

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
UTILITY TARIFF FILINGS

I. INTRODUCTION

The Renewable Energy Coalition (“the Coalition”) submits these comments for consideration by the Oregon Public Utility Commission (“Commission”) in evaluating Portland General Electric Company’s (“PGE’s”), PacifiCorp’s, and Idaho Power Company’s (“Idaho Power’s”) Community Solar Program (“CSP”) proposed compliance filings filed on February 18, 2020. At the public meeting on October 29, 2019, the Commission approved a CSP interconnection process memorialized in Order No. 19-392, and at the special public meeting on January 16, 2020, the Commission approved further refinements to the CSP interconnection solutions along with each of the utilities’ implementation plans memorialized in Order No. 20-038. On February 18, 2020, the utilities filed their proposed tariffs governing the CSP power purchase agreement process and the details of how each will handle CSP interconnections.

The Coalition recommends: 1) limiting the changes each of the utilities may make to existing interconnection process and standard forms to only that which is required for CSP implementation; and 2) requiring a more detailed process for negotiating and

executing a CSP power purchase agreement. On February 19, 2020, the Coalition submitted comments on each of the utilities' draft CSP purchase agreements and does not address those again now.

First, the Commission should require that the utilities' proposed interconnection processes mirror the existing small generator interconnection rules, except in the specific delineated areas where changes are essential to implementing the CSP and the Commission's specifically approved CSP interconnection solutions. There will now be essentially three sets of possibly applicable interconnection rules and forms: 1) the rules in OAR 860-082 developed through a formal rulemaking process and the standard form agreements adopted following that process; 2) PGE's proposed CSP process and standard forms; and 3) PacifiCorp's proposed CSP process and standard forms.¹ PGE and PacifiCorp's proposed processes follow the same structure as the OARs but diverge in important respects detailed below. Most of the divergences do not move in the applicant's favor and instead remove many rights and protections for applicants, especially in PGE's proposed tariff. These divergences are likely to result in a CSP interconnection process that few reasonable developers will enter because they can obtain greater protections by simply being processed under the traditional small generator rules. Further, because the three sets of rules and forms largely mirror each other, a litigated dispute over one set of rules (for example, with fewer applicant protections) may inform potential disputes over the other sets, thereby eroding the rights of applicants universally.

¹ As described in Idaho Power's proposed tariff and implementation plan approved by the Commission in Order No. 20-038, Idaho Power will continue to use the traditional serial queue process outlined in OAR 860-082.

As such, it is important to minimize the differences between the tariffs and the OARs, and the utilities should explain how the remaining changes are required for CSP implementation and provide a detailed redline showing how their proposal differs from the existing rules and forms.

Second, the Commission should require that the utilities provide further detail in their CSP purchase agreement negotiating processes in order to ensure a more orderly and timely process. The tariffs are not detailed enough to provide adequate checks on a utility's incentive to delay processing an application. As compared to each of the utilities' Public Utility Regulatory Policies Act ("PURPA") qualifying facility ("QF") contracting processes, the CSP process is far less detailed and allows room for a utility to delay the process if it so desires. A CSP project should have certainty at each stage in the process. Therefore, the utilities should provide additional detail. In addition, as PGE at least has argued that it does not need to be reasonable or act in good faith, unless specifically required to under law, then the Commission should specifically require PGE to be reasonable and act in good faith by including such requirements in its tariff.

II. COMMENTS

A. Interconnection Process

1. Network Upgrades

The CSP process proposed by the utilities will ultimately likely only have limited value because CSP projects may still be required to pay for network upgrades associated with their projects. Staff's initial recommendation on CSP interconnection was to make energy resource interconnection service available to CSP projects. The current process, while designed to create a more streamlined process where a CSP project may be less

likely to trigger network upgrades, still allows for a CSP project to pay for such upgrades. All three utilities propose to seek Commission approval on a case-by-case basis should any network upgrades be triggered by a project. PacifiCorp, however, goes a step further and would also have the program administrator consider the network upgrades in determining whether to pre-certify a project. This additional requirement for pre-certification should not be approved.

2. Portland General Electric

PGE's proposed CSP interconnection tariff and standard forms are the most problematic. As proposed, it is unlikely that even a few, if any, knowledgeable developers will choose the CSP interconnection path rather than the normal small generator queue given the rights that they will forfeit. In its proposed Schedule 204, PGE should make it clear that a CSP project may interconnect via the regular small generator queue and is not required to interconnect via the new CSP interconnection process.²

Additionally, in its attachments to Schedule 204, PGE revises the currently effective small generator process and approved standard forms in a manner that goes beyond what is necessary to implement the Commission-approved CSP process and that actually removes rights and protections for applicants and interconnection customers. PGE's changes are extensive. PGE should provide a redline showing how its proposal differs from the existing small generator rules and standard forms, and how each of those modifications will further the Commission's goal to create a better process for CSP projects. The majority appear to be completely unrelated to the CSP and are simply

² See PGE Proposed Schedule 204-4, Part 1§(B)(3).

designed to erode the (few) rights that interconnection customers have under the current rules. Here is a non-exhaustive list showing a number of changes PGE made that are not required for CSP implementation or otherwise contemplated by PGE's implementation plan.

