

**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.

JOINT COMMENTS OF THE
RENEWABLE ENERGY COALITION,
COMMUNITY RENEWABLE ENERGY
ASSOCIATION, AND OREGON
SOLAR ENERGY INDUSTRIES
ASSOCIATION

I. INTRODUCTION

The Renewable Energy Coalition (the “Coalition”), the Community Renewable Energy Association (“CREA”), and the Oregon Solar Energy Industries Association (“OSEIA”) (jointly, the “Interconnection Customer Coalition”) respectfully submit these Comments in response to PacifiCorp’s application for an order approving its queue reform proposal (“Queue Reform Proposal”). The Interconnection Customer Coalition recommends that the Oregon Public Utility Commission (the “Commission”) suspend PacifiCorp’s Queue Reform Proposal for an investigation that provides parties an opportunity to conduct discovery to understand and comment properly. During the pendency of this investigation, the Interconnection Customer Coalition proposes that Oregon-jurisdictional interconnection customers be provided the opportunity, but not the obligation, to participate in PacifiCorp’s upcoming Cluster Study, with significant modifications to account for the unique nature of Oregon’s implementation of the Public Utility Regulatory Policies Act (“PURPA”). Additionally, all Oregon interconnection customers in PacifiCorp’s interconnection queue now and those that request interconnection service after the close of the Cluster Study window should have the right to continue to be processed in a serial queue without penalties for withdrawal of their interconnection application.

The Interconnection Customer Coalition appreciates PacifiCorp's efforts to reform its interconnection queue and is willing to consider the Company's radical transformation of Oregon's long-standing interconnection policies and rules. However, this should occur in a deliberate process that carefully considers the impacts on the existing interconnection process, PURPA contracting, and avoided cost rates, rules and policies. The Commission's starting point should be that the PacifiCorp Queue Reform Proposal must fit into and is not contrary to Oregon's existing implementation of PURPA. The Interconnection Customer Coalition urges the Commission to prioritize protecting the established PURPA policies and ensuring that it is consistent with the established context for PURPA.

With very limited exceptions, PacifiCorp elected to make its filing without soliciting input or even considering all aspects of how the Queue Reform Proposal would impact or work within existing Oregon policies. Every decision that the Commission should make in this proceeding should be cognizant that PacifiCorp could have taken a different approach, and the Commission should strongly consider requiring PacifiCorp to provide time for stakeholders to review their proposal and work with PacifiCorp to resolve outstanding issues. Ultimately, a Cluster Study approach *may* be the best long-term interconnection process. Still there are too many unanswered questions regarding the potential impacts a swift Commission decision may have on interconnection customers.

The Interconnection Customer Coalition recognizes that the Commission may have concerns about PacifiCorp's current queue process and may wish to resolve the existing issues quickly and efficiently. However, the Interconnection Customer Coalition urges the Commission to consider the potential negative impact a rushed decision could have on existing and potential qualifying facilities ("QFs"). The Interconnection Customer Coalition is also

interested in finding a way to encourage ongoing queue reform efforts. Still, it believes that any solution should simultaneously allow QFs to retain their rights under the current interconnection and PURPA contracting rules and policies.

The Interconnection Customer Coalition also understands that the Commission has a heavy workload related to interconnection and PURPA matters and may be reluctant to open even more proceedings. The Interconnection Customer Coalition believes the PacifiCorp Queue Reform Proposal is critically important and urges the Commission to prioritize it over some other proceedings, specifically it should be a higher priority than AR 629 (QF dispute resolutions), AR 631 (QF contracting), and any new proceedings related to UM 2000.

The Interconnection Customers Coalition provides these comments pursuant to the procedural schedule proposed by Commission Staff on July 10, 2020.¹ In that schedule, Commission Staff noted their intent: 1) to present a recommendation regarding PacifiCorp's queue reform proposal to the Commission at the August 11, 2020, Public Meeting; and 2) to publish Staff's memo on PacifiCorp's proposal or about August 6, 2020.² These comments aim to inform both Commission Staff in preparing their public meeting memo and the Commission in considering PacifiCorp's proposal.

However, we have had fewer than seven calendar days to prepare these comments in response to the schedule for such submission communicated to us by Staff. We have had PacifiCorp's massive filing for only one month. There are likely additional issues that we either

¹ Staff's Notice of Next Steps at 1 (July 10, 2020).

² *Id.* The Interconnection Customers note that this schedule provides stakeholders only *one* opportunity to comment on the largest change in Oregon interconnection policies and qualifying facility contracting in at least a decade. The Interconnection Customers reserve the right to submit additional comments after reviewing PacifiCorp's comments and/or Staff's recommendation.

have not had time to fully vet and respond to, or simply overlooked in the unreasonable rush to file comments on something of this magnitude.

Before explaining their numerous concerns with PacifiCorp’s proposal, the Interconnection Customer Coalition first explains the context in which PacifiCorp’s Queue Reform Proposal was filed. Then, the Interconnection Customer Coalition proposes next steps for the Commission to consider, including additional time for comments and review, potential modifications to PacifiCorp’s Queue Reform Proposal to require before adopting it, and suggestions on issues to explore in a broader investigation and/or rulemaking about the interconnection process and the Cluster Study approach specifically. The Interconnection Customer Coalition notes again that it has had the filing for only a month and has had no opportunity to conduct discovery. Therefore, it is not possible to fully evaluate the filing’s impacts at this time.

II. BACKGROUND ON PACIFICORP’S INTERCONNECTION PROCESS

On June 15, 2020, PacifiCorp filed its Queue Reform Proposal, requesting Commission action effective as of July 15, 2020.³ The proposal aims to change PacifiCorp’s interconnection study process for most state-jurisdictional generators from a serial queue approach to a Cluster Study approach.⁴ PacifiCorp exempts generators in PacifiCorp’s Oregon Community Solar Program (“CSP”) interconnection queue, Tier 1-3 interconnection customers under the small generator interconnection rules, and net metering customers from the proposed changes.⁵

³ PacifiCorp Application for an Order Approving Queue Reform Proposal at 1 (June 15, 2020) (hereinafter PacifiCorp’s Application).

⁴ *Id.* at 1-2.

⁵ *Id.* at 1.

PacifiCorp’s proposal would substantially change how the vast majority of QFs in Oregon receive interconnection service.

A. Oregon Jurisdictional QFs Are Not the Cause of PacifiCorp’s Queue Problems

The Interconnection Customer Coalition acknowledges that PacifiCorp’s current approach to its serial queue interconnection studies have resulted in delays and significant problems. In its filing, PacifiCorp explains that it has recently been overwhelmed by interconnection requests.⁶ For the first thirteen years of PacifiCorp’s serial queue, PacifiCorp received about 40 interconnection requests annually, representing approximately 3,600 MW on average.⁷ Starting in 2014, PacifiCorp began receiving about 105 interconnection requests each year, representing approximately 10,000 MW on average.⁸ As of February 2020, PacifiCorp had 219⁹ outstanding interconnection requests, representing approximately 39,577 MW, roughly three times PacifiCorp’s peak load of 12,600 MW.¹⁰

The Interconnection Customer Coalition believes that PacifiCorp (and *not* the serial queue approach) bears significant responsibility for creating this problem and has taken advantage of the problems with the serial queue approach to discriminate against and refuse to transact with Oregon’s independent power producers. However, the Interconnection Customer Coalition recognizes that there has been a material increase in non-QF interconnections. Thus, these Comments are focused on constructive solutions and revisions to PacifiCorp’s proposal.

⁶ *Id.* at 11-12.

⁷ *Id.* at 12.

⁸ *Id.*

⁹ It is unclear if PacifiCorp meant 219 or 234. The filing states, “Although PacifiCorp’s peak load is only approximately 12,600 MW, as of February, 219 interconnection requests, representing 39,577 MW, were in PacifiCorp’s queue. Of those 234, . . .” *Id.* at 11-12.

¹⁰ *Id.*

The majority of PacifiCorp’s pending interconnection requests are subject to the jurisdiction of Federal Energy Regulatory Commission (“FERC”). PacifiCorp’s filing provided some facts about the queue status in February 2020. At that time, about 150 of PacifiCorp’s 219 pending interconnection requests were large FERC-jurisdictional generators (or about 68%); PacifiCorp does not provide the number of small FERC-jurisdictional generators.¹¹ In contrast, there were only 19 state-jurisdictional requests specifically in Oregon (or about 8.7% of the total).¹² In terms of MWs, at least 36,806 MW of the 39,577 MW pending were FERC-jurisdictional (or about 93%), whereas only 96 MW were Oregon state-jurisdictional requests (or about 0.24%).¹³ Notably, 50 MW of that 96 MW came from a single large project.¹⁴ In other words, by MWs, small QFs in Oregon account for less than half of a quarter of a percent of PacifiCorp’s queue backlog (or about 0.012%). Further, PacifiCorp has not even articulated that its Oregon system, as a whole, is a problem with only 22 FERC-jurisdictional requests in Oregon for a total of 3,488 MW.¹⁵ Therefore, Oregon QFs are not the problem that has prompted PacifiCorp’s filing.

PacifiCorp claims that the problem with its interconnection study process is a large number of requests and the serial queue approach to handling requests. For this reason,

¹¹ *Id.* FERC differentiates large generators as those over 20 MW, whereas small generators are 20 MW or smaller.

¹² *Id.* at 12. Both the federal (FERC) and state governments (consumer-owned utility and public service commissions) regulate interconnections. FERC has jurisdiction over interconnections to public utilities under the Federal Power Act except where the interconnection customer is a QF selling its entire net output to the interconnecting utility.

¹³ *Id.* at 12.

¹⁴ *Id.*

¹⁵ *Id.* This is particularly concerning given that PacifiCorp’s new Cluster Study approach proposes to study electrically relevant areas of its system independent of each other. *Id.* at 15.

PacifiCorp recently sought approval from FERC to change PacifiCorp’s approach for FERC-jurisdictional generators from a serial queue to a Cluster Study approach.¹⁶ FERC approved PacifiCorp’s request on May 12, 2020, but subsequently granted some stakeholders’ requests for rehearing; it is possible, though unlikely, that FERC could still change PacifiCorp’s approach for FERC-jurisdictional generators.¹⁷

PacifiCorp acknowledges that it approached FERC before this Commission specifically because the problem with PacifiCorp’s interconnection process is substantially greater with FERC-jurisdictional generators.¹⁸ But for the potential need to align state and federal policies, PacifiCorp has not identified any pressing need to change PacifiCorp’s interconnection process for state-jurisdictional generators, at least in Oregon.

B. PacifiCorp’s Flawed Power Flow Studies and Discredited Business Practice 73 Undermine Its Claimed Interconnection Backlog

PacifiCorp’s asserted need to apply the Queue Reform Proposal in Oregon is further undermined by the flawed power flow analysis and discredited Business Practice 73 that lead to the queue’s backlog. PacifiCorp unilaterally adopted Business Practice 73, under which PacifiCorp would deem nonviable and refuse to process an interconnection customer’s interconnection request if PacifiCorp’s power flow model could not process the injection of the new generation due to overall generation proposals exceeding load on PacifiCorp’s system. In the FERC queue reform proceeding, several parties criticized PacifiCorp’s reliance on Business Practice 73 and its faulty assumptions as one of the major contributing factors to the backlogged

¹⁶ See *PacifiCorp*, 171 FERC ¶ 61,112 at P. 1 (May 12, 2020); see also *PacifiCorp*, Docket No. ER20-924-003, *PacifiCorp* Compliance Filing (June 26, 2020).

