



MICHAEL HIGHFILL
Main (503) 595-3922
michael@mrg-law.com

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VIA E-MAIL TO

Public Utility Commission of Oregon
Filing Center
201 High Street SE, Suite 100
Salem, Oregon 97301-3398

**Re: Docket No. UM 2111 – In the Matter of Public Utility Commission of Oregon,
Investigation into Interconnection Process and Policies**

Attention Filing Center:

Attached for filing in the above-captioned docket, please find the Joint Utilities' proposal discussed at the April 4, 2025, workshop.

Please contact this office with any questions.

Sincerely,

A handwritten signature in black ink, appearing to be "MH", written over a horizontal line.

Michael Highfill
Paralegal
McDowell Rackner Gibson PC

UM 2111: Joint Utilities’ Proposals for “Enforceable Timelines” Track

Introduction

In this workstream, Staff seeks to address “delays” in the interconnection process. Staff’s December 17, 2024 workshop presentation addressed both the study phase and construction phase¹ of the interconnection process. The Joint Utilities understand Staff is primarily focused on delay in the construction phase, so the Joint Utilities’ proposals similarly focus on this issue, but the Joint Utilities also offer one proposal for addressing potential study delays.

In the construction phase, if “delay” is defined as interconnection occurring after the date identified in the initial interconnection agreement, then the primary source of delay is the interconnection customer missing milestones or progress payments. Nearly every interconnection customer misses at least one milestone, and these missed milestones have cascading effects on the interconnection schedule. Therefore, the most effective remedy for preventing delay and expediting the construction phase would be to implement mechanisms that encourage interconnection customers to more consistently meet their milestones (or to more strictly enforce existing mechanisms). However, the Joint Utilities understand that Staff does not favor a strict-enforcement approach for missed milestones.

In an effort to respond to Staff’s concerns and guidance regarding this workstream, the Joint Utilities offer proposals to create more certainty within the interconnection process. While these proposals will not necessarily shorten the process (because they do not address the delay resulting from missed milestones), they will create a more efficient process that is less likely to result in disputes because both the customer and the utility will have better coordination and common expectations (including regarding the impact of missed milestones.)

Key Issues Leading to Delay in the Construction Phase

Change of ownership of a project after execution of an interconnection agreement.

This is a common source of delay in which the interconnection customer signs an interconnection agreement (including milestones and progress payments), but then the project sits dormant until the customer obtains financing or sells the project to a different developer who then moves the project forward. Although the milestones in the executed interconnection agreement are not being met, the utility typically does not issue a breach notice or otherwise seek to enforce the existing interconnection agreement. Instead, parties often agree to extend milestones through an amendment to the interconnection agreement. Change of ownership of a project can result in lengthy delays (in some cases over two years between when the original

¹ This term is used generally in this proposal to encompass all of the steps between execution of an initial interconnection agreement and energization of a fully interconnected facility.

interconnection agreement was signed and the emergence of a new owner ready to construct the project). New ownership can also cause additional delays due to changes to the scope of work required by the interconnection. Changes in project scope can be caused by the new owner's redesign of the project or use of different equipment.

Failure to meet payment milestones.

The interconnection agreement authorizes work stoppage and day-for-day delay in milestone dates if the interconnection customer does not meet payment milestones (deposits or progress payments identified in the interconnection agreement).

Lack of communication regarding on-site construction.

If the interconnection customer builds its generation facilities without a site visit with the utility to confirm, *e.g.*, the location of utility access roads, customer or utility poles, need for fiber optic cable conduit, or location of the fiber optic cable termination point on the customer's side of the interconnection, issues may arise that require redesign, amended easements, or other changes that delay the process.

Delays associated with permits and easements.

The interconnection customer is typically required to obtain all necessary easements, including easements needed for construction of utility-owned facilities. Inability to obtain permits from third parties, who are not governed by interconnection agreement timelines, can delay completion of construction tasks.

If the interconnection customer and utility change the locations of an access road, poles, or conduit, landowner easements at the project site may have to be revised. Re-negotiation of easements can result in further design changes if the landowner is not amenable (and establishing the new easement can require additional time).

Construction delays.

Construction delays can be caused by shortages of skilled personnel who are needed for every project (*e.g.*, relay technicians and fiber optic cable installers), by changes in on-site design that affect the location of equipment, and by other issues that can impact any construction project (*e.g.*, weather conditions, supply chain problems, etc.).

Joint Utilities' Proposed Solutions

Small Generator Study Process (applicable to Idaho Power, PGE, and PacifiCorp's CSP queue)

Include specified study timelines akin to the OATT, with an explanation that the timeline contemplated in the rule starts when the utility actually begins the study (not when the interconnection request is received) and does not include the time required for any restudies

caused by higher-queued projects withdrawing. Under a serial study framework, the utility cannot begin the study until all higher priority studies have been completed and may need to re-study a project if a higher-queued project drops out. The rules/guidelines should explain how the serial process works to ensure realistic expectations.

Interconnection Agreement Milestones

To promote contractual certainty and ensure that customers understand the impacts of missing milestones or failing to make payments required in their executed interconnection agreement, the Joint Utilities propose that the rules/guidelines include standardized milestones and clearly explain the consequences of missing milestones. Although such consequences are currently addressed in the interconnection agreement itself, explaining them in the rules as well will ensure customer expectations are set early in the process and will emphasize the importance of meeting milestones to keep the interconnection timeline on track.