Changes to Rules and Process:

As compared to the rules contained in OAR 860-082, PGE modified its proposed Schedule 204 Exhibit A in the following ways:

- PGE removes reference to the 2003 and 2005 versions of IEEE 1547 and 1547.1 and instead gives itself discretion to adopt a particular version of the standard.³ The utilities should use the most up-to-date version, and it should not be contingent upon a utility's decision to adopt or not adopt the particular version. In addition, PGE leaves in numerous references to specific sections within the standard such as in the definition of "area network." The reference to particular sections may not hold true with newer versions of the standard and those should be modified to be more general. As a comparison, PacifiCorp retains the current language requiring use of the outdated 2003 and 2005 versions, and this should be remedied as well.
- PGE removed the requirement that PGE designate an employee or office from which relevant information may be obtained and the requirement to post the contact information on its website.⁴
- PGE removed the right of an interconnection customer to renew an existing interconnection by applying at least 60 business days before the expiration of its previous interconnection agreement, the process under which a renewal will occur including expedited review, and the right to have the prior agreement remain in effect if PGE has not completed its review upon its expiration.⁵

³ Compare OAR 860-082-0015(11), (12) with PGE Proposed Schedule 204, Exhibit A at § 3(13), (14) (Note that PGE's Exhibit A contains two section 3s. This is referring to the section 3 beginning on page 1).

⁴ Compare OAR 860-082-0020(1) with PGE Proposed Schedule 204, Exhibit A at § 3(1) (Note that PGE's Exhibit A contains two section 3s. This is referring to the section 3 on page 6).

⁵ Compare OAR 860-082-0025(1)(b) with PGE Proposed Schedule 204, Exhibit A at § 4(1).

- PGE removed the option for an interconnection customer to elect to maintain a separate point of interconnection if PGE decides to interconnect multiple facilities at the same point of interconnection to minimize costs. Rather PGE in Attachment A requires the interconnection customer to maintain a separate point of interconnection.⁶
- PGE removed the option for the interconnection customer to request to negotiate a non-standard interconnection agreement.⁷
- PGE removed the exceptions for very small facilities to the construction, operation, maintenance and testing of projects.⁸
- PGE removed the provision that would otherwise prohibit PGE from requiring liability insurance for an interconnection customer whose facility has a nameplate capacity of 200 kilowatts (“kW”) or less.⁹
- PGE removed the ability for PGE and the applicant to waive any of the studies.¹⁰
- PGE removed the requirement that PGE design any required interconnection facilities or system upgrades as part of the facilities study.¹¹
- PGE removed the exemption for projects smaller than 3 megawatts (“MW”) from being required to pay for data acquisition and telemetry equipment. PGE arbitrarily changed this to 2 MW.¹²

Changes to Study Agreements:

⁶ Compare OAR 860-082-0025(6) with PGE Proposed Schedule 204, Exhibit A at § 4(6).

⁷ Compare OAR 860-082-0025(7)(e) with PGE Proposed Schedule 204, Exhibit A at § 4(7)(e).

⁸ Compare OAR 860-082-0030(4)(b) with PGE Proposed Schedule 204, Exhibit A at § 5(4)(b).

⁹ Compare OAR 860-082-0040 with PGE Proposed Schedule 204, Exhibit A at § 7.

¹⁰ Compare OAR 860-082-0060(4) with PGE Proposed Schedule 204, Exhibit A at § 9(4).

¹¹ Compare OAR 860-082-0060(8)(e) with PGE Proposed Schedule 204, Exhibit A at § 9(7)(e).

¹² Compare OAR 860-082-0070(3)(a) with PGE Proposed Schedule 204, Exhibit A at § 12(5)(a).

As compared to PGE’s approved standard study agreements approved by the Commission in Docket No. AR 521, PGE modified its proposed Schedule 204 Exhibits C and D in the following ways:

- PGE modified the language in its System Impacts Study (“SIS”) Agreement regarding what occurs in the event of a modification of the point of interconnection, the application, or the technical information provided. Rather than simply extending the time required to perform the study, PGE would “depending on the modification” require that the applicant submit a new application. It is not clear what types of modifications would require a new application.¹³
- PGE removed PGE’s obligation to, as part of the SIS, provide detailed technical information including identifying the circuit breaker short circuit capability limits exceeded, any thermal overload or voltage limits violations, and any instability or inadequately damped response to system disturbances as a result of the interconnection.¹⁴
- PGE removed PGE’s obligation to provide a good faith non-binding cost estimate of facilities required from the language of the SIS study agreement, and included this in its Attachment B to the SIS Agreement.¹⁵ Historically, PGE has had complete discretion to fill-in the scope, schedule, and budget information in the attachment (the attachment was blank) and therefore, it should be clarified that PGE is not permitted to modify the information contained in this Attachment B, aside from the blank that needs to be filled-in with the study costs.
- PGE removed the standard language requiring that the SIS be complete and results transmitted within 30 calendar days unless agreed to otherwise, but rather PGE now states that it will need *at least* 60 business days.¹⁶

¹³ Compare *Small Generator Interconnection Rulemaking*, Docket No. AR 521, PGE Final Forms and Agreements, Form 4 at § 4 (Aug. 21, 2009) (hereafter “PGE AR 521 SIS Agreement”) with PGE Proposed Schedule 204, Exhibit B at § 4.