¹⁷ *PacifiCorp*, 171 FERC ¶ 61,112 at PP. 168-170 (May 12, 2020); *PacifiCorp*, Order Granting Rehearings for Further Consideration (June 15, 2020).

¹⁸ *PacifiCorp*’s Application at 46.

queue. The parties argued that Business Practice 73 ignored that power flows onto neighboring systems, that there are several known changes planned to load and generation ignored in the studies, and that FERC's Order No. 2003 does not require or allow deliverability of power to load as a condition of receiving interconnection service.¹⁹ In response, PacifiCorp stated that it was willing to hold a stakeholder process to address the power flow model concerns.²⁰

FERC determined that Business Practice 73 was beyond the scope of the filing PacifiCorp had made. Nevertheless, it criticized PacifiCorp's assumptions in Business Practice 73 – stating, “we remind PacifiCorp that [Network Resource Interconnection Service] and [Energy Resource Interconnection Service] do not guarantee deliverability, nor do they constitute transmission service, and therefore PacifiCorp's proffered reason for this limitation appears inconsistent with Order No. 2003.”²¹ Subsequently, PacifiCorp removed Business Practice 73 from its OASIS website and discontinued its use.²² Yet now, PacifiCorp is moving forward with queue reform without holding any stakeholder workshop or investigation on its power flow modeling practices.

Therefore, the underlying practice and deliverability modeling requirements of Business Practice 73, which lead in significant part to the queue backlog, are now discredited by FERC and discontinued by PacifiCorp. Furthermore, the fact remains that most of the backlogged interconnection requests were not derived from Oregon QF interconnections, but rather from larger generators in PacifiCorp's east balancing authority. Given the discredited Business Practice that lead to the backlog and the more limited backlog in Oregon, there is no support for

¹⁹ *E.g., PacifiCorp*, 171 FERC ¶ 61,112, at PP. 159-165 (May 12, 2020).

²⁰ *Id.* at P. 166.

²¹ *Id.* at P. 168 (citing Order No. 2003, 104 FERC ¶ 61,103, at P. 769).

²² *See* PacifiCorp's OASIS Site, Business Practice 73, available at <https://www.oasis.oati.com/woa/docs/PPW/PPWdocs/BP73.pdf>.

PacifiCorp’s claimed need to apply the queue reform to Oregon QFs. Even if the Commission does not reject the filing outright, these facts support requiring significant changes to the proposal to minimize harm to Oregon QFs.

C. The Commission Should Only Align Oregon Policies with FERC Policies After Understanding of How those Changes Impact Oregon’s Existing Interconnection and PURPA Policies

Aligning state and federal policies is a worthwhile consideration, but the Commission has explicitly chosen not to do so in the past for certain interconnection matters. A brief summary of the Commission’s interconnection proceedings may be informative.

In 2007, the Commission launched the rulemaking that produced the Commission’s Small Generator Interconnection Rules (OAR 860-082).²³ Oregon stakeholders engaged in robust discussions for more than two years for that rulemaking.²⁴ That proceeding also resulted in the Commission’s adoption of standard interconnection agreement forms for Oregon’s three large utilities, including PacifiCorp.²⁵

While the small QF rulemaking was ongoing, the Commission launched an investigation into interconnection policies for large QFs.²⁶ Oregon’s large QF proceeding originally aimed to address all QFs greater than 10 MW (i.e., those not covered by OAR 860-082), but the Commission ultimately narrowed the scope to QFs greater than 20 MW.²⁷ In April 2010, the Commission adopted standard procedures and agreements for QFs 20 MW or larger.²⁸

²³ See *Rulemaking to Adopt Rules Related to Small Generator Interconnection*, Docket No. AR 521, Order No. 09-196 at 1 (June 8, 2009) (discussing the launch of the rulemaking).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *In Re Investigation into Interconnection of PURPA Qualifying Facilities With Nameplate Capacity Larger Than 20 Megawatts to a Pub. Utility’s Transmission or Distribution Sys.*, Docket No. UM 1401, Order No. 10-132 at 10 (Apr. 7, 2010).

²⁷ *Id.* at 1.

²⁸ *Id.*

According to PacifiCorp, Oregon is the only state in its service territory with detailed policies governing state-jurisdictional interconnection,²⁹ which is why PacifiCorp is currently only seeking approval of its new state jurisdictional interconnection policies in Oregon. This adds weight to any decisions that the Commission makes because its decisions could protect (or harm) interconnection customers in other states that take their lead from Oregon.

The Interconnection Customer Coalition knows there are certainly problems and issues with Oregon's unique state-jurisdictional rules and process. For instance, after more than ten years, Oregon still does not have policies for state-jurisdictional interconnections for QFs between 10 and 20 MW in size and there are a large number of pressing interconnection matters that warrant timely resolution.³⁰ However, the implementation of policies has provided much-needed certainty to the industry. Further, the stability of these policies for more than a decade has helped solidify the industry's understanding of their rights and obligations. When there are disputes about interconnection matters, there is a well-developed record that utilities, customers, and the Commission can review to understand and interpret the rules and policies.³¹ PacifiCorp

²⁹ The Interconnection Customers have not independently verified PacifiCorp's claims that they do not need to make similar filings in other states.

³⁰ See, e.g., *In re Investigation into the Treatment of Network Upgrade Costs for Qualifying Facilities*, Docket No. UM 2032, NIPPC, REC, and CREA Comments on Staff's Proposed Issues List (May 4, 2020) (discussing issues in the current interconnection process and policies).

³¹ E.g., *Sandy River Solar v. PGE*, Docket No. UM 1967, Order No. 19-218 at 20-25 (June 24, 2019). While the Interconnection Customers believe that the Commission wrongly decided the *Sandy River Solar* case and took away a right for interconnection customers to hire a third-party contractor, there at least was a detailed administrative record that the Commission could review when reaching its final order. Regardless of which party wins or loses any particular case, having clearly defined rules and policies, and a voluminous record to provide guidance and context for those rules and policies, is helpful for the industry and the Commission to avoid and resolve disputes.

seeks to change this well-established and understood policy in this docket that has been open for little more than two months and with many issues remaining unresolved.

D. A Brief Summary of the Current Interconnection Process

PacifiCorp frames the serial queue process as inefficient, but the Interconnection Customer Coalition believes it is informative and stable, both of which are important to non-PacifiCorp developers seeking to interconnect their projects. Before exploring PacifiCorp's proposed reform of this process, the Interconnection Customer Coalition provides a brief summary of the current process.

To obtain interconnection service in a serial queue, a generator ("Applicant") first makes a request to the utility to interconnect. Currently, Applicants can submit requests at any time. If the request provides the utility with the information necessary to study the generator, then the utility assigns the Applicant a queue number. Typically, the utility then provides three increasingly detailed studies to the Applicant: 1) a Feasibility Study; 2) a System Impact Study; and 3) a Facilities Study. The Feasibility Study is not always necessary. Utilities sometimes provide more than one of these studies as re-studies, because higher-queued projects withdraw from the queue. A re-study will often confirm whether the Applicant must pay for interconnection facilities or system upgrades that the withdrawn project would have otherwise funded.

It is worth noting that Applicants, *not* the utility, pay the costs of studies and restudies. Under the current approach, Applicants have a reasonable understanding of what study costs may look like. Further, they have certainty that the costs will only reflect the work needed to study their project. In short, Applicants do not typically fear having sticker shock from study costs.

Although restudies require additional time and cost, most generators in Oregon appreciate the stability of the current process. Applicants in the queue generally know and understand that there is always a possibility that higher-queued projects may withdraw. The studies are required to identify higher-queued projects, specifically to alert projects when their interconnection is subject to change. The studies generally also identify the specific upgrades that might be passed on to the Applicant, if a higher-queued project withdraws. Further, any Applicant can review other applicants' studies because all studies are posted online at the utility's OASIS website.

The result of this serial queue process is that even Applicants joining at the end of a long line of interconnection customers can generally have a reasonable understanding of what costs they may potentially face to be studied and ultimately interconnected. The longer they proceed through the process, the more information they gain. Applicants also benefit from having a rough idea of how much time it may take for them to proceed through the study process and how risky that timeline may be due to the possibility of restudies (or other delays).

Ultimately, the Interconnection Customer Coalition recognizes the current serial queue process is not necessarily a perfect system, but it provides substantial benefits to the industry. The Interconnection Customer Coalition appreciates PacifiCorp's concerns that the industry is not receiving adequate interconnection service, and they look forward to working with PacifiCorp, the Commission, and other stakeholders to find ways to improve interconnection service. However, at this time, the Interconnection Customer Coalition believes that a sudden abandonment of the serial queue process is likely to cause more harm than good to the industry. It is also likely to open the floodgates on litigation because PacifiCorp's proposal raises so many unanswered questions.

E. PacifiCorp’s Queue Reform Proposal

PacifiCorp proposes to replace the current serial queue with a Cluster Study approach for almost all generators.³² In simple terms, PacifiCorp will study groups of generators at a time, instead of studying generators separately.³³ It is unclear how many groups there will be, but PacifiCorp proposes separately studying “electrically relevant areas” as a cluster, which PacifiCorp does not further define. The Interconnection Customer Coalition assumes this term reflects the need for PacifiCorp to consider studying different areas, such as “load pockets,” separately, but there is no limitation on how PacifiCorp defines the boundaries of each “cluster”. PacifiCorp proposes to study each cluster only once each year. To be included in a cluster, PacifiCorp proposes to require generators to submit an interconnection request within a 45-day window, starting on May 1 of each year. Outside of this limited window and single study, PacifiCorp does not plan to provide interconnection service to any generators. While an “Informational Study” may be obtained at any time, that study will have less value than the typical feasibility study due to its inability to fully consider the other projects proposed for clusters and other limitations. This process raises numerous concerns, as does PacifiCorp’s plan for a very rapid transition to this process.

PacifiCorp’s Queue Reform Proposal comprised several documents, each substantial and meaningful on its own. This section briefly identifies each one for clarity. First, there is the application filing itself, which attempts to explain PacifiCorp’s overarching Queue Reform

³² As indicated above, PacifiCorp is not proposing the change the serial queue approach for CSP projects, Tier 1-3 generators under the Commission’s Small Generator Interconnection Rules, or net metering customers.

³³ The word ‘separately’ is used here to distinguish between the approaches. To be clear, PacifiCorp considers the impacts of many other generators when conducting single-generator studies pursuant to the current serial queue.

