

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 10, 2020**

REGULAR X **CONSENT** **EFFECTIVE DATE** **N/A**

DATE: March 2, 2020

TO: Public Utility Commission

FROM: Natascha Smith

THROUGH: Michael Dougherty and JP Batmale **SIGNED**

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1930)
Community Solar Projects for Pre-Certification Consideration.

STAFF RECOMMENDATION:

The Oregon Public Utility Commission (OPUC or Commission) should accept the recommendation of the Program Administrator of the Community Solar Program (CSP or Program).

DISCUSSION:

Issue

Whether the Commission should accept the recommendation of the Program administrator to not pre-certify the proposed Community Solar Project.

Applicable Rule or Law

Section 22 of Senate Bill (SB) 1547, effective March 8, 2016, and codified in ORS 757.386, directs the Commission to establish a community solar program.

On June 29, 2017, the Commission adopted formal rules for Oregon's Community Solar Program under OAR Division 88 of Chapter 860. OAR 860-088-0040 details the requirements for Project pre-certification.

Analysis

Background

On January 21, 2020, the CSP platform began accepting applications for Project pre-certification. As required by OAR 860-088-0040(3), the CSP Program Administrator has reviewed the following application and recommended the Commission not pre-certify this project.

Projects

Project Name	Name of PM	Utility Territory	Project Size (kW-AC)	Recommendation	Attachment
Pilot Rock Solar 2	Pilot Rock Solar 2, LLC	Pacific Power	2990	Not Recommending	Attachment A

Program Administrator Reasoning for Not Recommending

The Program Administration team is charged with evaluating applications for pre-certification and making recommendations to the Commission. The Program Administrator has recommended that the Commission not pre-certify the Pilot Rock Solar 2 Project and provided the rationale below for that recommendation.

Pilot Rock Solar 2 has not completed a System Impact Study, which is required prior to Pre-certification for this Project, as it does not qualify for the Program's Designated Project Carve-Out. The Project Manager has requested a waiver from this requirement. The Program Administrator recommends that the Commission deny this waiver and reject the Project's Pre-certification application.

In the Pre-certification application for Pilot Rock Solar 2, the Project Manager has provided a fully executed Interconnection System Impact Study Form Agreement with Pacific Power for the Pilot Rock Solar 2 Project, dated August 29, 2018. This document demonstrates that the required study has been initiated but not completed. The Project's listing in the Pacific Power interconnection queue confirms that a System Impact Study has not been completed. Pilot Rock Solar 2 is not likely to benefit from the development of Pacific Power's community solar interconnection queue because the relevant distribution circuit does not have adequate Minimum Daytime Load to accommodate the Project.

The Project Manager has submitted a waiver request, Attachment B, asking that the requirement for a completed System Impact Study be waived. In this waiver request, the Project Manager notes the delay in receiving a completed System Impact Study from Pacific Power and argues that the Project Manager is not at fault for not having

completed the study.

However, it is our understanding that there are numerous Projects in Pacific Power's general interconnection queue that face similar barriers to completing a System Impact Study and interconnecting as community solar Projects. We do not believe that it is appropriate to grant a single exception to an issue that may affect multiple competing Projects, as this would set a precedent that invites future waiver requests from Projects in the same position as Pilot Rock Solar 2.

Therefore, while the Program Administration team sympathizes with the delay that the Project Manager has experienced in completing its System Impact Study, we do not recommend granting this waiver request. As a result, we recommend that the Commission deny the Pilot Rock Solar 2 Pre-certification application, but we would welcome the Project Manager to submit a new Pre-certification application after it has completed its System Impact Study.

Staff Assessment

Staff is also sympathetic to the delays in the interconnection process faced by Projects. The CSP has provided an opportunity for Projects who meet certain criteria to utilize a streamlined CSP specific interconnection process. Pilot Rock Solar 2 chose not to utilize the CSP interconnection Process and instead remains in PacificPower's traditional interconnection queue. Staff notes for the Commission, that during the PIM development process Sunthurst Energy LLC, the entity who applied for interconnection of the Pilot Rock Solar 2 Project, was one of the CSP's most vocal proponents for the inclusion of the requirement that Projects have a completed interconnection study prior to pre-certification. Additionally, Staff believes that a pre-certification waiver is not the appropriate venue to address the Project's contentions that PacificPower breached the Commission's rules on small generator interconnections and its interconnection Study Agreement with Sunthurst Energy LLC. Consequently Staff agrees with the Program Administrator's recommendation not to pre-certify this Project.