¹⁴ Compare PGE AR 521 SIS Agreement at § 5 with PGE Proposed Schedule 204, Exhibit B.

¹⁵ Compare PGE AR 521 SIS Agreement at § 5.4 with PGE Proposed Schedule 204, Exhibit B at Attachment B § A.

¹⁶ Compare PGE AR 521 SIS Agreement at § 6 with PGE Proposed Schedule 204, Exhibit B at Attachment B § C.

- The time by which the applicant is required to submit a SIS deposit is changed from “prior to the start date of the study” to within 5 calendar days of signing the agreement.¹⁷
- PGE removed the requirement that SIS costs be based on “actual costs,” but rather PGE would have its study costs be based on “reasonable costs” with no reconciliation following completion of the study.¹⁸
- PGE removed the requirement that PGE actually invoice its SIS costs and that the applicant has 30 days to pay, but rather payments must be paid “without prior notice or demand” or within 15 calendar days of PGE’s request following delivery of the study and if applicant fails to pay within 7 calendar days of a notice of default by PGE, PGE will remove them from the queue.¹⁹
- PGE removed the ability to set the assumptions in the attachment to the Facilities Study agreement and instead required that it be based on the same assumptions as the SIS agreement.²⁰
- PGE removed PGE’s obligation to provide a description, estimated cost, and schedule for required upgrades from the language of the agreement, and included this in its Attachment B to the Facilities Study Agreement.²¹ As with the SIS agreement, historically, PGE has had complete discretion to fill-in the scope, schedule, and budget information in the attachment (the attachment was blank) and therefore, it should be clarified that PGE is not permitted to modify the information contained in this Attachment B, aside from the blank that needs to be filled-in with the study costs.

¹⁷ Compare PGE AR 521 SIS Agreement at § 8 with PGE Proposed Schedule 204, Exhibit B at § 6.

¹⁸ Compare PGE AR 521 SIS Agreement at §§ 8.2-3 with PGE Proposed Schedule 204, Exhibit B at § 6.

¹⁹ Compare PGE AR 521 SIS Agreement at § 8.3 with PGE Proposed Schedule 204, Exhibit B at §§ 6.b-c and Attachment B § B.

²⁰ Compare *Small Generator Interconnection Rulemaking*, Docket No. AR 521, PGE Final Forms and Agreements, Form 5 at § 3 (Aug. 21, 2009) (hereafter “PGE AR 521 FAS Agreement”) with PGE Proposed Schedule 204, Exhibit C at § 3.

²¹ Compare PGE AR 521 FAS Agreement at § 6 with PGE Proposed Schedule 204, Exhibit C at Attachment B § A.

- PGE removed PGE’s obligation to address the issues identified in the SIS within the Facilities Study.²²
- PGE removed the standard language from the Facilities Study agreement requiring that the study be complete and results transmitted within 30 calendar days if there are not system upgrades or facilities required, but rather PGE now states that it will need *at least* 60 business days.²³
- PGE retains the requirement that the Facilities Study cost be based on actual Facilities Study costs, but does not allow for any reconciliation following completion of the study.²⁴
- PGE removed the requirement that PGE actually invoice its Facilities Study costs and that the applicant has 30 days to pay, but rather payments must be paid “without prior notice or demand” or within 15 calendar days of PGE’s request following delivery of the study and if applicant fails to pay within 7 calendar days of a notice of default by PGE, PGE will remove them from the queue.²⁵
- PGE adds extensive disclaimers to the SIS and Facilities Study Agreements, many of which are completely unreasonable. Most notable is the disclaimer in section 9, which PGE included in boldface font and which would absolve PGE of any “liabil[ity] for monetary damages associated with any delay in delivery or *for the non-performance or delay in performance of PGE’s obligation under [the] Agreement.*”²⁶ PGE’s FERC-jurisdictional small generator SIS and Facilities Study Agreements do not contain such egregious disclaimers.²⁷
- PGE inconsistently uses the terms “Schedule” or “Tariff.” PGE uses the word Tariff frequently in the agreements but does not define that term. In Attachment A to Schedule 204, PGE frequently uses the term “Schedule” which it defines as

²² Compare PGE AR 521 FAS Agreement at § 4 with PGE Proposed Schedule 204, Exhibit C.

²³ Compare PGE AR 521 FAS Agreement at § 6 with PGE Proposed Schedule 204 at Exhibit C at Attachment B § C.

²⁴ Compare PGE AR 521 FAS Agreement at § 7 with PGE Proposed Schedule 204 Exhibit C at § 6.

²⁵ Compare PGE AR 521 FAS Agreement at §§ 7.2-3 with PGE Proposed Schedule 204 Exhibit C at § 6.b and Attachment B § B.