Proposal (but it does not address all questions and barely recognizes the impacts on Oregon PURPA contracting).³⁴ Second, there are PacifiCorp’s proposed modifications to the Qualifying Facility Large Generator Interconnection Procedures (“QF-LGIP”) and Qualifying Facility Large Generator Interconnection Agreement (“QF-LGIA”). Perhaps most significantly, PacifiCorp proposes to change the applicability of these documents for only QFs larger than 20 MW (large QFs, in FERC’s view) to all QFs larger than 10 MW. Third, PacifiCorp proposes a waiver of the Commission’s Small Generator Interconnection Rules (OAR 860-082), which applies to all QFs 10 MW and smaller. Yet PacifiCorp provided no separate document or indeed any meaningful explanation of which rules it intends to have waived and in what manner. In the Interconnection Customer Coalition’s view, PacifiCorp should have proposed a redline identifying which provisions of the rules will continue to exist under a Cluster Study approach. Better yet, it should have proposed a temporary revision to the rules themselves to facilitate the major policy changes proposed by PacifiCorp while also providing interested developers and other parties with a clear and concise set of rules to follow in the interim. Fourth, PacifiCorp submits a separate attachment governing the transition Cluster Study process, which includes many differences from the prospective study process. Fifth, and finally, PacifiCorp proposes modifications to the form Facilities Study Agreement for QFs subject to Tier 4 review under the Commission’s Small Generation Interconnection Rules. In short, PacifiCorp proposes to modify multiple documents that were previously approved by the Commission and to waive a substantial portion of the Commission’s current interconnection rules.

³⁴ At the first workshop, PacifiCorp was asked to identify where in the application PacifiCorp explained how the Queue Reform Proposal will impact Oregon’s avoided cost pricing and contracting process. PacifiCorp responded that the application does not address that question.

III. CONCERNS WITH PACIFICORP'S QUEUE REFORM PROPOSAL

The Interconnection Customers have numerous concerns with PacifiCorp's proposal and how it seeks to upend the settled industry landscape in Oregon.³⁵ These concerns include:

- 1) the limited time and inadequate process provided for review of PacifiCorp's Queue Reform Proposal;
- 2) PacifiCorp's lack of an explanation for why it cannot maintain a serial queue for some customers, even though it will for others;
- 3) the premature cut-off date during the transition process that potentially blocks access to interconnection;
- 4) the lack of clarity on how a May 1st start date of a Cluster Study window can co-exist with PacifiCorp's Avoided Cost Update Filings;
- 5) the potential for a once-per-year Cluster Study to increase the time it takes to enter into an interconnection study and power purchase agreement ("PPA");
- 6) whether a QF should, therefore, be allowed to enter into a PPA without a study;
- 7) the lack of clarity on how QFs in "Electrically Relevant Areas" will be treated;
- 8) the inherent unfairness of the cost allocation formula to small generators;
- 9) the low percent (1%) of the Cost Responsibility Exemption;
- 10) the lack of clarity on how PacifiCorp will handle pending requests with deposits already submitted;
- 11) the necessity and brevity of the 45-day "cluster request window" to enter a Cluster Study;
- 12) the lack of time a QF has to review study results before being forced to decide whether to move forward;
- 13) the effect a Cluster Study will have on the time available to resolve interconnection disputes with PacifiCorp;
- 14) the proposal's discriminatory treatment of Oregon QFs sized 10 MW to 20 MW as compared to treatment of the same size generators under the FERC queue reform process;
- 15) the excessiveness of the proposed withdrawal penalties;
- 16) the unclear impact this proposal will have on existing QFs;
- 17) the failure to articulate the right of the protection that Oregon QF interconnection customer are only responsible for costs necessitated by the interconnection of a small generator facility and required to mitigate any adverse system impacts caused by the interconnection
- 18) the failure to clearly articulate the right for an Oregon QF interconnection customer to not pay for network upgrades that produce quantifiable system-wide benefits;
- 19) eliminating the right to perform an independent system impact study;
- 20) the legality of PacifiCorp's waiver request of the Small Generator Interconnection Rules;

³⁵ Cf. ORS 758.515(3)(b) ("It is, therefore, the policy of the State of Oregon to . . . Create a settled and uniform institutional climate for the qualifying facilities in Oregon.").

- 21) the possibility of a “commercial readiness” requirement; and
- 22) the effect this decision could have on QFs in neighboring states.

This list is substantial. However, this filing is only an *initial* response. The Interconnection Customers reserve the right to flag additional concerns as they arise. The Interconnection Customer Coalition requests that the Commission consider all of these issues carefully. Further, the Interconnection Customers ask the Commission to 1) provide the industry with the ability to conduct discovery and 2) provide additional opportunities for comments. The industry does not understand much of PacifiCorp’s filing, let alone have the ability to identify all of the concerns and potential solutions or revisions in the amount of time currently proposed. The number of issues and questions arising from this filing is startling, and even more startling is the fact that given this limited time for review, there are likely many other issues and questions that are not yet identified.

A. There Has Not Been Adequate Process and Opportunity to Review and Understand PacifiCorp’s Queue Reform Proposal

The single biggest concern that the Interconnection Customer Coalition has is that PacifiCorp’s filing is too rushed. Interconnection raises complicated issues, described in detail below, and PacifiCorp’s filing has not addressed many of them. The process to date has not allowed for adequate responses, either. Although PacifiCorp has hosted two workshops and Staff has hosted one, PacifiCorp has not provided any written answers to stakeholder questions, nor has PacifiCorp even provided a simple redline to the Commission’s rules or policies as requested.

The contrast with the recent process at FERC is illustrative: PacifiCorp reached out to certain industry stakeholders approximately six months before filing, held 3-4 hour meetings approximately once a month, proposed its first interconnection queue reform straw proposal

approximately 3.5 months before filing, developed at least two additional straw proposals, and received at least 41 sets of comments from at least 23 different stakeholders all *before* it filed its Queue Reform Proposal at FERC in January 2020.³⁶ Overall, PacifiCorp made extensive and material changes to its proposal to accommodate the interests of FERC-jurisdictional interconnection customers. However, even with this stakeholder process, PacifiCorp’s filing at FERC included some surprises for the entities that participated in that stakeholder process.³⁷ The FERC process then lasted approximately 3.5 months, with at least two rounds of formal comments and protests, not counting the time since FERC’s order was issued. FERC has not yet finalized order, which means the formal FERC process is not over, and it has already lasted approximately 6.5 months.³⁸ All in all, PacifiCorp’s proposal for FERC-jurisdictional customers has now been the subject of discussion for more than one year.

³⁶ Information about PacifiCorp’s stakeholder engagement process is available on PacifiCorp’s OASIS in the folders “Interconnection Queue Reform 2019” and “Interconnection Queue Reform 2020.” *See, e.g.*, PacifiCorp, Notice of Queue Reform Stakeholder Process (June 25, 2019); PacifiCorp, Meeting One Follow-Up (July 18, 2019) (outlining the plan for stakeholder meetings); PacifiCorp, Large Generator Interconnection Procedure Reform Straw Proposal (Sept. 10, 2019); PacifiCorp, Large Generator Interconnection Procedure Reform Revised Straw Proposal (Nov. 11, 2019); and PacifiCorp, Large Generator Interconnection Procedure Reform Second Revised Straw Proposal (Dec. 9, 2019) (all available on <https://www.oasis.oati.com/ppw/>). The Interconnection Customers note that PacifiCorp issued a request for comments for an October 2019 meeting, but it is unclear if any of those comments have been posted online.

³⁷ *PacifiCorp*, FERC Docket No. ER20-924, Request for Rehearing and/or Clarification by the Solar Energy Industries Association at 11 (June 11, 2020) (“It was not clearly understood amongst the projects that participated in the stakeholder efforts that failing to submit an interconnection request by January 31, 2020 would prevent a project from competing in the RFP. Had PacifiCorp made this material fact known to the stakeholders, a cut-off date prior to May 12 could have been appropriate, but given that PacifiCorp failed to provide stakeholders notice of the cut-off date, the Commission’s determination is arbitrary and capricious.”).

³⁸ *See generally PacifiCorp*, Docket No. ER20-924.

By contrast, PacifiCorp filed this proposal and requested its adoption be effective a mere *one month* later. PacifiCorp did not reach out to any of the trade associations before filing, and the Interconnection Customer Coalition is not aware of PacifiCorp reaching out to a single Oregon impacted interconnection customer. It appears PacifiCorp has not even informed interconnection customers who have submitted interconnection requests or have soon to be expiring interconnection agreements, which means that there may be significant numbers of customers who could be impacted by the filing that do not even know it exists.

After its filing, PacifiCorp has not agreed to make any single changes to its proposal, has refused to put any answers or further explanations in writing, and refuses to any further meetings with the trade associations or interconnection customers, even though that it was clear that many questions still remained about the filing after the preliminary workshops held in the past month. PacifiCorp has decided what it wants, when it wants approval, and has decided that no further process is warranted beyond the Commission approving the proposal. The only way that PacifiCorp will meaningfully engage with or even talk with impacted customers is if the Commission orders it to do so.

B. PacifiCorp has Not Explained Why It Can Maintain a Serial Queue for Some Generators but Not for Others

PacifiCorp plans to require participation in the Cluster Study by all QFs except Tier 1-3 QFs under the Commission's Small Generator Rules, which generally subjects all QFs over 2 MW, and even some smaller than that size, to the Cluster Study proposal.³⁹ PacifiCorp's proposal exempted CSP projects (which can be up to 3 MW) and net metering projects.

³⁹ Tier 2 can apply to certain generators up to 2 MW that export generation beyond the point of interconnection. OAR 860-08-0050(1)(b). Tier 3 allows for larger generators up to 10 MW, but generally only applies to behind-the-meter generators that do not export generation beyond the point of interconnection. OAR 860-082-0055(1)(d)-(2)(b)(C).

PacifiCorp claims that it cannot maintain both a serial queue and a Cluster Study approach. However, but PacifiCorp has not shown why this is impossible, considering that PacifiCorp will be maintaining a serial queue for CSP generators and Tier 1-3 QFs even under its own proposal. PacifiCorp's filing identifies no electrically relevant dividing line to justify the arbitrary limitation established at Tier 3 for QFs. This arbitrary decision to restrict access to the serial queue should change.

The Interconnection Customer Coalition proposes that PacifiCorp exempt all Tier 4 generators under the Commission's Small Generator Interconnection Rules from the Cluster Study approach for at least the interim basis, meaning all Oregon QF interconnections up to 10 MW would be exempt from the Cluster Study. This is so for at least five reasons:

- All projects at least 10 MW and below should be provided the right to proceed with a serial queue. The 10 MW cut-off aligns with the Commission's Small Generator Interconnection Rules. As explained above, at the time of the filing, there were only 18 small generator interconnections totaling 46 MW, and they are not causing PacifiCorp's queue problems. PacifiCorp has not justified why it cannot continue to process the small number of Oregon small generator interconnections under a serial queue approach, just as it acknowledges it can and will do for CSP and Tier 1-3 QFs.
- PacifiCorp should treat non-CSP generators in a non-discriminatory fashion with CSP generators. Therefore, since any solar generator up to 3 MW could potentially pursue interconnection through the *serial* CSP queue, PacifiCorp should allow all solar generators up to 3 MW in size to pursue interconnection through a serial *non-CSP* queue. Maintaining a serial CSP queue but no complementary serial non-CSP queue for otherwise similarly situated projects could generate unnecessary friction between projects

or against the CSP. It is possible that QFs may pursue the CSP queue simply to obtain interconnection and without a genuine desire to participate in the CSP.