Conclusion

Based on the reasoning of the Program Administrator and a review of CSP requirements, Staff ultimately recommends that the Commission not pre-certify this Project.

PROPOSED COMMISSION MOTION:

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Accept the recommendation of the Program Administrator and elect not to pre-certify the proposed Pilot Rock Solar 2 Project for the Community Solar Program.

UM 1930 Projects for Pre-certification Consideration



Community Solar Pre-Certification Recommendation

Public Meeting Date: 3/10/20

Project Overview

Project ID:	PP-2020-8
Project Name:	Pilot Rock Solar 2
Project Manager:	Pilot Rock Solar 2, LLC
Site Address:	0 Pilot Rock 97868
Utility Territory:	Pacific_Power
Project Size (kW-AC):	2990
Applicable Designations :	NA
Development Entity Type:	LLC
Projected COD:	NA
Project Description:	2.99-3.00mW-ac ground mount system in City of Pilot Rock industrial park. Zoning and building permits complete. Signed SIS with utility in July 2018.

Participation and Billing Structure

Low Income Recruitment Method:	Low-Income Coordinator
Low-Income Participation:	10 %
Residential & Small Business:	40 %
Large Commercial, Agricultural, & Industrial:	50 %
Ownership or Subscription:	0

Requirements Checklist (OAR 860-088-0040)

Project manager has registered with the CSP:	Yes	10/10/2019
Meets all insurance project requirements:	Yes	
Submitted a detailed description of the project:	Yes	
Has obtained all non-ministerial permits:	Yes	
Has complied with interconnection requirements:	Yes	
Submitted participant acquisition approach:	Yes	
Submitted plan for meeting low-income requirements:	Yes	
Submitted estimated project cost information:	Yes	
Submitted development timeline:	Yes	

PA Recommendation:

Recommendation: Not_Recommending
Recommendation Date: 3/10/2020

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The Project Manager has submitted a waiver request, attached, asking that the requirement for a completed System Impact Study be waived. In this waiver request, the Project Manager notes the delay in receiving a completed System Impact Study from Pacific Power and argues that the Project Manager is not at fault for not having completed the study.

However, it is our understanding that there are numerous projects in Pacific Power's general interconnection queue that face similar barriers to completing a System Impact Study and interconnecting as community solar projects. We do not believe that it is appropriate to grant a single exception to an issue that may affect multiple competing projects, as this would set a precedent that invites future waiver requests from projects in the same position as Pilot Rock Solar 2.

Therefore, while the Program Administration team sympathizes with the delay that the Project Manager has experienced in completing its System Impact Study, we do not recommend granting this waiver request. As a result, we recommend that the Commission deny the Pilot Rock Solar 2 Pre-Certification application, but we would welcome the Project Manager to submit a new Pre-Certification application after it has completed its System Impact Study.

February 10, 2020

VIA ELECTRONIC MAIL (Administrator@oregoncsp.org)

Project Administrator
Oregon Community Solar Program

RE: Oregon Community Solar Program
Project PP-2020-08 Request for Waiver of Interconnection Study Requirement

To the Project Administrator:

On February 6th, you advised Sunthurst Energy LLC (“Sunthurst”) that its application for Pre-Certification for Oregon’s Community Solar Program (CSP) for its 2.99 MW Pilot Rock Solar 2 Project (PP-2020-08) is deficient because the project has not completed an interconnection study (“If a study deposit has been paid but the study has not been completed, this project would not be eligible for Pre-Certification at the is time”). Sunthurst hereby requests a waiver of the completed interconnection study requirement.

For avoidance of doubt, the Pilot Rock Solar 2 Project has not just paid a study deposit; it also has an *executed* Study Agreement dated August 27, 2018 wherein PacifiCorp promised to complete the interconnection study in 30 business days. Waiver of the interconnection study requirement as applied to Pilot Rock Solar 2 (“PRS-2”) is warranted where: (1) PacifiCorp has prevented PRS-2 from obtaining an interconnection study for over 17 months in breach of the Commission’s rules governing interconnection of small generators and its executed Study Agreement; (2) waiver would not directly harm others; and (3) failure to grant a waiver likely would cause irreparable harm to PRS-2.

Standard for Waiver

The Commission adopted the Community Solar Program Implementation Manual (PIM) on December 17, 2019, thereby establishing a framework for application, pre-certification, and final certification of project eligibility for Oregon’s CSP. Order No. 19-438. In approving the PIM, the Commission authorized the Project Administrator (PA) to advocate for waiver of any provision of the PIM where strict adherence to the PIM requirements would undermine program goals¹ and raise significant equity or policy concerns. *Id.* Slip op. at 1. The strong equitable considerations affecting PP-2020-08 make it an ideal candidate to be the PA’s first waiver recommendation.

