

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1930

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Community Solar Program
Implementation.

RENEWABLE ENERGY
COALITION COMMENTS ON
REVISED UTILITY TARIFF
FILINGS

I. INTRODUCTION

The Renewable Energy Coalition (the “Coalition”) submits these comments in response to the Staff Report, as well as prior comments by Portland General Electric Company (“PGE”), PacifiCorp, and Idaho Power Company (“Idaho Power”) and for consideration by the Oregon Public Utility Commission (“Commission”) in evaluating PGE’s, PacifiCorp’s, and Idaho Power’s Community Solar Program (“CSP”) proposed compliance filings filed on February 18, 2020, as revised. The Coalition submitted an initial set of comments on the draft CSP purchase agreements on February 19, 2020 and on the tariffs and interconnection process on March 10, 2020. On March 19, 2020, Commission Staff, utilities, and stakeholders engaged in a workshop to discuss how best to resolve concerns with the utility filings. PGE submitted a second supplemental filing on March 23, 2020 and is expected to file a third supplemental filing to resolve further issues, and PacifiCorp and Idaho Power both submitted their supplemental revised filing on March 26, 2020.

The Coalition recommends that the Commission: 1) direct PacifiCorp to file a revised filing that mirrors the Oregon small generator interconnection rules embodied at Oregon Administrative Rule (“OAR”) OAR Chapter 860 Division 82 (“SGIR”) with regard to the applicant’s ability to hire a third party to conduct interconnection studies, 2) approve PGE and Idaho Power’s interconnection process and standardized agreements conditional upon PGE’s third supplemental filing including the revisions they committed to make to resolve the Coalition’s remaining concerns; 3) require a more detailed contract negotiation process; and 4) confirm that studies on network or transmission upgrades be informational only and require that the utilities remove the process by which a CSP project may become required to pay those upgrade costs through the conditional designated network resource (“DNR”) process or, in the alternative require that the DNR request be made prior to the first interconnection study and set a monetary threshold.

Specifically, with regard to the CSP purchase agreement issues, the Coalition agrees with and largely supports Staff’s recommendations on Issues 1-7 (with exceptions noted below), and opposes Staff’s recommendation on Issue 8 (Conditional DNR Notice Provision). The Coalition’s previous comments addressed Issues 1-7 in the Staff Report, and the Coalition does not repeat those arguments herein. The Coalition notes that the Staff Report did not address certain Coalition recommendations, which are noted in these comments and the Coalition continues to support. On Issue 8, the Coalition notes that when the Commission initially adopted Staff’s interconnection proposal in October 2019, the Commission agreed that there should be an expedited process for projects that are 100% of the minimum daily load or 30% of the summer peak load in the area. However, the Commission decided that it wanted to know whether the utilities find that certain

projects in a zone do, in fact, cause significant upgrade costs, so that the thresholds can be tweaked in the future. Therefore, this Conditional DNR analysis should be used only to inform future changes to the threshold and not as a tool for the utility to impose costs on the CSP project. Finally, PacifiCorp asserts that many of the Coalition’s comments are “unsupported,” that the Coalition “may not have properly read the specific clause at issue,” and that the Coalition’s objections are based on “an incomplete or rushed review.” Other than to state we disagree with PacifiCorp, the Coalition does not engage with PacifiCorp’s comments.

II. COMMENTS

A. Interconnection Process

The Coalition agrees with Staff that each of the utility’s CSP interconnection processes and standard agreements should be identical to the currently existing SGIR embodied at OAR Chapter 860 Division 82. The Coalition further agrees that the utilities have generally resolved the concerns with the SGIR noted in the Coalition’s March 10, 2020 comments.

However, one issue remains with PacifiCorp’s revised filing regarding the applicant’s ability to hire third parties to conduct interconnection studies. PacifiCorp should mirror the provisions in the SGIR and the other utilities’ filings. Specifically, PacifiCorp’s revised proposed tariff provides that “[t]he Public Utility may contract with a third-party consultant to complete a system impact study or facilities study.”¹ The comparable provision in the SGIR, in contrast, provides that:

¹ PacifiCorp First Supplemental Filing at Exhibit 2 § I(8).