- PacifiCorp should treat non-solar generators in a non-discriminatory fashion with solar generators. If PacifiCorp allows 3 MW solar generators (either CSP or non-CSP projects) to interconnect through a serial process, it must allow 3 MW non-solar generators to interconnection through a serial process as well.
- Allowing 3 MW generators to proceed through a serial queue will minimize the impact on small QFs who would otherwise wish to obtain a *standard* power purchase agreement. It is unclear at this time how PacifiCorp's proposal will impair QF contracting. Still, at minimum, those impairments should not fall on small QFs eligible for standard contracts and standard pricing.
- Exempting Tier 4 generators from the Cluster Study approach will prevent the need for the Commission to grant PacifiCorp's waiver request from the Small Generator Interconnection Rules. The Commission carefully adopted those rules over a long period of time, so it is not reasonable to waive them permanently for one of only three large utilities.

C. The Proposed Cut-off Date for the Transitional Cluster Study is Too Early and Should Not Close the Door Entirely on Access to Interconnection

PacifiCorp proposes an initial transition Cluster Study this upcoming fall followed by annual cluster studies in subsequent years. It is unclear how this proposal will treat interconnection customers with pending applications. For the initial transition Cluster Study to occur this fall, PacifiCorp proposes to only allow participation by QFs that had pending

interconnection requests in the queue as of January 31, 2020.⁴⁰ PacifiCorp also states that late-stage Transition Requests are those in the queue as of April 1, 2020, have received a Facilities Study Agreement, or are beyond that point but have not yet executed an interconnection agreement. These “late-stage” requests will have the option to complete their serial interconnection process.⁴¹ All other QFs that submitted an interconnection request after January 1, 2020, would be bumped to next year’s Cluster Study – meaning that these QFs would have no useful interconnection study until at least the end of 2021 and will have their development efforts frustrated by such delay.

PacifiCorp appears to suggest the cut-off dates it proposed are intended to align with its studies for FERC-jurisdictional generators.⁴² However, PacifiCorp has not provided any justification for why these dates were necessary even for its FERC filing,⁴³ and this is an inadequate justification for the denial or delay of service to state-jurisdictional generators. PacifiCorp notes that it will change its proposed dates to match any changes in the plan approved by FERC.⁴⁴ At this time, it is not clear that there is any need for the dates to match. In fact, staggering the initial studies may benefit PacifiCorp in learning about this new approach to providing interconnection service.

Furthermore, the timing of the cut-off for Oregon QFs would have no impact on PacifiCorp’s ability to process the Cluster Studies for FERC-jurisdictional and Oregon-jurisdictional customers. It is merely an accommodation in recognition of the fact that there was

⁴⁰ PacifiCorp’s Application at 6.

⁴¹ *Id.* at 39.

⁴² *Id.* at 4.

⁴³ The FERC dates appear to have been selected to match PacifiCorp’s renewable request for proposal (“RFP”) and had the practical impact of reducing the available renewable resources eligible to participate in its RFP by more than half.

⁴⁴ PacifiCorp’s Application at 4, n. 5.

less notice as to the treatment of Oregon QFs. Indeed, no Oregon QF developer could have known how PacifiCorp would process Oregon QF interconnections and, if any generators would be exempt from the Cluster Study, where the size cut-off for such exemption would be until PacifiCorp made its filing proposing to set an extremely low size at Tier 3 interconnections. Given the opposition to the proposal, it is still unclear where the final size exemption will be set by the Commission. Thus, establishing a different time cut-off for Oregon QFs is reasonable. The Interconnection Customer Coalition recommend two adjustments to the Cluster Study proposal for Oregon QFs if the process is to move forward.

1. PacifiCorp Should Not Deny Interconnection Service to Generators That Missed the April 1, 2020 Cluster Application Deadline

Some interconnection customers will have missed the application to participate in the current Cluster Study, and PacifiCorp will *not* study interconnection until at least next year's Cluster Study. This means that interconnection customers who previously requested interconnection will not participate in a study until sometime next year. This is an unwarranted denial of interconnection service, and it needs to change for Oregon QFs who had less notice of PacifiCorp's plans than the FERC-jurisdictional customers.

Interconnection Customer Coalition proposes that the cut-off date to elect to be in this year's Cluster Study for Oregon QFs be extended to 30 days after the Commission's order approving PacifiCorp's Queue Reform Proposal (assuming it is eventually approved, after revisions). Furthermore, all Oregon QFs should be allowed to elect to opt into the Cluster Study this year, even those who did not have an active interconnection request before January 1, 2020. This will allow Oregon QFs a reasonable opportunity to review and decide whether they want to participate in the Cluster Study after the new process is approved by this Commission.

2. PacifiCorp Should Offer QFs with Pending Requests the Option to Proceed through a Serial Queue, rather than Forcing them to Proceed in the New Cluster Study

A related concern is that PacifiCorp will *require* almost all interconnection customers with pending requests to follow the new Cluster Study approach, even if their interconnection application was received before January 1, 2020. The only exception is if they have an executed interconnection agreement as of April 1, 2020.⁴⁵ This means that interconnection customers in the queue, even ones with Facilities Studies, will not be allowed to move forward towards interconnection based on those study results. From a practical perspective, an interconnection customer that has not received notice of these changes could have studies showing minimal interconnection costs under the current approach but then be moved into a cluster that results in significant delays and increases to its costs of interconnection. This is inefficient and wasteful, and it materially harms their rights.

The Interconnection Customer Coalition proposes that interconnection customers with pending interconnection requests of the date of the Commission’s order approving PacifiCorp’s Queue Reform Proposal (assuming it is eventually approved, after revisions) have the choice of whether to proceed in the serial queue or to join a Cluster Study. This is consistent with the Commission’s decision to adopt the small generator interconnection rules. The Commission concluded that: “We find that a public utility must continue to process any applications that are pending at the time these rules go into effect under the process that was applicable at the time the application was submitted. However, an interconnection applicant may choose to resubmit its application under the small generator interconnection rules.”⁴⁶

⁴⁵ *Id.* at 6.

⁴⁶ Docket No. AR 521, Order No. 09-196 at 5.

D. PacifiCorp’s Queue Reform Proposal Will Eliminate Any Certainty QFs Have as to the Applicable Avoided Cost Rates, Including Standard Avoided Cost Rates

PacifiCorp’s Queue Reform Proposal raises several issues regarding contracting and eligibility for avoided cost rates that effectively eliminate price certainty for months or even years at a time, which PacifiCorp did not address in its proposal. PacifiCorp either did not consider these significant questions or designed its proposal to preclude the ability of QFs to be able to enter into contracts. These issues are: 1) QFs may be unable to lock in avoided cost prices due to the lack of certainty on interconnection costs and schedule, which is problematic for development and contrary to PURPA’s mandate; 2) QFs may be unable to execute a PPA until after avoided cost prices change multiple times; and 3) even under the best circumstances, QFs will likely not know what avoided cost prices (and therefore revenue) they are entitled to before they have to make uninformed business decisions about entering a Cluster Study and agreeing to pay study costs and subject to withdrawal penalties, and likely before they are required to post financial security for 100% of their allocated cost of network upgrades.⁴⁷ Again, these are only initial issues, and there could be further issues relating to PURPA compliance and avoided cost pricing specifically.

In the end, the Queue Reform Proposal simply does not work within the context of how Oregon sets avoided cost rates and how PacifiCorp implements its own internal policies for when it will willingly allow QFs to enter into contracts. Thus, the proposal and potentially Oregon’s contracting and rate-setting processes must be revised to align properly. The Interconnection Customer Coalition is ready, willing, and able to work with PacifiCorp on these points, but it is

⁴⁷ Financial Security for network upgrades would be required within 30 days following the date PacifiCorp provides the Cluster Study results, which is typically not enough time to fully negotiate a PPA.

skeptical that PacifiCorp collaborate absent strong direction from the Commission indicating that it wants to see PacifiCorp work with rather than against the interests of interconnection customers.

1. The Commission Allows Frequent and Unpredictable Avoided Cost Price Changes

It is necessary to understand how the Commission implements its state and federal PURPA obligations for PacifiCorp to purchase power from QFs at the utility's avoided cost rates. Rates are typically updated on an annual basis after a utility's Integrated Resource Plan ("IRP") is acknowledged, and anytime the utility or the Commission identifies significant changes in circumstances. Each update clarifies both the utility's current methodology for calculating avoided cost rates and the current "standard" rates. Standard rates, which only certain small QFs are eligible for, are locked in until the next avoided cost update. This provides certainty to all renewable energy generators, and especially small, less sophisticated developers, and avoids the need for complicated price negotiations with the utility. Larger QFs are paid rates pursuant to the utility's adopted methodology with inputs that can be updated only at certain times.

The value of these established rates or rate methodology is that developers have some degree of certainty over their project's likely revenue before and after contract execution. This informs whether the project is financeable and how many costs, such as interconnection costs, can be absorbed before becoming economically unfeasible. Most QFs are unable or unwilling to make major investment decisions before the execution of a contract, and many QFs start the contract negotiation process with the goal of completing and executing a PPA before the next rate change.

Admittedly, there is already some lack of certainty about the timing related to avoided cost prices. This is unrelated to interconnection and arises instead from the unpredictability of the timing of IRPs update and (more important) Commission's repeated willingness to request and approve out-of-cycle avoided cost updates and other changes in PURPA policy that have the practical effect of lowering prices (e.g., lowering the size threshold for standard contracts on a retroactive basis). These are highly problematic for developers, as unexpected filings and orders undermine the industry's stability. Nevertheless, the Commission has approved out-of-cycle avoided cost updates and rate changes again,⁴⁸ and again,⁴⁹ and again.⁵⁰

⁴⁸ *In Re PGE Application to Update Schedule 201 Qualifying Facility Info.*, Docket No. UM 1728, Joint Comments in Support of Staff Memorandum at 5 (May 15, 2017) (discussing the numerous out-of-cycle updates that have occurred historically, especially around 2005 to 2012).

⁴⁹ *PacifiCorp Application to Reduce the Qualifying Facility Contract Term and Lower the QF Standard Contract Eligibility Cap*, Docket No. UM 1734, Order No. 16-130 at 3-5 (Mar. 29, 2016), *Idaho Power Company Application to Lower Standard Contract Eligibility Cap and to Reduce the Standard Contract Term, for Approval of Solar Integration Change, and for Change in Resource Sufficiency Determination*, Docket No. UM 1725, Order No. 16-129 at 4-6 (Mar. 29, 2016); *see also Portland General Electric Company Application to Lower the Standard Price and Standard Contract Eligibility Cap for Solar Qualifying Facilities*, Docket No. UM 1854, Order No. 17-310 at 7-8 (Aug. 18, 2017) (each order approving a utility request to lower the size threshold for QFs to obtain standard avoided cost prices, effectively immediately lowering avoided cost rates).