¹ “The goal of the Oregon Community Solar Program is to expand access to solar energy for customers who are not able to or do not want to invest in a rooftop system, including but not limited to renters, people who live in multifamily buildings, low-income customers and small businesses in rented or leased space. Customers can purchase energy from a community solar project--such as a large solar system on a business, school or church--and receive a credit on their monthly utility bill for the electricity from their portion of the project.” PIM at 4.

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Relevant Facts

Sunthurst is an Oregon LLC engaged in development of community and utility scale solar electric projects in Oregon. Sunthurst is a strong supporter of community solar and has devoted over 100 hours participating in stakeholder meetings, workshops and discussions regarding Oregon's CSP. In reliance on the newly enacted CSP legislation, Sunthurst has invested over \$80,000 in developing the 2.99 MW Pilot Rock Solar 2 (PRS-2) solar facility, to be located within the City limits of Pilot Rock, Oregon, south of Pendleton, in PacifiCorp service territory. Sunthurst controls the site and other rights necessary to build the project.

In August 2018, PRS-2 and PacifiCorp executed an Interconnection System Impact Study (SIS) Agreement (attached hereto as "**Attachment 1**"), wherein PacifiCorp promised in good faith to complete a System Impacts Study 30 business days after the date PRS-2 paid its deposit. PRS-2 paid its deposit on August 7, 2018, (see **Attachment 2**), but is still waiting for PacifiCorp to complete its SIS.

PacifiCorp's failure to complete the SIS jeopardizes PRS-2. The Interim Offering will be allocated on a first-come, first-served basis. Projects that are not within the capacity limit of the Interim Offering "may be subject to different Bill Credit Rates or other requirements that impact the economics or other factors of Projects in the queue." PIM at 6.

On January 10, OPUC staff recommended implementation of a new interconnection queue for CSP projects ("CSP interconnection queue"). While the CSP queue purports to be available to all CSP projects, only those projects that pass circuit-by-circuit size-eligibility limits are eligible. PRS-2 (along with most other 3MW CSP projects seeking to interconnect to PacifiCorp) is ineligible to participate in the CSP Interconnection process.²

PacifiCorp recently informed PRS-2 that it plans to complete the 2018 PRS-2 SIS study in "6 to 8 months". This is much longer than the 3 to 6 months Staff estimates PacifiCorp will take to complete interconnection studies for new applicants in the CSP Interconnection Queue. Accordingly, by the time PacifiCorp completes PRS-2's SIS, any project that has entered the CSP interconnection queue in early 2020 is likely to have a completed interconnection study, and thereby become eligible for the Interim Offering, before PRS-2. If PacifiCorp's Interim Offering is fully subscribed before PRS-2 receives its SIS, PRS-2 will not be certified for the CSP Interim Offering.

Discussion

PacifiCorp's unexcused delay is the cause of PRS-2's delay. But for PacifiCorp's unilateral and extreme delay in completing its SIS, PRS-2 would not be at risk of losing CSP Interim Offering eligibility. The SIS schedule provides that "The Public Utilities good faith estimate for the time

² Under PacifiCorp's implementation of the dedicated CSP interconnection queue, a project may be eligible if its capacity, together with all other interconnected and requested generation in the local area, is less than 100 percent of minimum daytime load (MDL). UM 1930 Order 19-392, Appendix A at 8. PacifiCorp has informed PRS-2 that it is ineligible for the CSP interconnection queue because its size exceeds the size limit for its circuit set forth in the CSP Interconnection rules.

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of completion of the System Impacts Study is 30 business days after the Applicant returns the executed study, required technical data and requested deposit.” Attachment 1, p. 5. OAR 860-082-0060(6)(d) of the Small Generator Interconnection Rules requires the utility make “reasonable, good-faith efforts to follow the schedule set forth in the feasibility study agreement for completion of the study.” As of the date of this waiver request, approximately 356 business days have passed since PRS-2 and PacifiCorp executed their SIS. Rather than making completion of PRS-2’s SIS a priority, PacifiCorp has decided instead to prioritize new CSP interconnection queue applications. But for this decision, PRS-2 would be among the first few CSP’s in PacifiCorp territory eligible for pre-certification.