The public utility may contract with a third-party consultant to complete a feasibility study, system impact study, or facilities study. A public utility and an applicant may agree in writing to allow the applicant to hire a third-party consultant to complete a feasibility study, system impact study, or facilities study, subject to public utility oversight and approval.²

PacifiCorp’s language is notably missing any opportunity for the applicant to hire a third party. CSP stakeholders raised concerns over the applicants’ lack of access to information and control over costs, including that the current process regarding an applicant’s access to third-parties studies is not robust enough.³ PGE’s tariff continues to allow the utility and the applicant to agree to allow the applicant to hire a third party to perform the studies,⁴ and both utilities retain the rights of an applicant to hire a third party to construct the interconnection facilities.⁵ While the Coalition understands that the Commission seeks to create a more streamlined procedure with this CSP-specific interconnection process, it is important that the Commission not allow utilities to give CSP projects fewer rights than under the current SGIR process.

Further, the Commission should not make a policy decision in this docket regarding whether it is appropriate for an applicant to have the right to hire a third party to conduct the studies. PacifiCorp has not submitted any evidence in this docket supporting the conclusion that it is not appropriate, and there is no other evidence in the record. Further, Staff’s initial recommendation was to not make any changes to the issue regarding third party engineering studies as the issue was “[a]lready raised in Docket No.

² OAR 860-082-0060(9).

³ Staff Draft Proposal for Community Solar Interconnection at 10.

⁴ PGE Second Supplemental Filing of Advice No. 20-04 Community Solar Program Interconnection and Power Purchase Schedule at Exhibit B § 10(8).

⁵ *Id.* at § 10(7)(f); PacifiCorp First Supplemental Filing at Exhibit 2 § I(7)(f).

UM 2000 and could be scoped in Docket No. UM 2032.”⁶ The Commission approved this recommendation.⁷ As such, the Commission should not reverse course now. It is appropriate, and simpler to direct PacifiCorp to continue to use the language in the currently effective SGIR.

B. CSP Purchase Agreement Process

The Coalition continues to support its recommendations regarding the CSP purchase agreement negotiation process, which provides far too little detail and protection in the process for negotiating and executing a CSP purchase agreement.⁸ The Coalition understands that, in comparison to a Public Utility Regulatory Policies Act (“PURPA”) qualifying facility (“QF”) power purchase agreement (“PPA”), the CSP purchase agreements are more streamlined and have fewer informational requirements, plus (hopefully) there will be less of a utility incentive to refuse to execute a contract. In addition, Staff will likely be more heavily involved in the CSP process than in the QF PPA negotiation process. Having a neutral interested party strongly committed to the success of the CSP involved in the process should be extremely helpful.

Despite this, the Coalition continues to recommend that CSP projects be afforded at least the same rights given to QFs seeking regular PURPA PPAs. The Coalition also continues to recommend that the tariffs clarify that a utility is required to take reasonable and timely actions when processing all requests for CSP contracts and to respond in good faith to any written amendment to a draft CSP contracts. As the Commission is aware,

⁶ Order No. 19-392 at Appendix A at 18 (Nov. 8, 2019).

⁷ *Id.* at 5.

⁸ Coalition Comments on Utility Tariff Filings at 15-16 (Mar. 10, 2020).

there have been dozens of complaints filed against the utilities over the contracting process, and it should not be difficult to include explicit protections in the contracting process.⁹

C. Designated Network Resource

The Commission should clarify that the Conditional DNR process is informational only and require that the utilities remove the provisions that would make CSP projects responsible for these upgrade costs. PGE, PacifiCorp and Staff recommend that the Commission adopt a process in which, if any network interconnection or transmission upgrades are identified, then the utility will request that the CSP facility pay for any network upgrades.¹⁰ The CSP facility will then have the option of litigating against the utility or abandoning the project and the considerable investments it has made to date.¹¹ The Coalition continues to recommend that all CSP facilities be allowed to interconnect as Energy Resources and this has already been decided by the Commission when it approved Staff's interconnection proposal, at least for the first tranche of CSP projects.¹² Specifically, Staff recommended that the Commission adopt the Joint

⁹ *Int'l Paper Co. v. PacifiCorp*, Docket No. UM 1449; *Harney Solar I, LLC v. PGE*, Docket No. UM 1784; *Riley Solar I, LLC v. PGE*, Docket No. UM 1785; *SSD Clackamas 4, LLC v. PGE*, Docket No. UM 1864; *SSD Clackamas 2, LLC v. PGE*, Docket No. UM 1870; *SSD Marion 3, LLC v. PGE*, Docket No. UM 1871; *SSD Marion 4, LLC, et. al. v. PGE*, Docket Nos. UM 1863, UM 1865-UM 1869, UM 1872-74, and UM 1883 (10 unconsolidated cases handled together); and *Bottlenose Solar, LLC et. al. v. PGE*, Docket Nos. UM 1877-UM 1882, UM 1884-UM 1886, UM 1888-UM 1890 (12 unconsolidated cases handled together).