⁵⁰ *Investigation into Interim PURPA Action*, Docket No. UM 2001, Order No. 19-156 at 1 (Apr. 26, 2019) (approving out-of-cycle updates from all three of Oregon's major utilities, despite significant industry comment opposing the updates); *e.g.*, Docket No. UM 2001, Joint Comments of Renewable Energy Coalition, Community Renewable Energy Association, Northwest and Intermountain Power Producers Coalition, Renewable Northwest, Oregon Solar Energy Industries Association, Solar Energy Industries Association, Sierra Club, Oregon Water Resources Congress, Biomass One, Central Oregon Irrigation District, Conifer Energy Partners, Deschutes Valley Water District, Dorena Hydro, EBD Hydro, LLC, Ecoplexus, Elemental Energy Inc., Empire Construction, Energy Vision LLC, The Environmental Center, Farmers Irrigation District, Future Systems Enterprises, Judge Pete Runnels Harney County Commissioner, Houtama Hydropower, Lime Wind, Middle Fork Irrigation District, Monarch Renewable Energy, Natel Energy, NewSun Energy, NLine Energy, Inc., Obsidian Renewables, Oregon Windfarms, LLC, Patu Wind Farm, Pine Gate Renewables, PNW Solar, Pueblo

The Interconnection Customer Coalition raised concerns with this practice many times, and it will not raise them again here. Instead, it is important to recognize the industry’s perspective that there are frequent and unpredictable avoided cost rate changes in Oregon. The Commission is not likely to stabilize the timing of avoided cost updates, which means that any review of PacifiCorp’s Queue Reform Proposal must assume that there may be multiple avoided cost price changes during the pendency of any Cluster Study.

2. PacifiCorp’s Queue Reform Proposal Might Prevent QFs from Locking in their Avoided Cost Prices Through Forming a Legally Enforceable Obligation

QFs are entitled to a utility’s avoided cost prices so long as the QF obligates itself to sell to the utility. FERC recognizes this obligation as similar to a contract but as potentially preceding any written agreement: FERC calls it a Legally Enforceable Obligation (“LEO”). FERC has explained that the phrase “legally enforceable obligation” is intended to prevent a utility from avoiding its PURPA obligations by refusing to sign a contract or delaying the signing of a contract so that a later and lower avoided cost is applicable.⁵¹ The rule is also intended to prevent a state commission from adopting policies that have a similar impact. FERC has stated that a LEO is formed when a QF unequivocally commits itself to sell to the utility, regardless of whether a utility has accepted the commitment.⁵²

Energy Holdings, LLC, Rattlesnake Creek Land & Cattle Company, LLC, ACW, Inc., Santiam Water Control District, Sorenson Engineering, Sprague Hydro LLC, C-Drop Hydro LLC, Structured Energy Solutions, Swalley Irrigation District, Sulus Solar, Three Sisters Irrigation District, TLS Capital, Inc., TUUSSO Energy, LLC, and Wallowa Resources Community Solutions Inc. at 1-2 (Feb. 22, 2019) (opposing the out-of-cycle update); Docket No. UM 2001, Comments of REC, CREA, NIPPC (Feb 25, 2019); and Docket No. UM 2001, Comments of REC, CREA, NIPPC (Mar. 26, 2019).

⁵¹ *Cedar Creek Wind, LLC*, 137 FERC ¶ 61,006 at P. 36 (2011).

⁵² *See id.* at P. 35.

There are voluminous FERC cases that detail its LEO policies.⁵³ Relevant here is that a QF may form a LEO and lock in avoided cost prices without first obtaining an interconnection study or fully executed interconnection agreement from the utility.⁵⁴ This is because such a requirement allows the utility to control whether and when a legally enforceable obligation exists.⁵⁵

3. PacifiCorp's Queue Reform Proposal Might Prevent QFs from Executing a PPA Until After Avoided Cost Prices Change

How PacifiCorp intends to implement its Queue Reform Proposal will violate this mandate. PacifiCorp's Queue Reform Proposal is entirely silent as to the impact on the contracting process. However, in the one 2 hour workshop on PURPA matters hosted by Staff, PacifiCorp's PURPA contracting personnel communicated that it has unilaterally developed its own corporate policy that it will not allow a QF to enter into a PPA unless the QF can provide a Cluster Study showing that the project can become commercially operational within 3 years. PacifiCorp further communicated that an Informational Study is insufficient to qualify a QF to execute a PURPA PPA (or possibly to even receive a draft PPA) because it is not a reliable enough study for PacifiCorp's own corporate purposes of entering in to a PURPA PPA. This means that many QFs will need to wait until a Cluster Study is produced (5 months to over a year and a half) from when they request their PPAs to when they will get an executable PPA. Nevertheless, QFs are legally entitled to establish LEOs at other times of the year.

PacifiCorp's Queue Reform Proposal proposes to allow QFs to request an interconnection study for only 45 days out of the year (i.e., during the cluster window period).

⁵³ *E.g., id.* at P. 37; *Rainbow Ranch, LLC*, 139 FERC ¶ 61,077 at PP. 24-27 (2012); *Grouse Creek, LLC*, 142 FERC ¶ 61,187 at PP. 37-39 (2013).

⁵⁴ *FLS Energy*, 157 FERC ¶ 61,211 at P. 26 (2016).

⁵⁵ *Id.* at P. 23.

Then PacifiCorp aims to produce Cluster Study results after approximately 150 days, but as PacifiCorp has never done cluster studies of this magnitude, it could potentially take far longer. For QFs that seek a PPA on the date of the start of the Cluster Study, if PacifiCorp processes cluster studies under its forecast timeline, this will mean that QFs will need to wait 150 days before getting a useable date to finalize their PPA. Thus, a QF that meets the deadlines will have to wait approximately five months to get study results and thereby get a PPA.

Most QFs will not want to wait until a specific date (e.g., the date for the start of the Cluster Study) to start their PPA negotiations, so QFs will likely need to wait far longer than 150 days to get an estimated date for commercial operations. Similarly, a QF that misses the deadline by a single day will have to wait approximately 17 months before it will get the study results from the next year's Cluster Study (waiting one year for the new Cluster Study window and then 5 months for the Cluster Study results). During this 5-to-17-month window, avoided cost prices will likely change multiple times. If PacifiCorp refuses to execute PPAs without a cluster study with a specific commercial operation date, QFs will only be able to enter into a PPA after the completion of the studies. This means QFs will be unable to obtain PPAs or otherwise to lock in avoided cost prices and have certainty about their revenue for at least 5 to 17 months. In addition to lower prices, they will incur numerous costs related to permitting, land use, studies, etc. that they may not be able to afford.

The Interconnection Customer Coalition notes that there is a disagreement between PacifiCorp and QFs regarding whether it is appropriate to require QFs to provide an interconnection study before being provided an executable PPA. As noted above, PacifiCorp has taken the position that it can refuse to enter into a PPA unless the QF can provide an interconnection study showing they will be able to start selling power within three years. QFs

disagree and believe that Oregon policy allows a QF to obtain a PPA without an interconnection study demonstrating a specific online date. But this issue has never been resolved by the Commission.

Even if such a policy were reasonable and existed, it is markedly different under a serial queue vs. a Cluster Study approach. Under the current interconnection rules, a QF can make an interconnection request at any time. Assuming that the interconnection application is timely processed, the interconnection customer should have a system impact study (which is the equivalent of the Cluster Study) in a few months and it could time when it receives that study as opposed to being limited to short window occurring once each year.⁵⁶

⁵⁶ In Oregon, if an applicant needed to go through all three of the studies outlined above, and the utility and applicant utilized the maximum amount of procedural time allowed by the Oregon Administration Rules and Public Utility Commission, then the full interconnection process would take no more than 7 months (205 days) to complete. PacifiCorp's Compliance with Order No. 09-196, Docket No. AR 521, Forms 3-5 (Aug. 24, 2009) (30 days per study); OAR 860-082-0025, 860-082-0060 (10 business days ("days") to state initial application is complete, 10 days to schedule scoping meeting, 5 days to provide feasibility study agreement, 15 days to execute that agreement, 5 days for utility to provide results and the SIS agreement, 15 days for applicant to execute, 5 days to provide study results and the Facilities Study agreement, 15 days to execute that agreement, 15 days for utility to approve application, 5 days for utility to provide executable interconnection agreement, and 15 days for the applicant to execute.). For comparison purposes, FERC's small generator interconnection procedures for serial queue studies for projects 20 MW and below, the whole interconnection study process should typically take less than one year, and System Impact Study can be obtained in less than two months if the Feasibility Study is skipped. The Feasibility Study must be completed and report transmitted within 30 business days of the interconnection customer's agreement to conduct a Feasibility Study, barring unusual circumstances. The System Impact Study must also be completed with 30 business days, or within 45 business days if a transmission level study is needed (an additional 20 business days is allowed if an affected systems analysis is required). Finally, the Facilities Study is required to be completed within 45 business days (or 30 business days if no upgrades are required).

4. If the Commission Adopts PacifiCorp’s Queue Reform Proposal, then It Should Require PacifiCorp to Enter Into Contracts with QFs that Have Not Received a Cluster Study

The Commission should prevent the timing and informational problems of any Cluster Study process from frustrating QF development by requiring PacifiCorp to enter into PPAs with QFs without regard to the QF’s interconnection study status and information. As it currently stands, QFs can begin the interconnection process to ensure it syncs up with their other development efforts, especially the most important step in that process—execution of the PPA containing rates that make the project economical and financeable. PacifiCorp’s once-a-year Cluster Study process turns the development process on its head by providing a very narrow window within which the QF developer must enter into the interconnection Cluster Study, obtain its study results, immediately determine if the avoided cost rates at that time are adequate for its project, and, even if the project appears to be economic, somehow complete PPA negotiation with PacifiCorp’s PURPA contract personnel before it commits further resources to proceeding further in the Facilities Study and execution of the generator interconnection agreement. All of these steps are potentially subject to major additional study deposits and, in many cases, withdrawal penalties if the PURPA PPA becomes unavailable or the rates change unexpectedly. These issues will frustrate, if not completely prevent, meaningful opportunity to enter into a PURPA PPA for small QFs.

One potential way to address this concern is that the Commission should allow a QF to select a COD in their PPA, but then have the right to change their selected COD based on the Cluster Study results. The Cluster Study results could indicate that interconnection by the scheduled COD would be impossible. For QFs that obtain an Informational Study before executing a PPA, PacifiCorp should be required to provide an estimated COD with a Feasibility

or Informational Study. This would mean that any changes in COD related to interconnection matters is based on information outside the control of the QF. Therefore, QFs should have the right to execute a PPA with a COD subject to modification if the Cluster Study results and/or Facilities Study suggest a different date for actual interconnection completion.