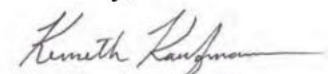
PRS-2 will be gravely harmed if waiver is not granted. If waiver is not granted, PRS-2, one of the earliest PacifiCorp-territory CSPs to apply for a transmission study, likely will not receive certification until PacifiCorp’s Interim Offering is fully subscribed. If this happens, Sunthurst stands to lose all of the time and effort invested in PRS-2; local residents interested in participating in the CSP with Sunthurst will be denied that opportunity.

Other projects will not be harmed. At this time, the PacifiCorp CSP Interim Offering queue is not oversubscribed. Therefore a waiver will not displace other eligible QFs that, like PRS-2, already have invested substantial time and effort in reliance on PacifiCorp’s CSP Interim Offering. PRS-2 is one of a small class of CSP projects that have executed interconnection study agreements with PacifiCorp, which PacifiCorp unilaterally refused to perform. Even if the Commission granted waiver for all CSP projects in PacifiCorp’s queue that have executed SIS agreements, there would not be harm to other PacifiCorp CSP applicants.

Conclusion

Equity and Policy concerns favor granting a waiver. Stakeholders in the CSP worked collaboratively to develop a streamlined interconnection process for CSP projects in order to break the logjam in processing of interconnection study requests from CSP projects. Nobody in that process ever intended that it would result in new CSP projects leapfrogging in front of early CSP projects with executed, unfulfilled, interconnection studies. Stakeholders in the CSP implementation know well the good faith efforts expended by Sunthurst to help design and develop a community solar program that will be sustainable, fair, and consistent with the statute that created it. For the reasons above, it would be fundamentally unfair if PRS-2 is denied pre-certification because PacifiCorp refused for nearly 18 months to process its SIS. Waiver will permit PRS-2 to deliver a project notwithstanding PacifiCorp’s unjustifiable delay.

Sincerely,



Ken Kaufmann, Attorney at Law
Attorney for Sunthurst Energy, LLC

Enclosures

Attachment 1--Interconnection System Impact Study Agreement executed August 29, 2018
Attachment 2--Proof of Payment of SIS fee



AUG 29 2018

TRANSMISSION SERVICES
PACIFICORP
Form 4**Interconnection System Impact Study Form Agreement**

This agreement is made and entered into this 29th day of August, 2018 by and between Pilot Rock Solar 1, LLC (Q1045), a limited liability company organized and existing under the laws of the State of Oregon, ("Applicant,") and PacifiCorp, a corporation existing under the laws of the State of Oregon, ("Public Utility"). Applicant and Public Utility each may be referred to as a "Party," or collectively as the "Parties."

Recitals:

Whereas, The Applicant is proposing to develop a Small Generating Facility or adding generating capacity to an existing Small Generating Facility consistent with the Application completed on July 17, 2018 and;

Whereas, The Applicant desires to interconnect the Small Generating Facility with the Public Utility's Transmission System and/or Distribution System ("T&D System");

Whereas, the Interconnection Customer requested that the Transmission Provider forego an initial Feasibility Study; and

Whereas, The Applicant has requested the Public Utility perform an Interconnection System Impact Study to assess the impact of interconnecting the Small Generating Facility to the Public Utility's T&D System and on any Affected Systems;

Now, therefore, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1. When used in this agreement, with initial capitalization, the terms specified shall have the meanings given in OAR 860-082-0005 through 860-082-0085.
2. Applicant elects and Public Utility shall cause to be performed an Interconnection System Impact Study consistent with OAR 860-082-0060(7).
3. The Parties shall set out the assumptions to be used in conducting the System Impacts Study in Attachment A which is incorporated as part of this agreement.
4. The Interconnection System Impact Study will be based upon the results of the Interconnection Feasibility Study and the technical information provided by Applicant in the Application. The Public Utility reserves the right to request additional technical information from Applicant as may reasonably become necessary consistent with Good Utility Practice during the course of the Interconnection System Impact Study. If the Applicant modifies its designated Point of Interconnection, its Application, or the technical information provided therein is modified, the time to complete the Interconnection System Impact Study may be extended.

Interconnection System Impact Study Form Agreement

5. The Interconnection System Impact Study report shall provide the following information:

5.1 Identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection,

5.2 Identification of any thermal overload or voltage limit violations resulting from the interconnection,

5.3 Identification of any instability or inadequately damped response to system disturbances resulting from the interconnection and

5.4 Description and good faith non-binding, estimated cost of facilities required to interconnect the Generating Facility to Public Utility's T&D System and to address the identified short circuit, instability, and power flow issues.