While the time between milestones will necessarily vary, every agreement should include a common set of basic milestone events that will be consistent for all generators. The typical milestones that could be included in every agreement are:

- Date by which customer provides initial project design
 - Date when utility will begin engineering and procurement
 - Date by which customer obtains necessary permits/rights-of-way (ROW)
 - Date by which customer provides final design
 - Date when engineering is complete
 - Date when customer provides utility with initial relay settings
 - Date when construction begins
 - Date when construction ends
 - Date when commissioning is complete (requires operational communication circuits)
 - Date when customer completes testing
 - Commercial operation date (COD)/permission to operate
- The rules/guidelines should set out clear consequences for missing milestones, which will be reiterated in the interconnection agreement (consistent with current practice).

- The consequences must include, at a minimum, that a missed milestone will cause at least a day-for-day delay in completing the remaining milestones and in the ultimate COD/permission to operate, but the rules/guidelines should account for the fact that the resulting delay could be longer depending on the specific nature of the missed milestone, the time to cure the missed milestone, and other relevant factors that impact the design and construction for the specific interconnection customer (*e.g.*, if construction must occur during a specific season and that season is missed due to a missed milestone, then the delay could be longer).
- Work stoppages will also result from a missed milestone, including missed progress payments.
- If Staff seeks to prevent the common scenario where projects sit idle for many months making no progress towards interconnection, then the rules/guidelines could set out a clear cure period by which the customer must resolve the missed milestone.

Required Interconnection Agreement Amendments

The rules/guidelines should require that parties work in good faith to amend the interconnection agreement in the following circumstances:

- When the customer misses a milestone. The amended agreement should update future milestones.
- Upon a change in ownership of the project.
 - When the interconnection agreement is amended, the utility and its new counterparty should include language verifying all terms remain in effect (or, if they are changing, new interconnection agreement language detailing the changes). This can prevent confusion regarding some issues (*e.g.*, the type or amount of equipment the interconnection customer plans to install) that may change when a project is transferred to a new owner.
 - If the new interconnection customer is installing different equipment, or has new proposals for on-site design, they should be included in the amended interconnection agreement to avoid disputes later. The amended interconnection agreement also provides an opportunity to include updated milestone dates as necessary to accommodate restudy/redesigns that may be required as a result of the different equipment.
- If either party is unable to obtain a necessary easement or permit, requiring a redesign. The time necessary for the redesign process may require pushing back milestones, and it is important to memorialize the new design in the interconnection agreement.

- Upon project completion if the as-installed equipment at the project site is different from what was reflected in the interconnection agreement.

The rules/guidelines should make clear that the utility will stop work if the interconnection customer will not execute an interconnection agreement amendment and that any resulting delay will need to be accounted for in the ultimate amended agreement.

Communication and Coordination

Several common sources of delay could be mitigated, and customers could ensure they have realistic expectations, if the parties regularly communicate regarding key issues affecting project schedules. The Joint Utilities recommend that the rules/guidelines require:

- The interconnection customer to provide its construction schedule to the utility, along with all necessary drawings, and to update the construction schedule as necessary whenever material changes occur. (Ideally, the milestones would include a date by which the initial plan must be provided.)
- Bi-monthly meetings between the utility and the interconnection customer, unless both parties agree otherwise in writing. (For efficiency, combine meetings for a single developer with multiple projects.) If the interconnection customer has missed a progress payment (resulting in a work stoppage), then the bi-monthly meetings will cease. The bi-monthly meetings will resume after the interconnection customer makes the required progress payment.
- Utility and the interconnection customer each keep detailed minutes of bi-monthly meetings and then share and approve those minutes. At a minimum, the minutes should outline the steps each party has taken in the preceding month to advance the interconnection and provide updates on the specific issues below.
 - Alternatively, if the parties do not hold bi-monthly meetings, each must prepare and exchange bi-monthly progress reports conveying the same information.
- In the bi-monthly meetings and reports, the utility and the interconnection customer must provide regular updates on the impact of external constraints on meeting milestones, including but not limited to:
 - Landowner easements/ROW
 - Public or private permits necessary to complete milestones
 - Unanticipated supply chain constraints on major equipment deliveries.

- Interconnection customer financing milestones that may result in work stoppage or delay in completion of interconnection agreement milestones.²
- Impact of restrictions on utility operations based on fire season restrictions or temporary weather emergencies. (Note that utilities have a similar notice obligation for emergency conditions per OAR 860-082-0075(1).)
- Repeated failure to comply with communication requirements will result in the utility stopping work.

Site Visits

The rules/guidelines should require site visits as follows:

- The parties must schedule a mandatory joint site visit before the interconnection customer begins construction of the facilities to be interconnected. The interconnection customer may not build its facilities prior to the visit. During the visit, the interconnection customer and utility must agree to the location of utility access roads, poles, and other equipment needed on-site to complete the interconnection. After the visit, the parties must circulate documentation regarding the location of their respective on-site equipment. Any disagreements about the documentation must be resolved before the interconnection customer or the utility may commence construction.
- The parties must schedule a mandatory joint site visit after the interconnection customer completes construction of the facilities to be interconnected.
- Scheduling these site visits may not be unreasonably delayed by either party.

² For example, completion of interconnection of two community solar projects were delayed by a large developer based on the timing of its tax equity financing program.