This policy would be similar to that proposed by PacifiCorp itself to address QFs that are located in load pockets, which is an analogous circumstance of unknown transmission costs existing at the time of PPA execution. In the case of load pockets in UM 1610, PacifiCorp proposed, and the Commission recently approved, a PPA provision that allows the QF to terminate the PPA within a limited period of time after learning that the load pocket transmission issue will impose costs on the QF.⁵⁷ The issue presented there was how to treat QFs seeking PPAs for generators in areas that may or may not be a load pocket area. If the area is a load pocket, PacifiCorp's approach is to charge the QF for any additional transmission necessary to wheel the QF's power; these costs can be prohibitive for QFs. Therefore, PacifiCorp proposed to allow QFs to enter PPAs but later terminate them based on whether additional transmission is needed. In PacifiCorp's own words, "QFs are also provided with the option to terminate the PPA if the determination that a load pocket and associated need for [long-term firm point-to-point] transmission is necessary without further obligation to PacifiCorp."⁵⁸

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

⁵⁷ See PacifiCorp's Standard Contract.

⁵⁸ Docket No. UM 1610, PacifiCorp Application for Approval of Compliance Filing at 7 (July 12, 2019).

network upgrades cost determined in the Cluster Study process exceed a certain level (which would be paid by PacifiCorp in that case).⁵⁹

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

Specifically, the Commission should condition any approval of the Queue Reform Proposal on the following requirements:

- PacifiCorp Energy Supply Management (“ESM”) cannot condition the furnishing of a draft or executable PPA to an Oregon QF on the QF supplying PacifiCorp ESM with any interconnection study (Informational or Cluster Study)
- The Standard PPAs will be amended to provide two new rights:
 - (1) The QF has the unilateral right to terminate the PPA without damages within 30 days of receipt of a Cluster Study or Facilities Study.
 - (2) The QF will have the unilateral right to amend the Scheduled Commercial Operation Date in the PPA up to five years from Effective Date to correspond to the construction schedule provided in a Cluster Study or Facilities Study by providing notice to PacifiCorp ESM within 30 days of receipt of the study.

⁵⁹ See PacifiCorp RFP Pro Forma Resource-Only PPA at § 4.2, Docket No. UM 2059.

E. PacifiCorp’s Cost Allocation Formulas Are Unfair to Small Generators

PacifiCorp’s cost-allocation formulas unjustifiably allocate costs equally to generators within a Cluster in two unjustified circumstances and will unreasonably inflate the allocation to small generators. Because the vast majority of Oregon QFs are small projects, this aspect of PacifiCorp’s proposal will uniquely disadvantage QFs as compared to larger generators and PacifiCorp’s own development projects. Under PacifiCorp’s proposal, a small QF project with a proposed capacity of only 2.1 MW or more exceeds the Tier-three cut-off and *must* participate in the Cluster Study. These tiny QFs will likely be put into a cluster with massive generation interconnection projects, yet PacifiCorp proposes that certain costs be allocated equally to such decidedly unequally sized projects.

First, and most significantly, PacifiCorp proposes to allocate all of the “station equipment network upgrades” on a per capita basis with each interconnection customer in the cluster equally sharing in such network upgrade costs regardless of its size and impact on the system.⁶⁰ Thus, when PacifiCorp determines that \$50 million in network upgrades costs are needed to interconnect a cluster consisting of a 3-MW QF and a 500-MW PacifiCorp-owned generation project to a substation, the 3-MW QF will owe \$25 million and the 500-MW PacifiCorp-owned project will owe \$25 million for the network upgrade. This is nonsensical, as it is difficult to imagine a circumstance where the 3-MW generator could cause an equal need for such upgrades to the 500-MW generator. Worst still, the 500-MW FERC-jurisdictional interconnection customer would receive a refund of all such network upgrade costs under FERC policy, whereas the 3-MW Oregon must prove such upgrades provide a system-wide benefit to receive any refund – further exacerbating the unfair treatment.

⁶⁰ PacifiCorp’s Application at 30.

Second, PacifiCorp proposes to allocate the costs of the Cluster Study 50% based on an equal sharing of the costs among each customer in the cluster and 50% based on a pro-rata allocation determined from each customer's interconnection capacity.⁶¹ Again, in a Cluster with a 3-MW QF a 500-MW PacifiCorp-owned generation project, the 3-MW QF would be allocated an equal share of 50% of the study costs even though the 500 MW generator is obviously going to make the study far more complicated and expensive.

This unfair cost allocation mechanism is discriminatory against Oregon's small QFs and is yet another reason that PacifiCorp's proposed queue reform should not be approved as filed. If the Commission approves the queue reform, it should require that all study and network upgrade costs are allocated pro-rata based on the capacity of the generation facility's interconnection.

F. PacifiCorp's Treatment of QFs 10 MW to 20 MW in Size as "Large" QFs is Inconsistent with the FERC Queue Reform Policy and Unduly Discriminatory

At the Queue Reform Workshop on June 24, 2020, PacifiCorp identified the need to align Oregon's interconnection procedures with reforms recently approved by the FERC.⁶² But for the purposes of charging deposits and withdrawal penalties, and the Applicant's obligation to post financial security for network upgrades, PacifiCorp's new definition of a large generating facility is inconsistent with FERC's. FERC policy sets the difference between small generators and large generators at 20 MW. Therefore, the FERC-approved queue reform that PacifiCorp's bases its application on only uses the large generator deposits and withdrawal penalties for

⁶¹ *Id.* at 20.

⁶² PacifiCorp Oregon Queue Reform Proposal Workshop at 4 (June 24, 2020), available at https://www.oasis.oati.com/woa/docs/PPW/PPWdocs/Oregon_Queue_Reform_Workshop.pdf.

interconnection requests that are 20 MW or larger.⁶³ Yet PacifiCorp proposed applying the large generator deposits and withdrawal penalties to Oregon QFs sized between 10 MW and 20 MW. PacifiCorp did so by proposing to expand the Commission’s large generator policies and large generator interconnection agreement to all generators that are over 10 MW.⁶⁴

This is unjustified and unreasonable, and it is an obvious aspect of the proposal where Oregon QFs will be treated less favorably than similarly situated FERC-jurisdictional interconnection customers. Despite PacifiCorp’s claim that it wishes to synch the FERC-approved process with the Oregon process, PacifiCorp has, in fact, proposed a much less favorable process for Oregon QFs between 10 MW and 20 MW.

Most significantly, the withdrawal penalties do not apply to FERC-jurisdictional interconnection customers between 10 MW and 20 MW, but they would apply to Oregon QFs between 10 MW and 20 MW.⁶⁵ To illustrate, an 11-MW FERC-jurisdictional generator would pay *no withdrawal penalties* if it decided it needed to withdraw from the queue after receiving unexpectedly high network upgrade costs in its Cluster Study, Facilities Study Report, or even after LGIA execution. But an identical project proposed as an 11-MW Oregon QF would be penalized at the following amounts: 1) twice the allocated costs of interconnection studies for withdrawal upon receipt of the Cluster Study; 2) three times the study costs upon receiving a Re-Study Report; 3) five times the study costs upon receiving the individual Facilities Study Report; and 4) *nine times* the actual study costs after the execution of the LGIA.⁶⁶

⁶³ See PacifiCorp’s FERC-approved SGIP.

⁶⁴ PacifiCorp’s Application at 1 (proposing to have the LGIP and LGIA apply to Oregon QFs over 10 MW).

⁶⁵ *Id.* at 7 (containing a table showing that withdrawal penalties apply only to “large” generators, which in Oregon are generators over 10 MW); *see also id.* at pp. 31-32 (discussing withdrawal penalties).

⁶⁶ *Id.* at 31-32.

PacifiCorp's proposal also imposes much higher application and study deposits on Oregon QFs. For an Oregon QF between 10 MW and 20 MW, the Cluster Study Deposit is \$75,000,⁶⁷ which is the amount that applies in FERC only for generators exceeding 20 MW. Under the FERC queue reform proposal, PacifiCorp did not change the much lower interconnection application fee and study costs applicable to small generators that will be included in the Cluster Study. And though it is not entirely clear from PacifiCorp's filings, such FERC-jurisdictional small generators appear to pay far lower application and deposit costs than the \$75,000 level proposed to Oregon QFs.

With this proposed demarcation, Oregon QFs will also be treated differently than QFs situated in other states within PacifiCorp's territory. PacifiCorp currently follows FERC's 20 MW and less demarcation in Idaho, Utah, Washington, and Wyoming. It is not clear at this time why PacifiCorp is trying to treat Oregon differently than these other states. Whatever the reason, the result is a scenario where Oregon QFs will be treated less favorably than QFs in other states, on top of being treated less favorably than similarly situated FERC-jurisdictional interconnection customers.

In sum, PacifiCorp's proposal is plainly discriminatory against Oregon QFs sized 10 MW to 20 MW. If the Commission allows some form of queue reform to go forward, it should require PacifiCorp to treat all Oregon QFs between the size of 10 MW and 20 MW the same as the FERC-jurisdictional interconnection customers of that size. The Commission could easily do so by requiring PacifiCorp to use the FERC-approved Small Generator Interconnection Procedures, and Small Generator Interconnection Agreement for such Oregon QFs sized between

⁶⁷ *Id.* at 19.

10 MW and 20 MW, which PacifiCorp already does for QF in some other states where it operates.

G. The 1% Cost Responsibility Exemption for Network Upgrades Should Be Increased to 10%

PacifiCorp proposes to exempt QFs from being responsible for the costs associated with network upgrades identified in a Cluster Study if that QF's generation capacity represents 1% or less of the total MW of interconnection capacity in the cluster being studied.⁶⁸ The reasoning of this proposal is that a generator that is much smaller in relation to the overall interconnection capacity should not have to pay these costs. However, this percentage is too low, and PacifiCorp has not demonstrated why 1% is appropriate. It appears to be an arbitrary decision.

The Interconnection Customer Coalition proposes using a 10% level instead. While the Interconnection Customer Coalition does not have a specific basis for this number, this higher amount will protect small QFs until a more evidence-based level can be determined. This will also better protect smaller interconnection customers.

Additionally, regardless of whether the 1% threshold is increased, the Commission should require PacifiCorp to clearly articulate and confirm that the normally applicable rules entitling Oregon QFs to refunds of network upgrades with a systemwide benefit are not altered by the proposed queue reform process. When adopting the small generator interconnection rules, the Commission rejected a proposal to require cost-sharing. This was on the basis that:

The proposed rules, however, include language that is meant to strictly limit a public utility's ability to require one small generator facility to pay for the cost of system upgrades that primarily benefit the utility or other small generator facilities, or that the public utility planned to make regardless of the small generator interconnection. Under the proposed rules, a public utility may only require a small generator facility to pay for system upgrades that are "necessitated by the

⁶⁸ *Id.* at 30.

interconnection of a small generator facility” and “required to mitigate” any adverse system impacts “caused” by the interconnection.⁶⁹

The same rule was later adopted for Oregon QFs under Oregon’s large generator interconnection rules and agreements.⁷⁰ Yet due to the piecemeal revision of the small generator rules and the confusing presentation of the changes made in PacifiCorp’s filing, there is no clarity remaining that this rule will still apply to provide QFs a refund where network upgrades they fund have a systemwide benefit.

