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May 30, 2025

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-referenced docket, please find the Joint Utilities' Comments on Phase II Workshop Issues.

Please contact this office with any questions.

Sincerely,

Cole Albee
Paralegal
McDowell Rackner Gibson PC

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 2111

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Investigation Into Interconnection Process and Policies.	**JOINT UTILITIES' COMMENTS ON PHASE II WORKSHOP ISSUES**

I. INTRODUCTION

In accordance with Staff's Opportunity for Comments issued on May 9, 2025, Portland General Electric Company (PGE), PacifiCorp, d/b/a Pacific Power (PacifiCorp), and Idaho Power Company (Idaho Power) (together, the Joint Utilities) submit these Comments on Phase II Workshop Issues. These comments build on the Joint Utilities' "Proposals for 'Enforceable Timelines' Track" that were discussed at the April 4, 2025, workshop (hereinafter, the Proposal).[1]

The Joint Utilities appreciate the opportunity to submit these comments and look forward to reviewing Staff's proposal once it is released. Given the productive discussion at the numerous workshops, the Joint Utilities will not reiterate all the recommendations and concerns previously discussed. Instead, these comments focus on a handful of new issues that arose at the May 7, 2025, workshop, including the process for amending interconnection agreements, the interconnection customer option to build, and the ability of an interconnection customer to co-sign a construction contract.

[1] The Proposal was also filed and is available here: https://edocs.puc.state.or.us/efdocs/HAC/um2111hac335921115.pdf

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These comments do not provide a process recommendation, but once Staff releases its proposal and the scope and issues are better understood, the Joint Utilities will provide a recommendation on implementation (i.e., whether to use a contested case, rulemaking, or general investigation). The Joint Utilities understand that Staff intends to provide its proposal at the end of June and given the confluence of summer travel and case schedules, the Joint Utilities request that Staff allow ample time for parties to analyze and respond to Staff's proposal.

II. COMMENTS

A. Process to Amend Interconnection Agreements

The Joint Utilities' Proposal includes a specific process for determining when amendments to an interconnection agreement would be required, including, for example, when a project development milestone is missed, when there is a change of ownership, when the interconnection customer plans to install different equipment, or when the interconnection customer is unable to obtain a necessary easement or permit, thereby requiring redesign of the interconnection requirements. In each of these examples an amendment would be required to update the project development timeline, interconnection requirements, and/or cost estimate to reflect the changed circumstances. The Proposal calls for the parties to work in good faith to amend the interconnection agreement to reflect the change in circumstances and provides that interconnection work will stop until an amendment to the agreement is signed by both parties.

The Proposal is intended to minimize delays by encouraging timely execution of the amendment so work can recommence under the updated contractual terms. The work stoppage also reflects the commonsense reality that a utility should not expend time and resources to interconnect a project without knowing that, despite the change in circumstances, the

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interconnection customer intends to proceed with the interconnection and agrees to pay any additional costs of completing interconnection.

During the May 7, 2025, workshop, stakeholders discussed a new proposal to avoid delays in executing an amended interconnection agreement. As the Joint Utilities understand it, when an amendment is required, the interconnection customer would have the ability to include in the amended agreement a provision reserving the customer's rights to dispute the terms of the amended agreement at some point in the future, presumably after the interconnection work undertaken pursuant to the amended agreement has been completed and costs of the interconnection work are paid to the utility.

The Joint Utilities oppose this proposal. If there is a dispute over the terms of the amended agreement, that dispute should be resolved *before* the amendment is signed, not after. While including a reservation of rights may expedite execution of an amendment, it benefits neither the utility nor the interconnection customer to execute an amendment when there is disagreement over the amendment's terms.

To understand the downside risk of this proposal, it is important to recall that in most circumstances, the need for an amended agreement results from actions taken, or not, by the interconnection customer (e.g., changing ownership, changing equipment or design, or failing to obtain necessary permits or easements). When an amendment requires an updated scope of work and/or cost estimate, any dispute over the scope of work or cost estimate should be resolved before the work begins so that both parties have a clear and mutual understanding of the work that will be completed, the expected timeline for completion of that work, and the estimated costs. This approach is consistent with the Commission's interconnection rules, which specifically require that the interconnection customer agrees to pay the estimated costs to interconnect its project

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before the utility begins work.[2] From the utility's perspective, it makes little sense to expend resources to construct facilities pursuant to an amended interconnection agreement that the counterparty is going to dispute. And from the customer's perspective, it makes little sense to expend resources to construct its own interconnection facilities and generating facility without knowing if it can afford to pay for the full scope of interconnection work for which it is ultimately responsible. Delaying dispute resolution until after costs are incurred and facilities are constructed benefits neither party.

B. Option to Build

The Joint Utilities support adopting the same general framework in the small generator interconnection rules that is currently embodied in the federal Large Generator Interconnection Agreement (LGIA),[3] which allows interconnection customers to construct certain interconnection facilities and system upgrades.[4] If the LGIA framework were incorporated into the small generator rules, an interconnection customer could assume responsibility for the design, procurement and construction of the utility's interconnection facilities and stand-alone system upgrades. Interconnection facilities would include all facilities and equipment between the generating facility and the point of interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the generating facility to the distribution system. Stand-alone system upgrades would be system upgrades that the customer may construct without affecting day-to-day operations of the distribution system during their construction. In

[2] OAR 860-082-0035(5) ("A public utility may not begin work on interconnection facilities or system upgrades before an applicant receives the public utility's good-faith, non-binding cost estimate and provides written notice to the public utility that the applicant accepts the estimate and agrees to pay the costs.").
[3] This framework has also been adopted in Idaho Power's Qualifying Facility LGIA.
[4] The LGIA discusses "Network Upgrades" rather than "system upgrades," which is the term used in the Commission's small generator interconnection rules. Despite the different nomenclature, for purposes of this proposal the terms have the same meaning.

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practice, this means that construction work of virtually any kind could be completed by the interconnection customer as long as the construction work does not have contact with the distribution system or otherwise impact other customers. If an interconnection customer performs any construction work under this proposal, the party responsible for the construction work and the scope of work would be agreed to and documented in the interconnection agreement, and the customer would need to follow utility standards and be subject to utility oversight.

During the workshop, stakeholders requested additional specificity regarding the types of construction that could occur under this proposal. While every interconnection will be fact-specific so there are not universal rules that would apply in all circumstances, the Joint Utilities offer the following non-exhaustive list of construction work that could potentially be performed by an interconnection customer as long as the work does not touch the distribution system or impact other customers: digging a trench; constructing, moving, or tearing down a fence; constructing, moving, or removing a pole; constructing an access road; installing conductors; installing a transformer; installing metering switchgear; or installing protective equipment.

C. Co-signing Construction Contracts

The Joint Utilities often retain outside construction contractors to perform the work required to interconnect small generators. During the workshop, stakeholders recommended allowing the interconnection customers to co-sign the contract between the utility and the construction contractor. While stakeholders provided few details around this proposal, as the Joint Utilities understand it, both the utility and the customer would sign the contract thereby allowing the customer to exert some amount of control and/or obtain greater visibility into the work performed by the contractor. The Joint Utilities oppose this recommendation because it creates significant and unworkable complexities while providing little benefit.

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As an initial matter, the Joint Utilities are unaware of any comparable circumstances where a utility and a customer would co-sign a construction contract and the legal consequences of doing so are unclear, creating significant contractual risk. For example, if there are now three parties to the agreement, it is unclear who, as between the utility and the interconnection customer, is ultimately responsible for managing the agreement, directing the construction contractor, authorizing work, or approving change orders; what happens if the utility and the interconnection customer are providing conflicting directions to the contractor; and who is ultimately liable if a dispute arises or invoices go unpaid. If these questions are all resolved in a way that maintains the current framework whereby the utility is solely responsible for the contract, then there appears to be no reason for the customer to co-sign the agreement. And if these questions are resolved in a way that grants the customer some amount of control, then the significant risks and contractual complexities weigh against adopting the proposal. In short, this proposal would create unnecessary complexity, increase the risk of disputes, and provide little potential benefit and should therefore be rejected.

Moreover, the purported transparency benefits referenced at the workshop (i.e., providing interconnection customers with more visibility into the work undertaken by contractors) can be achieved with much less legal risk and complexity if the Commission adopts the communications protocols recommended in the Joint Utilities' Proposal. Ensuring there are regular communications channels between utilities and customers provide customers with ample opportunities to inquire into the pace or costs of work undertaken by utilities' contractors without unnecessary changes to contracting processes.

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III. CONCLUSION

The Joint Utilities appreciate the opportunity to submit these limited comments, which complement the previously submitted Proposal and the discussion at the numerous workshops held to date. The Joint Utilities also look forward to reviewing Staff's proposal and to continued discussions regarding how best to implement changes to the small generator interconnection procedures.

DATED: May 30, 2025.

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