²⁶ Compare PGE AR 521 SIS Agreement with PGE Proposed Schedule 204, Exhibit B at §§ 7-20 (emphasis added); Compare also PGE AR 521 FAS Agreement with PGE Proposed Schedule 204 Exhibit C at §§ 7-20.

²⁷ Attachment A (PGE Open Access Transmission Tariff Attachment M, Attachments 7-8, Small Generator Interconnection System Impact Study Agreement and Facilities Study Agreement).

“PGE’s Community Solar Program Interconnection and Power Purchase Schedule, including these Standards, and including all exhibits attached thereto or incorporated by reference.” PGE should pick a term, define it, and use it consistently.

Changes to Interconnection Agreement:

As compared to PGE’s approved standard interconnection agreement approved by the Commission in Docket No. AR 521, PGE modified its proposed Schedule 204

Exhibit E in the following ways²⁸:

- PGE added section 1.4.4 requiring that the CSP project be responsible for any modifications PGE identifies over the course of the agreement.
- PGE changed sections 1.4.5-7 regarding parallel operation and maintenance obligations.
- PGE changed section 2.1 to remove the requirement that PGE cover its own expense to participate in optional interim testing, and instead require that the project reimburse PGE for all costs of testing.
- PGE added more stringent termination provisions in section 3.2 including that it will terminate the agreement if the customer is prevented from performing due to a Force Majeure for four consecutive months.
- PGE added additional language in section 3.4 regarding its ability to suspend or disconnect the CSP project.
- PGE significantly revised Article 4 regarding cost responsibility including in section 4.6.1 where it appears to suggest that the parties must agree to progress payments or PGE will otherwise require that the customer pay 100% of the estimated cost for all facilities and upgrades as an upfront deposit or in section 4.6.5 that at least 20 days business days prior to the commencement of the design, procurement, installation, or construction, that the applicant must provide security equal to the estimated costs.

²⁸ See *Small Generator Interconnection Rulemaking*, Docket No. AR 521, PGE Final Forms and Agreements, Form 8 (Aug. 21, 2009) and PGE Proposed Schedule 204, Exhibit E.

- PGE added additional limitations on its liability under the agreement in Article 5 including that PGE does not guarantee any of its work will be timely.
- PGE shortened the time periods in Article 5 by which a party will have to cure a default from 60 days and 6 months for defaults not capable of cure within 60 days to 45 days and 3 months, respectively.
- PGE removed the language at the beginning of Article 6 that would make a party liable for losses related to or arising from any act or omission in its performance.
- PGE removed the language in section 7.1 referring to the dispute resolution process already set forth by the commission's rules (and incorporated by PGE in its Schedule Exhibit A) and adds language that would require the parties to agree that the Commission has jurisdiction and waive any objections to the Commission having jurisdiction.
- PGE added to the notice provisions.

This above list, while extensive, is not exhaustive of all the changes, and the Coalition reserves the right to raise additional issues. These modifications to the Commission's small generator rules and PGE's approved standard forms are not required to implement the CSP interconnection process and actually cut against the interests of an interconnection applicant, thereby undermining the Commission's goal to create a better, more streamlined interconnection process for CSP. The Commission should reject these modifications and require PGE to use the language from the OARs or its pre-existing approved and vetted agreements. The Commission should also require that PGE re-submit its proposal showing a redline from the currently effective process along with an explanation of how each of its changes implement the Commission's CSP interconnection program or further the goals underlying the program.

3. PacifiCorp

As with PGE, PacifiCorp's proposed CSP interconnection tariff and standard forms require some modifications to make the CSP interconnection process appropriate

for CSP projects, including the removal of some differences between the OARs and currently approved small generator forms that are not necessary to implement the Commission-approved CSP process and that actually remove rights and protections for applicants and interconnection customers. Change that should be made include:

- PacifiCorp should either make its standard CSP interconnection forms and agreements attachments to its proposed Schedule 126 or otherwise the Commission should clarify that they cannot be modified without Commission approval.
- PacifiCorp should make it clear that a CSP project may interconnect via the regular small generator queue and is not required to interconnect via the new CSP interconnection process.²⁹

PacifiCorp's changes to the small generator interconnection rules and its currently effective standard forms and agreements are less extensive than those proposed by PGE, but there are still some changes that should be removed.

Changes to Rules and Process:

As compared to the rules contained in OAR 860-082, PacifiCorp modified its proposed Exhibit 3 in the following ways:

- PacifiCorp removed the ability for applicants to submit multiple projects at a single point and have them studied together.³⁰
- PacifiCorp adds additional vague "reliability requirements" it may consider in evaluating the requirements for interconnection.³¹
- PacifiCorp removed language estimating the hourly rate for engineering costs.³²

²⁹ See PacifiCorp Proposed Schedule 126 at 3 and Exhibit 3 Section A(5).

³⁰ Compare OAR 860-082-0025(4) with PacifiCorp proposed Exhibit 3 at §D.

³¹ Compare OAR 860-082-0025(7)(d) with PacifiCorp proposed Exhibit 3 at § D(5)d; Compare also OAR 860-082-0030(6) with PacifiCorp proposed Exhibit 3 at § E(6).