H. PacifiCorp Has Not Explained How Interconnection Customers Will Be Able to Perform their Own Independent System Impact Studies

Under Oregon’s administrative rules, interconnection customers have the right to an independent System Impact Study in addition to the one performed by the utility. OAR 860-082-0060(7)(h) specifically states, “If an applicant provides an independent system impact study to the public utility, then the public utility must evaluate and address any alternative findings from that study.”

PacifiCorp has not explained whether the Queue Reform Proposal will allow QF to keep this right to perform an independent System Impact Study, and, if so, how it would work. PacifiCorp is replacing the System Impact Study with the Cluster Study. There are several potential options, including the interconnection customer performing its own System Impact Study and presenting it the utility when it is doing its Cluster Study, the interconnection customer performing its own Cluster Study, or a group of interconnection customers do their

⁶⁹ Docket No. AR 521, Order No. 09-196 at 5.

⁷⁰ Docket No. UM 1401, Order No. 10-532 at 3 (stating, “Interconnection Customers are responsible for all costs associated with network upgrades unless they can establish quantifiable system-wide benefits, at which point the Interconnection Customer would be eligible for direct payments from the Transmission Provider in the amount of the benefit.”).

own Cluster Study. It is also unclear how the interconnection customer providing its own System Impact or Cluster Study will impact the timing for the review of the Cluster Study and preparation of the Facilities Study.

These are all questions that PacifiCorp should have answered and explained when it made its Queue Reform Proposal. At a minimum, the Commission should make it clear that the customer's right still exists, and it should require PacifiCorp to develop a process for review of independent studies by the time it starts the Cluster Study process.

I. It is Unclear What PacifiCorp Will Do for Pending Requests with Deposits Already Submitted

PacifiCorp's proposal to change the pending customers' process also raises concerns about how PacifiCorp will address their existing deposits. Customers who paid a deposit did so with a reasonable estimate of their study costs, which could be substantially higher in a Cluster Study, and with a reasonable estimate of the study timeline, which is now likely to be substantially delayed.

J. The 45-Day Window to Enter a Cluster Study is Unnecessary and Too Short

PacifiCorp is obligated to provide all generators with interconnection service, but its Queue Reform Proposal restricts access to the annual Cluster Study to only those generators that apply for interconnection service within a 45-day window before the start of the study.⁷¹ It is unclear why PacifiCorp feels this limitation is necessary. QFs, especially smaller, less sophisticated QFs, would benefit from having the ability to submit interconnection requests at any time of the year and receive feedback from PacifiCorp as to whether those requests are complete or additional information is needed.

⁷¹ PacifiCorp Application at 21.

In addition, the interconnection requests are not limited to the Cluster Study process. PacifiCorp requires interconnection requests before offering Informational Interconnection Studies (the proposed replacement for Feasibility Studies).⁷² PacifiCorp will not accept Information Interconnection Study requests during the transition (or at least not until October). QFs should be able to obtain an Informational Interconnection Study at any time of the year. This initial study is the first step in the interconnection process and could readily inform many projects as to whether their plans are feasible or need to change.

The Interconnection Customer Coalition recommends that PacifiCorp accept interconnection requests at any time of the year. To the extent PacifiCorp wishes to confirm interest in the Cluster Study, PacifiCorp should follow up with pending requests to confirm interest, rather than assume that anyone interested will know about the 45-day window and be prepared to file a request in that narrow time period.

K. QFs Should Have More Time to Review Cluster Study Results Before Being Forced to Move Forward or Withdraw

PacifiCorp proposes to provide QFs with 30 calendar days to evaluate the Cluster Study results and decide whether to proceed to the Facilities Study stage or withdraw.⁷³ This time period is too short. For example, QFs may not have any visibility into the network upgrade costs until after the Cluster Study report is released, and the costs could be significant enough that QFs need to meet with project financiers and negotiate ways to afford the interconnection costs. The Interconnection Customer Coalition recommends that PacifiCorp provide at least 60 days for QFs to evaluate the Cluster Study results and pursue any necessary steps before they need to

⁷² *Id.* at 34 – 35.

⁷³ *Id.* at 26.

move forward. If QFs do not have enough time, it will only cause more withdrawals, which could trigger restudies of other projects.

L. PacifiCorp Has Not Explained How QFs Will Demonstrate Quantifiable System Wide Benefits

As noted above, when adopting its small and large generator interconnection policies, the Commission departed from FERC’s policies and required interconnection customers to be responsible for all costs associated with network upgrades. However, the Commission’s order was based on an important exception: the interconnection customer was entitled to refunds if it could “establish quantifiable system-wide benefits, at which point the Interconnection Customer would be eligible for direct payments from the Transmission Provider in the amount of the benefit.”⁷⁴

PacifiCorp has not explained how a large interconnection customer will be able to show quantifiable system benefits under a Cluster Study approach. It should not be the responsibility of the Commission or interconnection customers to remedy PacifiCorp’s failure to attempt to abide by Commission policy. Therefore, the Commission should remedy this flaw by switching the presumption regarding system benefits, which means that PacifiCorp should refund all network interconnection costs unless PacifiCorp can affirmatively demonstrate to the Commission that the interconnection upgrades did not result in system wide benefits.

M. Working with PacifiCorp to Lower Interconnection Costs

PacifiCorp’s Cluster Study approach could reduce the time and ability for PacifiCorp and interconnection customers to collaboratively work together to resolve interconnection disputes to lower costs. PacifiCorp proposes that it will issue its Cluster Study (or Re-Study) Report and

⁷⁴ Docket No. UM 1401, Order No. 10-132 at 3.

tender the draft Facilities Study Agreement.⁷⁵ The interconnection customer will then have 30 calendar days to evaluate the results and determine whether to post financial security for 100% of the network upgrade costs and proceed with the Facilities Study.⁷⁶ If the interconnection customer does not proceed, then the interconnection customer will be subject to penalties.⁷⁷ PacifiCorp is likely unwilling to extend this period of time given that other interconnection customers in the Cluster Study may be dependent upon the decision to move forward with the Facilities Study.

This process will have a material reduction in the traditional rights and options available to interconnection customers. More than 30 calendar days will often be needed to answer questions and resolve disputes. Interconnection matters can be complex with the possibility for confusion, and disagreements over the need and cost of interconnections. However, in the past, especially with distribution level interconnections, PacifiCorp has been willing to work with interconnection customers to consider different options to lower costs and resolve disputes. If the time to review, analyze, ask questions and resolve any disagreements is limited to a month and a half, then there will be insufficient time to creatively address any potential disputes and lead to more projects paying for unnecessary upgrades, dropping out of the study process and/or filing complaints. This is an issue that should be investigated and resolved before adopting any final Cluster Study for Oregon jurisdictional interconnection customers.

⁷⁵ PacifiCorp's Application at 28-29.

⁷⁶ *Id.*

⁷⁷ *Id.*

N. PacifiCorp's Proposed Penalties for QFs that Withdraw are Excessive

PacifiCorp proposes to penalize “large” QFs that withdraw from the process.⁷⁸ Recall that PacifiCorp treats QFs 10 MW to 20 MW in size as “large”, which is different than FERC’s treatment. The specific amount is unclear. PacifiCorp says that the amount will increase if the withdrawal happens later in the process.⁷⁹ In addition, those costs tie to study costs, which could vary significantly (especially with the cost-sharing allocation approach).⁸⁰ The Interconnection Customer Coalition is sympathetic to PacifiCorp’s concerns of speculative projects. However, the obligation to pay for study costs may well be an adequate disincentive to state-jurisdictional generators entering without adequate clarity of their intent. Besides, in this case, the speculation is largely due to PacifiCorp’s unclear process and lack of clarity about PacifiCorp’s avoided cost updates. QFs should not be penalized if PacifiCorp’s process is inadequate.

The Commission should also recognize that its own policies will result on more state jurisdictional interconnection customers dropping out of the interconnection queue than FERC jurisdictional interconnection customers. FERC jurisdictional interconnection customers pay for their network upgrades, but they receive refunds and only lose the time value of money. Absent changes, state jurisdictional interconnection customers will fully pay for their interconnection

⁷⁸ *Id.* at 17, 31. These penalties will not apply if “1. The withdrawal of the large generator does not negatively affect the timing or cost of other projects within the same Cluster as determined by PacifiCorp; 2. The large generator withdraws after receiving the most recent Cluster Study Report and the costs assigned to the interconnection request identified in that report have increased by more than twenty-five percent (25%) compared to costs identified in the previous Cluster Study Report; or 3. The large generator withdraws after receiving the individual Facilities Study Report and the costs assigned to the interconnection request identified in that report have increased by more than 100 percent compared to costs identified in the most recent Cluster Study Report.” These conditions are a good start, but they still leave too much possibility of undue penalties being levied against QFs, potentially as small as 10 MW.

⁷⁹ *Id.* at 17.

⁸⁰ *Id.* at 31.

costs. Given that they are fully responsible for paying these costs, they are more likely to drop out of the interconnection queue, especially if there are cost increases.

Thus, PacifiCorp should allow the QF to withdraw from the Cluster Study without penalty or study costs.

O. The Impact on Existing QFs is Unclear

The above concerns raise the issue of whether the same processes and hindrances will apply to existing QFs. At this time, it is unclear how potential delays and additional costs will impact existing QFs that enter into new interconnections or that change their operations. This issue's lack of clarity is the result of PacifiCorp's unwillingness to write down any of the assurances it made at the workshops. During those workshops, PacifiCorp said that it would not need to study existing QFs as part of a cluster if the existing QFs are not increasing their interconnection capacity. PacifiCorp has also said that if an existing QF increases its interconnection capacity, then that incremental capacity will be studied, not the QF's entire capacity. However, these assurances are not clear from the Queue Reform Proposal, and PacifiCorp has refused to clarify these assurances in writing in the proposal – leaving affected QFs unable to easily locate the rules that apply to them.

The Interconnection Customer Coalition assumes that if an existing QF is included in a study, it will be studied in a cluster with other QFs, which is inherently unfair. Existing QFs have PPAs that expire at specific times, and execution of their new PPA could be held up if they request an increase in their size and forced in the lengthy Cluster Study process. Under these circumstances, it is very likely that a current PPA could expire while the existing QF waits for the pending Cluster Study to finish. PacifiCorp has not clarified what would happen to that QF in that scenario. Without a clear answer to this issue, the interconnection customers must assume

that, in the worst-case scenario, they would not be able to sell power at their increased size for up to seventeen months while it waits for the Cluster Study to close.

As an additional issue, some of these projects often have significant new interconnection costs and it would be inappropriate to require them to participate in the Cluster Study process, which would likely require them to pay for the interconnection costs of entirely new projects.

There needs to be more clarity in writing on how the Queue Reform Proposal will treat existing QFs. Existing QFs should have the right to continue in the serial queue process at least until they and the Commission understand how they will be treated under PacifiCorp's Queue Reform Proposal.