6. As required by OAR 860-082-0060(7)(a), Attachment B to this agreement provides a scope for the Interconnection System Impacts Study, a reasonable schedule for completion of the study, and a good-faith, non-binding estimate of the cost to perform the Interconnection System Impacts Study. Barring unforeseen circumstances, the Interconnection System Impact Study shall be completed and the results transmitted to the Applicant within 30 Business Days after this agreement is signed by the Parties

7. The Public Utility may require a study deposit in an amount permitted by OAR 860-082-0035(1) and the Public Utility shall have no obligation to begin the System Impact Study until such time as the Applicant has paid such deposit.

8. The Applicant agrees to pay the actual cost of the Interconnection System Impacts Study. Study fees shall accord with OAR 860-082-0035(1) and will be based on actual costs. For purposes of OAR 860-082-0030(b), this provision shall constitute the Applicant's written authorization for the Public Utility to incur and assess costs in excess of the initial application fee.

9. 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 Public Utility has 20 additional Business Days to complete a system impact study requiring review by Affected Systems.



Form 4

Interconnection System Impact Study Form Agreement

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:

PacifiCorp

Signed Kris Bremer Date 8/29/18Name (Printed): Kris Bremer Title Director, Generation Interconnection

Pilot Rock Solar 1, LLC (Q1045)

Signed DHale Date 8.6.18Name (Printed): Daniel Hale Title Owner

Interconnection System Impact Study Form Agreement**Attachment A: Interconnection System Impact Study Agreement****Assumptions Used in Conducting the Interconnection System Impact Study**

As stated in the recitals to this Agreement, the Interconnection Customer requested that the Transmission Provider forego an initial feasibility study. Accordingly, and notwithstanding what is otherwise stated in Section 4 of the Agreement, the system impact study shall be based on the information provided to date by Interconnection Customer, subject to any modifications in accordance with OAR 860-082-0005 through 860-082-0085, and the following assumptions:

1. Designation of Point of Interconnection and configuration to be studied.
 - Circuit 5W406 out of Pilot Rock substation at 12.5 kV (at approximately 45° 30' 54.94"N, 118° 49' 58.28"W)
2. Designation of alternative Points of Interconnection and configuration.
 - None
3. Other Assumptions:
 - None from Public Utility

Note: Information for section 1 and 2 have been provided and/or confirmed by the Applicant, item 3, Other Assumptions, have been provided and/or confirmed by the Applicant or the Public Utility.

Interconnection System Impact Study Form Agreement**Attachment B: Interconnection System Impacts Study Agreement****Detailed Scope, Reasonable Schedule, and Good-Faith non-Binding Cost Estimate for Interconnection System Impacts Study**

1. Detailed Scope:

Identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection,

Identification of any thermal overload or voltage limit violations resulting from the interconnection,

Identification of any instability or inadequately damped response to system disturbances resulting from the interconnection and

Description and good faith non-binding, estimated cost of facilities required to interconnect the Generating Facility to Public Utility's T&D System and to address the identified short circuit, instability, and power flow issues.

2. Reasonable Schedule:

The Public Utilities good faith estimate for the time of completion of the System Impacts Study is 30 business days after the Applicant returns the executed study, required technical data and requested deposit.

3. Estimated study costs:

In accordance with OAR 860-082-0035(1), the Applicant will need to provide a deposit in the amount of \$1000. The estimated study cost for the system impact study is \$10,000. The Applicant is only responsible for the actual costs of the system impact study which will be compiled upon the conclusion of the system impact study.

ATTACHMENT 2**ATTACHMENT B**

Transfer Submitted

[close window](#)[Print this Page](#)**Transfer status: In Process****Confirmation Number: 238521606****Transfer Accounts****From:** Business Fundamentals Chk - 8496**To:** PacifiCorp (Chase Bank)**Transfer Details****Send amount**

Send amount: \$1,000.00

Additional fee: \$10.00

Transfer description**Transfer dates**

Frequency: One time, immediately

Delivery speed: Next Business Day

Delivery method: ACH

Start on date: 08/06/2018

Estimated delivery date: 08/07/2018

Note:The receiving bank may make funds available later than this.**Send email to recipient**

Email to: Anastasia.Belesiotis@pacificorp.com

Email from: daniel@sunthurstenergy.com

Subject: Money Transfer from DANIEL HALE

Message: Hi, \$1000 is being transferred electronically to your account at Chase Bank. Contact me directly if you have any questions. I've chosen to have this message sent from my bank to confirm that the transfer is scheduled. Regards,
DANIEL

Transfer on behalf of

Name:

ID:

Email: