs, baseline data, and price assumptions;
3. Providing appropriate process and remedies for utility violations of the rules (e.g., providing extension of commercial operation date for delays)⁹;
4. Providing appropriate checks on the utility's work to ensure they are not gold-plating or imposing unreasonable requirements;
5. Consideration of interconnection options, i.e., transmission versus distribution, various routes, other options;
6. Address appropriate interconnection operations and maintenance reimbursements to the utility-owned interconnection facilities paid for by the QF;
7. Addressing the appropriate interconnection facility upgrades that should be required when a QF renews its contract;
8. Eliminating the utility's ability to hold up the process and imposing concrete and enforceable timelines;
9. Providing an appropriate mechanism for cost-sharing or reimbursement;

⁹ *In re Pub. Util. Comm'n of Or. Investigation into PURPA Implementation*, Docket No. UM 2000, Supplemental Comments of NIPPC, the Coalition, and CREA Following First Workshop at 5 (Apr. 26, 2019).

10. Address the issue regarding what changes to the facility constitute a material change that would require the QF to restart the interconnection process and/or request a new PPA and the right to upgrade after PPA execution;¹⁰ and
11. Amendments to the interconnection rules.

III. CONCLUSION

For the reasons articulated above, the issues to be reviewed in Phase I of this docket should include a review of other options to address concerns over interconnection costs, and in Phase II, the Commission should clean up and modernize the interconnection rules and processes.

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Respectfully submitted,

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¹⁰ *Id.* at 9.

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