P. Waiver of the Small Generator Interconnection Rules Is Inconsistent with Oregon Law

Within its Queue Reform Proposal, PacifiCorp asks the Commission to “grant a waiver for good cause of the small generator interconnection rules set forth in OAR Chapter 860, Division 82 as necessary to implement cluster studies.”⁸¹ The Commission may waive any of the small generator interconnection rules, either upon request or by its own motion, for good cause shown.⁸² Any requests for waiver of the rules “must be made in writing, unless otherwise allowed by the Commission.”⁸³ Under the administrative rules, the Commission can waive or modify rules for good cause in specific proceedings for limited purposes.⁸⁴

Here, PacifiCorp's waiver request essentially asks the Commission to waive all of the small generationer interconnection rules, particularly any in relation to Tier 4 review, whenever

⁸¹ *Id.* at 1-2.

⁸² OAR 860-082-0010(1); ORS 183, 756, & 757; and ORS 756.040 & 756.060.

⁸³ *Id.*

⁸⁴ OAR 860-001-0000(2).

necessary to implement a Cluster Study.⁸⁵ The request states, “[to] the extent that the rules can be understood to preclude the relief requested here, the rules can be waived for good cause.”⁸⁶ In other words, PacifiCorp has asked the Commission, in advance, to hold that the rules do not apply to them whenever the rules could affect its ability to run cluster studies. It is essentially asking the Commission to change the rules before knowing how they need them to change. Yet no specific set of rule provisions is identified for waiver, leaving affected parties to guess as to when the rules will be inapplicable. In effect, PacifiCorp asks the Commission to grant advance waiver from any of the Division 82 rules that any party could construe under some set of future facts to be violated by the queue reform process as implemented by PacifiCorp.

The Interconnection Customer Coalition has a hard time seeing how such a broad and vague waiver of the rules could be confined to a limited purpose, or this specific proceeding, as the rules for a waiver request require. Additionally, the Interconnection Customer Coalition questions whether such a broad waiver for so few small generators (roughly twenty) adequately serves the good cause standard.

Q. It is Unclear How PacifiCorp will Treat QFs in “Electrically Relevant Areas”

Although the prior section highlights the use of “one” annual study, in reality, PacifiCorp will need to perform multiple studies for different areas of PacifiCorp’s system. PacifiCorp recognizes this issue but has not explained its approach in sufficient detail. PacifiCorp plans to conduct annual cluster studies for “an electrically relevant area”, whatever that means.⁸⁷

PacifiCorp’s Application does not define it.

⁸⁵ PacifiCorp’s Application at 9.

⁸⁶ *Id.*

⁸⁷ PacifiCorp’s Application at 3.

The Interconnection Customer Coalition recognizes that PacifiCorp may need to do studies for separate areas, but PacifiCorp needs to explain its approach more fully. This lack of detail is exacerbated by the concerns over how PacifiCorp proposes to allocate costs across study participants, since it has been unclear from the start how large an “electrically relevant area” may be and therefore, how many potential applicants an area could potentially cover.

R. PacifiCorp Might Require QFs to Prove Their “Commercial Readiness” by Providing Proof of a PPA, But PacifiCorp’s PPA Tariff Requires QFs to Show Proof of Interconnection Feasibility, Creating a Classic Catch-22

PacifiCorp is not proposing a commercial readiness requirement at this time, but it explicitly notes that it may do so.⁸⁸ The Interconnection Customer Coalition is concerned that the adoption of PacifiCorp’s commercial readiness requirements—which are either a massive deposit that is infeasible for most QFs or proof of a contract, such as an executed PPA—would create an unreconcilable “Catch 22” in that a QF would be unable to negotiate a contract in the absence of a completed interconnection study; and at the same time would not be able to demonstrate commercial readiness to enter a Cluster Request Window (to receive a study) in the absence of having already negotiated a contract for the project’s output.

S. There is a Risk of Cascading Harm on Interconnection Processes in Other States, Which Would Likely Reverberate and Harm Oregon

In PacifiCorp’s recent Queue Reform filing at FERC, several members of the Interconnection Customer Coalition voiced their concerns regarding the harm that the Queue Reform Proposal could have on QFs.⁸⁹ FERC decided not to resolve the issues raised by the interconnection customers and instead has left it to the states to address the concerns regarding this proposal’s effect on QFs first.

⁸⁸ *Id.* at 5, 47.

⁸⁹ Comments of REC and CREA, Docket No. ER 20-924-000 (Feb. 21, 2020).

Oregon is the only state in PacifiCorp’s service territory that has adopted detailed policies to govern state-jurisdictional interconnections, so PacifiCorp is currently only seeking approval from Oregon’s Commission.⁹⁰ Oregon law explains that it the state’s goal to promote “a diverse array of permanently sustainable energy,” and it has a policy that supports increasing the marketability of qualifying facilities for the benefit of its citizens.⁹¹ As a result, the Commission should allow adequate time to consider how this Queue Reform Proposal could hinder QFs in the state.

Furthermore, if Oregon’s policy is to promote sustainable energy resources for the benefit of its citizens, then the Commission may want to consider how its decision on this issue could affect neighboring states in PacifiCorp’s territory. After all, those states’ QFs indirectly affect Oregonians via their contribution, or lack thereof, to carbon emissions.

Because Oregon is the first state Commission to hear PacifiCorp’s Queue Reform Proposal, its ultimate decision and how that decision could affect QFs could ultimately influence how other states eventually make their decisions on incorporating interconnection cluster studies. Therefore, the Commission should not make any rushed decisions regarding an issue that could have reverberating effects on the region.

IV. SUGGESTED NEXT STEPS

The Interconnection Customer Coalition has concerns with PacifiCorp’s proposal, but the Interconnection Customer Coalition also understands that there are concerns with maintaining the status quo by rejecting PacifiCorp’s proposal. The Interconnection Customer Coalition proposes a middle-of-the-road approach with two key components: 1) investigate PacifiCorp’s

⁹⁰ The Interconnection Customers have not independently verified PacifiCorp’s claims that they do not need to make similar filings in other states.

⁹¹ ORS 758.515(2)(a).

proposal to adopt a Cluster Study approach; and 2) adopt a modified version of PacifiCorp's proposal for the interim period while the investigation is pending. The Interconnection Customer Coalition believes this two-step approach will provide much needed time and space for stakeholders to engage with and understand the ramifications of PacifiCorp's proposed shift in the interconnection process.

A. Open a Broad Investigation on Adopting a Cluster Study Approach and Possibly a Rulemaking

Reforming the interconnection process for PacifiCorp is a monumental process that stakeholders need time to analyze and consider. As noted earlier, the Interconnection Customer Coalition does not believe that the process for PacifiCorp's Queue Reform Proposal has provided adequate opportunity for this critical engagement. One way to provide additional time would be to substantially delay the adoption of PacifiCorp's proposal. The Interconnection Customer Coalition understands that there are concerns with maintaining the status quo, especially because FERC has approved a Cluster Study approach for federal jurisdictional interconnections, and PacifiCorp is moving forward with a Cluster Study. At a minimum, stakeholders need more time to review and comment on PacifiCorp's proposal. However, this proceeding to review PacifiCorp's proposal does not necessarily need to explore every issue with a Cluster Study approach, if a *separate* proceeding can instead serve that purpose.

The Commission has three, not mutually exclusive options to investigate PacifiCorp's Queue Reform Proposal. First, the Commission could suspend or adopt with revisions PacifiCorp's Queue Reform Proposal and investigate it. Second, the Commission could open a separate generic investigation. Third, since PacifiCorp's proposal includes a request for a waiver of at least some Small Generator Interconnection Rules, it may make sense to open a rulemaking to expand or modify those rules rather than approving PacifiCorp's request to waive those rules

permanently. The Interconnection Customer Coalition stresses, however, that they are not advocating a switch to the Cluster Study approach, but instead it is expressing a willingness to explore whether a Cluster Study approach could produce benefits for Oregon in a manner that avoids future misunderstandings and avoids a substantial increase in interconnection-related litigation.

B. Adopt a Modified Version of PacifiCorp’s Proposal on an Interim Basis, Pending the Results of the Investigation and Rulemaking

The Interconnection Customer Coalition has many concerns with PacifiCorp’s proposal; however, with several extremely important but discrete modifications, it could be acceptable to the industry on an interim basis. One could consider this approach as treating PacifiCorp’s approach as a ‘pilot’ to test the waters and see whether it provides any benefits or instead produces greater harms.

Specifically, the Interconnection Customer Coalition proposes at least eleven crucial modifications before the Commission allows PacifiCorp’s proposal to move forward on an interim basis only. These are discussed more fully in the concerns section above, so this section provides only a summary bullet point list:

- Instead of the proposed January 31st cut-off date, which was developed for FERC-jurisdictional generators, any Oregon QF should have until 30 days after that final decision to opt to participate in the Cluster Study scheduled for this fall, or, if the customer had an active interconnection request at the time of the application in this case, the QF should be permitted to proceed through the serial queue process;
- Exempt Tier 4 generators (i.e., all generators 10 MW or smaller) from the Cluster Study approach and allow them to elect to proceed through the existing small generator process or a Cluster Study;

- Reject PacifiCorp’s proposal to discriminate against Oregon QFs between the size of 10 MW and 20 MW by deeming them “large” generators, and instead require PacifiCorp to use the FERC-approved SGIA and Cluster Study Process for the Oregon QFs between 10 MW and 20 MW;
- Exempt existing QFs already selling under a PPA from the Cluster Study approach;
- Order PacifiCorp to allow QFs to enter into PPAs before a Cluster Study is performed and then withdraw without penalty if the costs are prohibitively expensive;
- Order PacifiCorp to allow QFs to enter PPAs before a Cluster Study is performed and then later terminate the PPA or extend the commercial operate date if necessary within 30 days of receiving a Cluster Study or Facilities Study;
- Require that Cluster Study Costs and substation equipment network upgrades be allocated 100% on a pro-rata basis within the cluster based on MW of the interconnection customer, not per capita to each interconnection customer;
- Increase the cost responsibility exemption for network upgrades from 1% to 10%;
- Require PacifiCorp to impose interconnection fees and deposits no higher than those under the current approach;
- Require PacifiCorp to confirm it will refund network interconnection costs to QFs in a Cluster Study unless PacifiCorp can demonstrate that the customer’s interconnection did not produce quantifiable system-wide benefits, and
- Provide interconnection customers with more time after receiving the Cluster Study results to decide whether to proceed.

Again, the Interconnection Customer Coalition reserves the right to raise additional issues warranting modification, since there has not been adequate time or information to conduct an exhaustive review of PacifiCorp's substantial proposal.

V. CONCLUSION

For the reasons articulated herein, the Commission should suspend PacifiCorp's Queue Reform Proposal and provide more time for investigation. The Commission should require PacifiCorp to make a Queue Reform Proposal that fits into rather than completely revising Oregon's established interconnection and PURPA policies and rules.


The Commission could consider adopting a modified version of PacifiCorp's Queue Reform Proposal on an interim basis while the investigation proceeds, but the Interconnection Customer Coalition believe even an interim-only version will require, at minimum, nine modifications based on the limited review so far. Additional time for review is likely to reveal additional concerns and items that need resolution.

Ultimately, the Interconnection Customer Coalition is open to a discussion about whether a Cluster Study approach could benefit PacifiCorp's interconnection process, but PacifiCorp's current proposal appears likely to lead to misunderstandings and litigation.

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Respectfully submitted,

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