¹⁰ Staff Report at 11-15 (Issue 8) (Mar. 30, 2020).

¹¹ *Id.* at 12.

¹² Order No. 19-392 at 5.

Utilities’ proposal for a streamlined CSP interconnection process.¹³ Notably, the Joint

Utilities’ proposal would:

limit the scope of the interconnection study to an evaluation that is comparable to the FERC energy resource interconnection service (ERIS) product; ***provided that*** the CSP project is sized at a level that reduced the likelihood that transmitting the projects power will require the construction of deliverability-related network upgrades when the utility later requests and studies transmission service.¹⁴

The Joint Utilities then further note that while the proposal is designed to minimize the chance a CSP project triggers deliverability-related network upgrades, “the utility would need to carefully track these costs during this pilot program in order to analyze the success of the pilot program and make appropriate adjustments in any future expansion of the pilot.”¹⁵ Therefore, any studies on network interconnection or transmission upgrades are informational and should only be used to evaluate future expansion or adjustment to the pilot, not changes to the costs imposed upon the CSP projects.

The proposed process appears inapposite with the Commission’s prior decisions. Even if it is limited to future projects beyond the pilot program, however, the proposal is still concerning. The Coalition recommends the proposed process be rejected entirely or, at minimum, be rejected for projects in the current tranche of the CSP.

In the alternative, if the Commission adopts PGE, PacifiCorp and Staff’s modification to impose upgrade costs on the CSP, then the recommendation should at least be modified to: 1) require that the utilities make a DNR request prior to the CSP

¹³ *Id.* at Appendix A at 7.

¹⁴ Joint Utilities CSP Interconnection Proposals at 1-2 (Aug. 16, 2019) (emphasis in original).

¹⁵ *Id.* at 3.

facility requesting the first interconnection study so that it does not need to incur significant costs before being informed that its project is not economic; and 2) set a monetary threshold amount below which any network transmission or interconnection upgrades will not be paid for by the CSP facility.

While often discussed in combination, there are two distinct types of network upgrades that are at issue. First, there are network *transmission* upgrades that can be identified when the utility designates any generation resource as a network resource. This occurs when designation requires the construction of transmission system network upgrades or otherwise requires potential re-dispatch of the utility's other DNRs. Second, there are network *interconnection* upgrades that can be identified during the interconnection study process. Both types of upgrades can be avoided by the purchase or use of existing third party transmission. Thus, a CSP project could be required to pay for network upgrades identified during an "informational" network interconnection study or when the utility designates the CSP facility as a network resource.

1. The Utilities Should Not Be Allowed to Seek to Charge CSP Facilities for Network Upgrades Under a Certain Threshold

The Coalition will not repeat all of its prior arguments, but the Coalition urges the Commission to be mindful when making decisions that the CSP has been designed to minimize the risk that there are any network upgrades, that the Federal Energy Regulatory Commission ("FERC") has determined that network upgrades benefit all interconnection and transmission customers, and that this is a phantom problem for PacifiCorp as it has never justified that it cannot simply place QFs on its Bonneville Power Administration transmission. In other words, there should be no CSP network

upgrades; if there are any, then they likely benefit all ratepayers; and, any network upgrades for PacifiCorp are likely completely unnecessary costs that would never exist if PacifiCorp (rather than its competitors) owned the solar resource.

This background is important when considering the risks at issue here. An amount of network upgrades that would be small or inconsequential to a utility and its customers could make a CSP project uneconomic. If many CSP projects become uneconomic, then the entire CSP could be at risk. Given the low risk to ratepayers, the Coalition recommends that the Commission at least provide some certainty to the CSP facility and provide direction that if network upgrades are lower than a certain threshold, then the CSP facility will not be responsible for them. Otherwise, the “informational” network interconnection study will not be “informational,” but will simply be a triggering event in which PacifiCorp or PGE will stall the process and seek to impose network interconnection costs upon the CSP facility—even if they are de minimis to ratepayers.

2. A DNR Request for CSP Facilities Should Occur at the Feasibility Study Stage to Ensure that Network Transmission Upgrades Are Not Imposed After Considerable Investments Are Already Made

The Commission should understand that the Conditional DNR process proposed by PGE, PacifiCorp and Staff is in some ways worse than the situation that faces normal QFs under PURPA. Some explanation about the normal QF contracting and interconnection process is warranted.

Under the Oregon contracting process, where most QFs start the interconnection study process, a QF can obtain a PPA prior to obtaining a feasibility study, which is the first of the three interconnection studies. Once a QF obtains its PPA, then the utility’s merchant business should submit a DNR request to its transmission business. What this

means from a practical point of view is that the QF can find out early in the process whether or not the DNR request will identify significant network transmission upgrades.

In contrast, a CSP facility must have at least a System Impact Study (“SIS”) to obtain a CSP PPA. The CSP facility will obtain its SIS, then become pre-certified (including a recommendation by the Program Administrator and Staff, and a public meeting), wait until there is an opportunity to be selected and then negotiate a CSP PPA with the utility (which could take months). This all assumes that the CSP project is not waitlisted, which would delay the process. It will not be until the *end* of this process (i.e., obtaining a PPA) that a DNR is made.

The proposed CSP timeline should be considered in light of the interconnection process. Once the CSP facility completes the SIS, it has a limited period of time to negotiate a Facilities Study Agreement, and then the Facilities Study is performed. The CSP facility will then have a limited period of time to negotiate an Interconnection Agreement, which obligates the facility to begin payments for the utility to construction the interconnection facilities. The CSP facility will also need to expend resources on other matters, including permitting, land use, etc. Under PGE, PacifiCorp and Staff’s Conditional DNR process, a QF will need to at least pay for a Facilities Study and potentially enter into an Interconnection Agreement prior to knowing whether or not designation of the facility as a network resource will require the construction of transmission system network upgrades or otherwise require potential re-dispatch of the utility’s other network resources. The CSP facility will have invested tens of thousands and potentially hundreds of thousands of dollars on interconnection studies and other expenses before even knowing if its project might be uneconomic.

Remember, a non-CSP QF can find out if being a DNR will trigger expensive transmission upgrades before paying a single cent in interconnection study costs. However, the only way the non-CSP QF could obtain this information would be to enter into a QF PPA with the utility. We have now learned that at least PGE will not voluntarily allow a QF to terminate a non-CSP PPA to participate in the CSP. So, the QF will have two choices: 1) proceed as a non-CSP QF, obtain a PPA quickly, learn if there are significant network transmission upgrades, and risk being unable to participate in the CSP; or 2) proceed as a CSP facility but not know if there are significant network transmission upgrades for months and only after spending potentially hundreds of thousands of dollars.

The Coalition is concerned that the proposed process does not make sense and is not necessary. The Commission has already significantly mitigated the risk that there will be any network transmission upgrades, and that should be sufficient to allow the CSP to move forward with all CSP facilities interconnecting as Energy Resources, as the Commission has directed. Worse, the Coalition is concerned that the proposed process will not work for many potential CSP projects and may significantly curtail the number of viable CSP projects. The Coalition does not believe the proposed process is necessary or appropriate. However, should the Commission decide that the Conditional DNR process is necessary, either now or in the future, the Coalition recommends that the Commission modify the proposal to require that a DNR request for CSP facilities occur at the Feasibility Study stage (or equivalent time for utilities that removed the Feasibility Study from their CSP process) to ensure that network transmission upgrades are not imposed after considerable investments are made. The Coalition warns the Commission

that if the proposed process is not fixed now, it may be years before the harm to the CSP becomes evident. At that point, it may be too late to act.

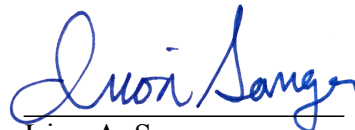
III. CONCLUSION

For the reasons articulated above, the Commission should direct each of the utilities to re-file their compliance filings in conformance with the above recommendations.

Dated this 3rd day of April 2020.

Respectfully submitted,

Sanger Law, PC



Irion A. Sanger
Marie P. Barlow
Sanger Law, PC
1041 SE 58th Place
Portland, OR 97215
Telephone: 503-756-7533
Fax: 503-334-2235
irion@sanger-law.com

Of Attorneys for Renewable Energy
Coalition