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A DIVISION OF PACIFICORP

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August 8, 2008

VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY

Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, OR 97301-2551

Attention: Vikie Bailey-Goggins
Administrator, Regulatory Operations

Re: **Docket AR 521** – PacifiCorp's Third Set of Comments

PacifiCorp, d.b.a. Pacific Power, hereby submits its Third Set of Comments in the above-referenced matter.

Questions on this filing may be directed to Joelle Steward, Regulatory Manager, at (503) 813-5542.

Sincerely,

Andrea L Kelly/RS

Andrea L. Kelly
Vice President, Regulation

Enclosure

cc: AR 521 Service List

CERTIFICATE OF SERVICE

I certify that I have cause to be served the foregoing **PacifiCorp's Third Set of Comments** in OPUC Docket No. AR 521 by electronic mail and first class mail to the parties on the attached service list.

Date this 8th day of August, 2008.

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

AR 521

In the Matter of a Rulemaking to Adopt Rules Related to Small Generator Interconnection	)))	PacifiCorp's Third Set of Comments

INTRODUCTION

PacifiCorp appreciates the opportunity to comment on Staff's proposed Oregon small generator interconnection rules (Proposed Rules). These comments are based on the Proposed Rules contained in the Memorandum and Notice of Workshop issued by Administrative Law Judge Sarah Wallace in the above-captioned docket on June 4, 2008. PacifiCorp reserves the right to submit additional comments in this proceeding.

COMMENTS

1. Isolation Devices. Proposed Rule OAR 860-082-0030(4)(b) establishes certain circumstances under which a visible, lockable, air-brake type disconnect switch is not required. PacifiCorp believes that the safety of crews, meter readers, other employees, and the public requires lockable, visible, air-break type disconnect switches for all interconnections governed by the Proposed Rules. PacifiCorp has stated its reasons for this position in both its initial comments and in its second set of comments in this docket. PacifiCorp hereby incorporates its prior comments regarding this issue and reiterates its request that the Commission revise Proposed Rule OAR 860-082-0030(4)(b) to eliminate all exceptions to the requirement that every interconnection include a visible, lockable, air-break type disconnect switch.

2. Insurance. Proposed Rule OAR 860-082-0040(b) authorizes a public utility to require an applicant or an interconnection customer to obtain prudent amounts of general liability insurance if their small generator facility has a capacity in excess of 200 kilowatts. Proposed Rule OAR 860-082-0040(a) prohibits a public utility from requiring such insurance from an applicant or interconnection customer if their small generator facility has a capacity of 200 kilowatts or less. PacifiCorp believes a public utility should be allowed to require all interconnection customers to carry prudent amounts of insurance. PacifiCorp has stated its reasons for this position in both its initial comments and in its second set of comments in this docket. PacifiCorp hereby incorporates its prior comments regarding this issue. PacifiCorp continues to believe that the risks insured under an interconnection agreement are different in character from the risks insured under a power purchase agreement and that there is no rational basis for exempting small generators from a reasonable insurance requirement. By doing so, the Commission merely passes risk and cost from the interconnection customer to the ratepayer or

shareholder. The Proposed Rules should allow a public utility to require prudent amounts of insurance from all interconnection customers.

3. NERC and WECC Reliability Standards. In prior comments, PacifiCorp has argued that the reliability standards promulgated by the North American Electric Reliability Corporation (NERC) and the Western Electricity Coordinating Council (WECC) should be recognized as legitimate reasons for the imposition of certain interconnection requirements. During the June 18 workshop in this docket, Commission staff appeared to agree that the addition of a third-party generation facility to a public utility's system could impact the utility's system in ways that would cause the system to violate reliability standards imposed by WECC or NERC. Commission staff evidently agreed that under such circumstances it would be legitimate for a public utility to require system upgrades as part of an interconnection in order to insure that the interconnection did not cause or contribute toward a violation by the utility system of any applicable NERC or WECC reliability standards.

PacifiCorp recommends the following revisions to address these concerns:

> Proposed Rules
> 860-082-0025(1)(e)(C)
> (C) A public utility may require the interconnection customer to pay for studies, interconnection facilities, system upgrades, or changes to the small generator facility or its associated interconnection equipment: (i) that are necessary to bring the small generator facility interconnection into compliance with the small generator interconnection rules or IEEE 1547 or 1547.1; or (ii) that are necessary to address the interconnection's impact on the public utility's transmission or distribution system and such system's ability to comply with reliability standards promulgated by the Western Electricity Coordinating Counsel or the North American Electric Reliability Corporation.