³² Compare OAR 860-082-0035(1) with PacifiCorp proposed Exhibit 3 at § F(1).

- PacifiCorp removed the restrictions on whether it can require the applicant to obtain liability insurance found in OAR 860-082-0040.
- PacifiCorp removed the requirement that PGE design any required interconnection facilities or system upgrades as part of the Facilities Study found in OAR 860-082-0060(8)(e).
- PacifiCorp removed the option for the utility and an applicant to agree in writing to allow the applicant to hire a third-party consultant to complete the interconnection facilities and system upgrades, subject to public utility oversight and approval, found in OAR 860-082-0060(8)(f).
- PacifiCorp removed the option for the utility and an applicant to agree in writing to allow the applicant to hire a third-party consultant to perform any of the studies found in OAR 860-082-0060(9).
- PacifiCorp removed recordkeeping and reporting requirements found at OAR 860-082-0065.

Changes to Interconnection Agreement:

As compared to PacifiCorp’s approved standard interconnection agreement approved by the Commission in Docket No. AR 521, PacifiCorp modified its proposed Exhibit 8 in the following ways³³:

- PacifiCorp added section 3.3.3 which allows immediate termination if an applicant loses CSP certification.
- PacifiCorp added section 5.1.4 which would make any assignment of the agreement not approved by the project manager or program administrator void.
- PacifiCorp removed general insurance exemption for small generators 200 kW or less from section 6.1.
- PacifiCorp added sections regarding “Metering and Telemetry Equipment,” “Property Requirements,” and “Relay and Control Settings” to Attachment 4.

³³ See *Small Generator Interconnection Rulemaking*, Docket No. AR 521, PacifiCorp Final Forms and Agreements, Form 8 (Aug. 24, 2009) and PacifiCorp Proposed Exhibit 8.

- PacifiCorp removed references to “transmission” system and limited this agreement to only interconnections with the distribution system.

As with PGE’s proposed revisions, there may be other issues the Coalition reserves the right to raise in the future. Here too, these modifications are not required to implement the CSP interconnection process and may actually undermine the Commission’s goal to create a better, more streamlined interconnection process for CSP. The Commission should also reject these modifications and require PacifiCorp to use the language from the OARs or its pre-existing approved and vetted agreements including by re-submitting the proposal showing a redline from the currently effective process along with an explanation of how each of its changes implement the Commission’s CSP interconnection program or further the goals underlying the program.

4. Idaho Power

There is only one major issue with Idaho Power’s filing. Idaho Power plans to use the existing small generator rules and its approved forms for its CSP interconnection. This eliminates the concerns raised above with PGE and PacifiCorp regarding the divergences between the CSP process and the normal interconnection process. The one concern with Idaho Power’s proposed schedule on interconnection issues is its proposed 0.4% operations and maintenance charge.³⁴ The Coalition discussed concerns over this charge in its February 19, 2020 filing regarding Idaho Power’s draft CSP purchase agreement. Essentially this charge could result in the CSP project repaying the entire cost of the interconnection over the life of the interconnection agreement regardless of

³⁴ See Idaho Power proposed Schedule 100-5.

whether there is any required maintenance. Idaho Power should at a minimum give the project an option to choose to pay actual operations and maintenance costs as they arise rather than a set price.

B. Purchase Agreement Process

The proposed schedules provide far too little detail on the process for negotiating and executing a CSP purchase agreement. For example, PGE proposes to have a CSP project provide certain minimum information, in response to which PGE will provide a draft agreement, and once parties are agreed, it will forward a final executable draft within 15 business days.³⁵ Each of the utilities should provide a more detailed schedule, more similar to their PURPA QF contracting processes which mandate that the utility provide a draft agreement within 15 business days of receiving the application and required information, and obligating the utility to provide interim drafts within 15 business days if the CSP project requests a change. This will ensure that CSP projects know when the utility is expected to respond and can plan accordingly.

Further, the tariffs should also include good faith and reasonable language. The following language should be included in each of the tariffs:

The Company shall take reasonable and timely actions when processing all requests for CSP Purchase Agreements and will respond in good faith to any written amendment to a draft CSP Purchase Agreement that are proposed by the Project Manager. The Company will meet with the Project Manager if the Project Manager requests a meeting to discuss issues related to the draft CSP Purchase Agreement.

³⁵ PGE proposed Schedule 204-6.

Adding this reasonableness language will help ensure that the utility cannot take an unreasonably extreme position and will help ensure that CSP project managers are treated fairly. The Commission has a statutory obligation to represent the customers of a public utility (including interconnection customers) and protect those customers from unjust and unreasonable exactions and practices, and also must establish fair and reasonable rates.³⁶ Further, the public utility is required by statute to not give unreasonable preference to any person or to unreasonably prejudice any person.³⁷ In addition, the Commission, in *Sandy River v. PGE*, found that PGE did not have an obligation to act reasonably in response to an interconnection customer’s request to have a third-party construct the interconnection facilities.³⁸ The rule there states that PGE and the applicant *may* agree to have a third-party construct the upgrades, but the Commission concluded that rule did not “require[e] that PGE reasonably exercise its discretion to agree.”³⁹ Further, PGE has argued that strict compliance with the minimum requirements of a schedule is sufficient to absolve it from any liability.⁴⁰ From this, the Coalition is concerned that PGE will take the position that it can act unreasonably, because there is no specific provision in the applicable schedules or rules that specifically require it to act reasonably. As such, the Commission should explicitly require that the utilities act reasonably by including the above language in their tariffs.

³⁶ ORS 756.040.

³⁷ ORS 757.325.

³⁸ Docket No. 1967, Order No. 19-218 at 25 (Jun. 24, 2019).

³⁹ *Id.*

⁴⁰ *See Bottlenose Solar, LLC et. al. v. PGE*, Docket Nos. UM 1877 et. al., PGE Motion for Summary Judgment (Jan. 24, 2018).

Two other specific concerns with the utilities' CSP purchase agreement proposals include:

- All three utilities define “qualifying facility” as only a “solar” facility. This is somewhat confusing because a qualifying facility as defined under PURPA and Oregon law can use a variety of different resource types. A CSP project must meet both the requirements to be a qualifying facility and the eligibility rules under the CSP program, therefore, there is no need to add this additional limitation to the definition of qualifying facility. The definition should simply refer to applicable state and federal law for clarity and consistency.
- Under PGE’s proposed schedule, a CSP project cannot sell to PGE if it has an existing power purchase agreement (“PPA”).⁴¹ The Coalition addressed this issue in separate comments filed on March 6, 2020 regarding the pre-certification process, and will address this issue again in future comments explaining that this restriction is illegal. However, it is also unclear whether PGE’s restriction applies only if the project has a current PPA or whether it also applies to a project that has previously had a PPA but currently is not under any contract to sell. At a minimum, the language should be revised to clarify that projects who previously had executed PPAs, but are not currently under contract, are eligible.
- A separate but related issue is how PGE’s restriction on projects with existing PPAs would be applied to a project that has a PPA with a different utility. Even if PGE can object to QFs already selling to it, this provision may be overbroad in that it could preclude QFs with existing PPAs with Idaho Power or PacifiCorp from investigating the possibility of selling to PGE under the CSP, which is not in and of itself a violation of an existing PPA. The restriction should be that PGE won’t execute a PPA that contradicts an existing purchase agreement, which would allow for investigation of the draft PPA under the CSP and then a chance to concurrently amend or terminate the existing PPA and execute the new CSP purchase agreement; or to otherwise have the CSP purchase agreement supersede the prior PPA. Note that neither of the other two utilities put this restriction in their tariff.
- Under PacifiCorp’s proposed process, it appears to only allow a 20-year PPA.⁴² However, both PGE and Idaho Power provide for an “up to 20-year PPA.” This implementation is more appropriate, and PacifiCorp should revise its schedule accordingly.

⁴¹ PGE proposed Schedule 204-5.

⁴² PacifiCorp proposed Schedule 126 at 6 (“The Term of a CSP Purchase Agreement is twenty (20) years”).

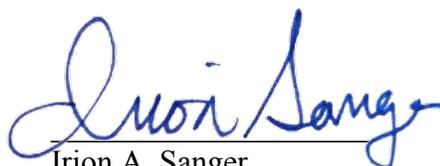
III. CONCLUSION

For the reasons articulated above, the Commission should direct each of the utilities to re-file their compliance filings: 1) removing the areas where the tariffs diverge from the existing small generator interconnection rules and forms, except for in the areas necessary for CSP implementation which should be indicated by redlining; and 2) providing further detail in their CSP purchase agreement processes for each step.

Dated this 10th day of March 2020.

Respectfully submitted,

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Attachment A

PGE Open Access Transmission Tariff

Attachment M – Small Generator Interconnection Procedures

Attachments 7 and 8

System Impact Study Agreement and Facilities Study Agreement

Attachment 7
System Impact Study Agreement

THIS AGREEMENT is made and entered into this ____ day of _____
20__ by and between _____,
a _____ organized and existing under the laws of the State of
_____, ("Interconnection Customer,") and
_____, a _____
existing under the laws of the State of _____,
("Transmission Provider"). Interconnection Customer and Transmission Provider each may be
referred to as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, the Interconnection Customer is proposing to develop a Small Generating Facility or generating capacity addition to an existing Small Generating Facility consistent with the Interconnection Request completed by the Interconnection Customer on _____; and

WHEREAS, the Interconnection Customer desires to interconnect the Small Generating Facility with the Transmission Provider's Transmission System;

WHEREAS, the Transmission Provider has completed a feasibility study and provided the results of said study to the Interconnection Customer (This recital to be omitted if the Parties have agreed to forego the feasibility study.); and

WHEREAS, the Interconnection Customer has requested the Transmission Provider to perform a system impact study(s) to assess the impact of interconnecting the Small Generating Facility with the Transmission Provider's Transmission System, and of any Affected Systems;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

- 1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated or the meanings specified in the standard Small Generator Interconnection Procedures.
- 2.0 The Interconnection Customer elects and the Transmission Provider shall cause to be performed a system impact study(s) consistent with the standard Small Generator Interconnection Procedures in accordance with the Open Access Transmission Tariff.

- 3.0 The scope of a system impact study shall be subject to the assumptions set forth in Attachment A to this Agreement.
- 4.0 A system impact study will be based upon the results of the feasibility study and the technical information provided by Interconnection Customer in the Interconnection Request. The Transmission Provider reserves the right to request additional technical information from the Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the system impact study. If the Interconnection Customer modifies its designated Point of Interconnection, Interconnection Request, or the technical information provided therein is modified, the time to complete the system impact study may be extended.
- 5.0 A system impact study shall consist of a short circuit analysis, a stability analysis, a power flow analysis, voltage drop and flicker studies, protection and set point coordination studies, and grounding reviews, as necessary. A system impact study shall state the assumptions upon which it is based, state the results of the analyses, and provide the requirement or potential impediments to providing the requested interconnection service, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. A system impact study shall provide a list of facilities that are required as a result of the Interconnection Request and non-binding good faith estimates of cost responsibility and time to construct.
- 6.0 A distribution system impact study shall incorporate a distribution load flow study, an analysis of equipment interrupting ratings, protection coordination study, voltage drop and flicker studies, protection and set point coordination studies, grounding reviews, and the impact on electric system operation, as necessary.
- 7.0 Affected Systems may participate in the preparation of a system impact study, with a division of costs among such entities as they may agree. All Affected Systems shall be afforded an opportunity to review and comment upon a system impact study that covers potential adverse system impacts on their electric systems, and the Transmission Provider has 20 additional Business Days to complete a system impact study requiring review by Affected Systems.
- 8.0 If the Transmission Provider uses a queuing procedure for sorting or prioritizing projects and their associated cost responsibilities for any required Network Upgrades, the system impact study shall consider all generating facilities (and with respect to paragraph 8.3 below, any identified Upgrades associated with such higher queued interconnection) that, on the date the system impact study is commenced –
- 8.1 Are directly interconnected with the Transmission Provider's electric system; or

- 8.2 Are interconnected with Affected Systems and may have an impact on the proposed interconnection; and
- 8.3 Have a pending higher queued Interconnection Request to interconnect with the Transmission Provider's electric system.
- 9.0 A distribution system impact study, if required, shall be completed and the results transmitted to the Interconnection Customer within 30 Business Days after this Agreement is signed by the Parties. A transmission system impact study, if required, shall be completed and the results transmitted to the Interconnection Customer within 45 Business Days after this Agreement is signed by the Parties, or in accordance with the Transmission Provider's queuing procedures.
- 10.0 A deposit of the equivalent of the good faith estimated cost of a distribution system impact study and the one half the good faith estimated cost of a transmission system impact study may be required from the Interconnection Customer.
- 11.0 Any study fees shall be based on the Transmission Provider's actual costs and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.
- 12.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within 30 calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Transmission Provider shall refund such excess within 30 calendar days of the invoice without interest.
- 13.0 Governing Law, Regulatory Authority, and Rules
The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of _____ (where the Point of Interconnection is located), without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.
- 14.0 Amendment
The Parties may amend this Agreement by a written instrument duly executed by both Parties.
- 15.0 No Third-Party Beneficiaries
This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

16.0 Waiver

16.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

16.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Transmission Provider. Any waiver of this Agreement shall, if requested, be provided in writing.

17.0 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

18.0 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

19.0 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

20.0 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

20.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Transmission Provider be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

20.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

21.0 Reservation of Rights

The Transmission Provider shall have the right to make a unilateral filing with FERC to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and the Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the Parties otherwise agree as provided herein.

IN WITNESS THEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of Transmission Provider]

[Insert name of Interconnection Customer]

Signed: _____

Signed: _____

Name (Printed):

Name (Printed):

Title: _____

Title: _____

Attachment 8
Facilities Study Agreement

THIS AGREEMENT is made and entered into this ____ day of _____
20__ by and between _____,
a _____ organized and existing under the laws of the State of
_____, ("Interconnection Customer,") and
_____, a _____
existing under the laws of the State of _____,
("Transmission Provider"). Interconnection Customer and Transmission Provider each may be
referred to as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, the Interconnection Customer is proposing to develop a Small Generating Facility
or generating capacity addition to an existing Small Generating Facility consistent with the
Interconnection Request completed by the Interconnection Customer
on _____; and

WHEREAS, the Interconnection Customer desires to interconnect the Small Generating Facility
with the Transmission Provider's Transmission System;

WHEREAS, the Transmission Provider has completed a system impact study and provided the
results of said study to the Interconnection Customer; and

WHEREAS, the Interconnection Customer has requested the Transmission Provider to perform
a facilities study to specify and estimate the cost of the equipment, engineering, procurement and
construction work needed to implement the conclusions of the system impact study in
accordance with Good Utility Practice to physically and electrically connect the Small
Generating Facility with the Transmission Provider's Transmission System.

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein
the Parties agreed as follows:

- 1.0 When used in this Agreement, with initial capitalization, the terms specified shall have
the meanings indicated or the meanings specified in the standard Small Generator
Interconnection Procedures.
- 2.0 The Interconnection Customer elects and the Transmission Provider shall cause a
facilities study consistent with the standard Small Generator Interconnection Procedures
to be performed in accordance with the Open Access Transmission Tariff.

- 3.0 The scope of the facilities study shall be subject to data provided in Attachment A to this Agreement.
- 4.0 The facilities study shall specify and estimate the cost of the equipment, engineering, procurement and construction work (including overheads) needed to implement the conclusions of the system impact study(s). The facilities study shall also identify (1) the electrical switching configuration of the equipment, including, without limitation, transformer, switchgear, meters, and other station equipment, (2) the nature and estimated cost of the Transmission Provider's Interconnection Facilities and Upgrades necessary to accomplish the interconnection, and (3) an estimate of the time required to complete the construction and installation of such facilities.
- 5.0 The Transmission Provider may propose to group facilities required for more than one Interconnection Customer in order to minimize facilities costs through economies of scale, but any Interconnection Customer may require the installation of facilities required for its own Small Generating Facility if it is willing to pay the costs of those facilities.
- 6.0 A deposit of the good faith estimated facilities study costs may be required from the Interconnection Customer.
- 7.0 In cases where Upgrades are required, the facilities study must be completed within 45 Business Days of the receipt of this Agreement. In cases where no Upgrades are necessary, and the required facilities are limited to Interconnection Facilities, the facilities study must be completed within 30 Business Days.
- 8.0 Once the facilities study is completed, a draft facilities study report shall be prepared and transmitted to the Interconnection Customer. Barring unusual circumstances, the facilities study must be completed and the draft facilities study report transmitted within 30 Business Days of the Interconnection Customer's agreement to conduct a facilities study.
- 9.0 Interconnection Customer may, within 30 Calendar Days after receipt of the draft report, provide written comments to Transmission Provider, which Transmission Provider shall include in the final report. Transmission Provider shall issue the final Interconnection Facilities Study report within 15 Business Days of receiving Interconnection Customer's comments or promptly upon receiving Interconnection Customer's statement that it will not provide comments. Transmission Provider may reasonably extend such fifteen-day period upon notice to Interconnection Customer if Interconnection Customer's comments require Transmission Provider to perform additional analyses or make other significant modifications prior to the issuance of the final Interconnection Facilities Report. Upon request, Transmission Provider shall provide Interconnection Customer supporting documentation, workpapers, and databases or data developed in the preparation of the

Interconnection Facilities Study, subject to confidentiality arrangements consistent with Section 4.5 of the standard Small Generator Interconnection Procedures.

- 10.0 Within ten Business Days of providing a draft Interconnection Facilities Study report to Interconnection Customer, Transmission Provider and Interconnection Customer shall meet to discuss the results of the Interconnection Facilities Study.
- 11.0 Any study fees shall be based on the Transmission Provider's actual costs and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.
- 12.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within 30 calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Transmission Provider shall refund such excess within 30 calendar days of the invoice without interest.
- 13.0 Governing Law, Regulatory Authority, and Rules
The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the state of _____ (where the Point of Interconnection is located), without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.
- 14.0 Amendment
The Parties may amend this Agreement by a written instrument duly executed by both Parties.
- 15.0 No Third-Party Beneficiaries
This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.
- 16.0 Waiver
- 16.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.
- 16.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement.
Termination or default of this Agreement for any reason by Interconnection

Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Transmission Provider. Any waiver of this Agreement shall, if requested, be provided in writing.

17.0 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

18.0 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

19.0 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

20.0 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

20.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Transmission Provider be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

**Attachment A to
Facilities Study Agreement**

**Data to Be Provided by the Interconnection Customer
with the Facilities Study Agreement**

Provide location plan and simplified one-line diagram of the plant and station facilities. For staged projects, please indicate future generation, transmission circuits, etc.

On the one-line diagram, indicate the generation capacity attached at each metering location. (Maximum load on CT/PT)

On the one-line diagram, indicate the location of auxiliary power. (Minimum load on CT/PT) Amps

One set of metering is required for each generation connection to the new ring bus or existing Transmission Provider station. Number of generation connections: _____

Will an alternate source of auxiliary power be available during CT/PT maintenance?

Yes ____ No ____

Will a transfer bus on the generation side of the metering require that each meter set be designed for the total plant generation? Yes ____ No ____
(Please indicate on the one-line diagram).

What type of control system or PLC will be located at the Small Generating Facility?

What protocol does the control system or PLC use?

Please provide a 7.5-minute quadrangle map of the site. Indicate the plant, station, transmission line, and property lines.

Physical dimensions of the proposed interconnection station:

Bus length from generation to interconnection station:

Line length from interconnection station to Transmission Provider's Transmission System.

Tower number observed in the field. (Painted on tower leg)*:

Number of third party easements required for transmission lines*:

* To be completed in coordination with Transmission Provider.

Is the Small Generating Facility located in Transmission Provider's service area?

Yes _____ No _____ If No, please provide name of local provider:

Please provide the following proposed schedule dates:

Begin Construction Date: _____

Generator step-up transformers Date: _____
receive back feed power

Generation Testing Date: _____

Commercial Operation Date: _____