Please note that the language suggested above includes the addition of the term "studies" to the list of items for which an interconnection customer must pay. This change appears to be consistent with the requirement under the Proposed Rules that interconnection customers pay for required studies.

4. Metering. Metering and monitoring (telemetry) are both addressed in Proposed Rule OAR 860-082-0070. In order to avoid confusion, PaciCorp recommends treating these two subjects in separate rules. PacifiCorp hereby incorporates its prior comments regarding metering. PacifiCorp continues to believe that a public utility should have the authority to require a meter capable of telephonic meter interrogation. Moreover, where such a meter is required, the interconnection customer should be responsible for any additional meter expense and should be responsible for obtaining and maintaining continuous telecommunications service to the meter. The ability to require telephonic meter interrogation will allow public utilities to efficiently meter small generator facilities. In its recent comments in this docket, stakeholder Sorenson Engineering, Inc.,

agreed that telephonic meter interrogation is a reasonable requirement under most circumstances. *See*, June 11, 2008 Comments by Sorenson Engineering, Inc., at page 4.

PacifiCorp recommends the following revisions to address these concerns:

> Proposed Rules
> 860-082-0070
> ~~(1)~~ The public utility must install, maintain, test, repair, operate, and replace any ~~special~~ metering ~~and data acquisition~~ equipment necessary under the terms of the public utility's interconnection agreement, power purchase agreement, or power service agreement with the applicant or interconnection customer. The public utility may require that any metering equipment associated with a small generator facility be capable of being interrogated telephonically and that the interconnection customer obtain and maintain continuous telecommunications service to such meter. Such telecommunications may be provided through cellular, hardwire, or other appropriate technology and must be of sufficient reliability and quality to satisfy the public utility's reasonable requirements. The applicant or interconnection customer is responsible for providing and maintaining any required telecommunications service associated with the metering equipment and the applicant of interconnection customer is responsible for all costs associated with the ~~special~~ metering ~~and data acquisition~~ equipment. The public utility and the applicant or interconnection customer must have unrestricted access to such equipment as necessary to conduct routine business or respond to an emergency.

5. Telemetry. PacifiCorp has commented extensively on telemetry in its prior sets of comments and PacifiCorp hereby incorporates those comments. PacifiCorp continues to believe that frame relay and fractional T-1 line technology may be impractical and unnecessarily expensive in much of PacifiCorp' rural service territory. During workshops held in June 2008, stakeholders and OPUC staff discussed telemetry and it is PacifiCorp's understanding that the phrase "or other suitable device" found in OAR 860-082-0070(5)(a) is intended to allow for use of microwave, radio, or other technology when the circumstances so dictate. PacifiCorp urges the Commission to clarify this point in its order promulgating any final rule. PacifiCorp also reiterates its observation that NERC, WECC, FERC or IEEE may at a future date require telemetry at levels below 3 megawatts. PacifiCorp reiterates that use of microwave or radio communications technology may be required for fast relaying (e.g., transfer trip) in which case it would make economic sense to provide any necessary telemetry via the same communications medium. Finally, PacifiCorp reiterates its prior comment that the cost of telemetry is not merely a function of the cost of the communication medium used to deliver telemetry to a utility's dispatch center; there are also hardware and software costs associated with programming and routing telemetry signals to appropriate control systems. The Commission should note such costs in its order promulgating any telemetry rule and clarify that such costs are part of the overall cost of telemetry to be paid by the applicant or interconnection customer.

6. Limitation of Liability. For the reasons discussed in PacifiCorp's second set of comments dated November 27, 2007, PacifiCorp continues to support the following changes to Section 5.2 of the form interconnection agreement and under the condition that the indemnification provisions found in Section 5.3 of the form interconnection agreement are not similarly limited.

PacifiCorp recommends the following revisions to address these concerns:

> Proposed Form 8 (Interconnection Agreement)
> Section 5.2 Limitation of Liability ~~and Consequential Damages~~
> Each~~A~~ Party' s ~~is~~ liability~~liabile~~ to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, related to or arising from any act or omission in its performance of the provisions of this Agreement ~~an Interconnection Agreement entered into pursuant to the Rule except as provided for in ORS 757.300(4)(c). Neither Party will seek redress from the other Party in an amount greater than~~ shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as authorized by this Agreement.

7. Minor Modifications. The Proposed Rules make use of the concept of "minor modifications" in the Tier 2, Tier 3, and Tier 4 review processes. The concept appears to have been adopted from Section 2 of the FERC small generator interconnection process. *See, Standardization of Small Generator Interconnection Agreements and Procedures*, 111 FERC ¶ 61,220 (May 12, 2005) (FERC Order No. 2006), Appendix E at 6.

As used in the FERC small generator interconnection process, the concept of "minor modifications" is applied only to the FERC Fast Track Process. This is a process akin to the Tier 2 process under the Proposed Rule. The FERC Fast Track Process applies only to generators no larger than 2 MW and involves the application of a series of screens. If the interconnection fails the screens the parties can convene a "customer options meeting" during which the parties consider three possibilities: (1) interconnection with minor modifications to the utility's system performed at the customer's cost; (2) supplemental study of the proposed interconnection conducted at the customer's cost in order to determine whether interconnection can proceed under the Fast Track Process; or (3) leave the Fast Track Process and proceed under the regular Study Process (akin to Tier 4 review under the Proposed Rules).

The FERC procedures provide a multiple-step process for working through the customer options meeting and it appears that the utility retains the discretion to determine which of the three options are available based on its assessment of the particular interconnection request in question. In short, under the FERC process the "minor modification" concept applies only to the Fast Track Process (akin to Tier 2 review) and it does not compel the utility to continue processing an application that has failed the Fast Track screens under the Fast Track Process. Rather, under the FERC process the "minor modification"

concept allows the parties to agree to continue processing an application under the Fast Track Process even if the application failed the applicable screens if the parties agree that the application can nonetheless be successfully processed without resort to the regular Study Process.

The Proposed Rules apply the minor modification concept to the Tier 2, Tier 3 and Tier 4 review processes. PacifiCorp believes that a decision to continue processing an application under the minor modifications concept should be collaborative not mandatory. Under the FERC process, the minor modifications concept is one of three options available as part of a customer options meeting. The other two options are to conduct supplemental review of the application or to conclude that the application should be reviewed under the regular Study Process (which is akin to a Tier 4 review under the Proposed Rules). Under the FERC process the parties can agree to precede under the Fast Track Process with an interconnection that has failed the Fast Track screens provided the utility concludes that the interconnection can be made safe and reliable through minor modifications to the utility's system and provided the customer agrees to pay for such modifications. This option to proceed with the Fast Track Process on the basis of minor modifications is a collaborative not a mandatory decision. Neither the utility nor the customer can be compelled to proceed in this fashion.

The minor modification concept contained in the Proposed Rule should likewise be a collaborative not a mandatory process. A public utility should retain the discretion to conclude that an application which fails the Tier 2 screens should be processed under the Tier 4 study process.

PacifiCorp recommends the following revisions to address these concerns:

> Proposed Rules
> OAR 860-082-0050(2)(l)
> If the small generator facility fails to meet one or more of the criteria in subsections (2)(a) through (k), but the public utility determines in its sole discretion that the small generator facility could be interconnected safely if minor modifications to the transmission or distribution system were made (for example, changing meters, fuses, or relay settings), then the public utility ~~must~~may offer the applicant a good-faith, non-binding estimate of the costs of such proposed minor modifications. If the applicant authorizes the public utility to proceed with the minor modifications and agrees to pay the entire cost of the modifications, then the public utility must approve the application under Tier 2.
>
> Proposed Rules
> OAR 860-082-0055(2)(c)
> If the small generator facility fails to meet one or more of the approval requirements in subsection (2)(a) or (b), but the public utility determines in its sole discretion that the small generator facility could be interconnected safely if minor modifications to the transmission or distribution system were made (for example, changing meters, fuses, or

relay settings), then the public utility ~~must~~may offer the applicant a good-faith, non-binding estimate of the costs of such proposed minor modifications. If the applicant authorizes the public utility to proceed with the minor modifications and agrees to pay the entire cost of the modifications, then the public utility must approve the application under Tier 3.

Proposed Rules
OAR 860-082-0060(5)(d)
If the public utility determines in its sole discretion that no studies are necessary and that the small generator facility could be interconnected safely if minor modifications to the transmission or distribution system were made (for example, changing meters, fuses, or relay settings), then the public utility ~~must~~may offer the applicant a good-faith, non-binding estimate of the costs of such proposed minor modifications. If the applicant authorizes the public utility to proceed with the minor modifications and agrees to pay the entire cost of the modifications, then the public utility must approve the application within 15 business days of receipt of the applicant's agreement to pay for the minor modifications.

OAR 860-082-0060(6)(i)(B)
If the public utility concludes in its sole discretion that a facilities study is not required and that the small generator facility could be interconnected safely if minor modifications to the transmission or distribution system were made (for example, changing meters, fuses, or relay settings), then the public utility ~~must~~may offer the applicant a good-faith, non-binding estimate of the costs of such proposed minor modifications. If the applicant authorizes the public utility to proceed with the minor modifications and agrees to pay the entire cost of the modifications, then the public utility must approve the application within 15 business days of receipt of the applicant's agreement to pay for the minor modifications.

Proposed Rules
OAR 860-082-0060(7)(l)
If the public utility determines in its sole discretion that no interconnection facilities or system upgrades are required and that the small generator facility could be interconnected safely if minor modifications to the transmission or distribution system were made (for example, changing meters, fuses, or relay settings), then the public utility ~~must~~may offer the applicant a good-faith, non-binding estimate of the costs of such proposed minor modifications. If the applicant authorizes the public utility to proceed with the minor modifications and agrees to pay the entire cost of the modifications, then the public utility must approve the application within 15 business days of receipt of the applicant's agreement to pay for the minor modifications.

8. Proposed Rule 25. PacifiCorp has the following additional comments and proposed revisions regarding OAR 860-082-0025.

A. 25(1)(b). Proposed Rule OAR 860-082-0025(1)(b) anticipates that the interconnection agreement entered into by a public utility and an interconnection customer will include a provision that states the numeric value, in kilowatts or megawatts, of the output capacity of the small generation facility. The Commission needs to insure that its form interconnection agreement includes a provision that memorializes this numeric value.

B. 25(1)(c). The third use of the term "application" in OAR 860-082-0025(1)(c) appears to be a typographical error; the term should be deleted and replaced with the term "small generator facility."

PacifiCorp recommends the following revisions to address these concerns:

> Proposed Rules
> 860-082-0025(1)
> (c) An applicant with a pending completed application to interconnect a small generator facility must submit a new application if the applicant proposes to make any change to the ~~application~~small generator facility other than a minor equipment modification. This includes changes affecting the nameplate capacity of the proposed small generating facility.

C. 25(1)(e). During the July 2008 workshops, the stakeholders discussed the 60-day deadline contained in OAR 860-082-0025(1)(e) and concluded that the deadline is not intended to suggest that a public utility has only 60 days within which to process an application to interconnect which is submitted at the expiration of a prior interconnection agreement. PacifiCorp requests that the Commission note this interpretation as part of its order promulgating its final rules. The same 60-period is addressed in OAR 860-082-0005(2).

D. 25(1)(e)(C). Proposed Rule OAR 860-082-0025(1)(e)(C) should be amended to add the term "studies" to the list of items for which an interconnection customer is expected to pay, and a new clause should be added to the end of the sentence to address the fact that system upgrades and other enhancements can be required by the public utility in order to insure that the utility's system, as impacted by the small generator facility interconnection, does not violate any applicable reliability standard issued by WECC or NERC. These changes have already been proposed in redline format above under the heading *NERC and WECC Reliability Standards.*

E. 25(3)(b). PacifiCorp believes the term "detailed" should be deleted from the first sentence of Proposed Rule 860-082-0025(3)(b). Under the Proposed Rules an applicant is responsible for study and engineering costs in excess of application fees; the term "detailed" is unnecessary and potentially confusing.

PacifiCorp recommends the following revisions to address these concerns:

Proposed Rules
860-082-0025(3)
(b) An application requiring ~~detailed~~ studies and engineering evaluations by the public utility may incur costs that are not covered by the application fee.

F. 25(7)(e). Proposed Rule 860-082-0025(7)(e) states that a public utility must provide an executable interconnection agreement within five business days "after the date of the approval of an interconnection application." PacifiCorp understands this requirement to mean that an executable interconnection agreement must be provided within 5 business days of the date the public utility determines that a application satisfies all of the requirements for the tier in question. Thus, under a Tier 2 review, an interconnection agreement must be provided within five day of determining that the application passes all applicable screens. Similarly, under a Tier 4 review, an executable interconnection agreement is due five business days after all studies are complete. PacifiCorp requests that, as part of any order promulgating the interconnection rules, the Commission clarify when the five-day deadline contained in Proposed Rule 860-082-0025(7)(e) actually begins to run.

G. 25(7)(e)(A). PacifiCorp believes that both the applicant and the public utility should have a right to insist on the standard form interconnection agreement. As presently draft, Proposed Rule 860-082-0025(7)(e)(A) gives that right to the applicant alone. In addition to modifying the Proposed Rule to state that either the applicant or the public utility may insist on the form agreement, PacifiCorp requests that the Commission clarify in any order issuing a final rule that in agreeing to negotiate any variations to the standard agreement with any particular applicant, a public utility is not committed to using any such variation in the future with other applicants.

PacifiCorp recommends the following revisions to address these concerns:

Proposed Rules
860-082-0025(7)(e)(A)
(A) An applicant or a public utility is entitled to the terms in the standard form agreement, but may choose to negotiate with an interconnecting public utility or applicant respectively for variations to the standard agreement terms.

9. Proposed Rule 35(1). Proposed Rule OAR 860-082-0035(1) addresses study costs. PacifiCorp has two changes to suggest. First, the term "additional" in the first sentence of the rule should be deleted. The rule applies to all studies not just "additional studies." Second, the limit on engineering costs of $100/hour should be adjustable by the consumer price index; stakeholders agreed to such an inflation adjustment when discussing this section in 2007. PacifiCorp has included language similar to that found in the net metering rules in OAR 860-039-0045.

PacifiCorp recommends the following revisions to address these concerns:

Proposed Rules
860-082-0035(1)

(1) Study costs. Whenever ~~additional~~ studies are required under the small generator interconnection rules, the applicant must pay any study costs exceeding the application fee. The public utility must base study costs on the scope of work determined and documented in the feasibility study agreement, the system impact study agreement, or the facilities study agreement, as applicable. The estimated engineering costs used in calculating study costs must not exceed $100 per hour, to be adjusted annually by the consumer price index. A public utility may adjust the $100 hourly rate once in January of each year to account for inflation and deflation as measured by the Consumer Price Index. Before beginning a study, a public utility may require an applicant to pay a deposit of up to 50 percent of the estimated costs to perform the study or $1000, whichever is less.

10. Implementation. The Proposed Rules represent a complex and comprehensive new scheme for regulating small generator interconnections in Oregon. PacifiCorp recommends that any Commission order adopting the Proposed Rules include careful consideration regarding the timing of implementation. At the least, public utilities will require time to draft, file and obtain Commission approval of the various form documents required to implement the Proposed Rules. In the order adopting the rules the Commission should make it clear that applications for interconnection under the rules will not become effective and the process established by the rules will not become operative until after the public utilities have submitted proposed form documents and the Commission has approved such form documents. PacifiCorp suggests that the order adopting the rules include a date certain by which public utilities will be required to submit form documents. The order should further state that applications submitted under the new rules will not be considered effective until after such form documents are filed with and approved by the Commission. It is important that the Commission address implementation of the Proposed Rules so parties will not face a disorderly situation were applicants seek to interconnect under the Proposed Rules before the necessary form documents have been filed with and approved by the Commission.

11. Choice of Rules. During the June 18 workshop in this docket, stakeholders discussed alternatives to the Proposed Rules including California's Rule 21 and the Federal Energy Regulatory Commission (FERC) approach to small generator interconnections articulated in FERC Order No. 2006 and its prodigy.

Beginning with the first informal meeting in this rulemaking process, PacifiCorp has indicated its support for Oregon interconnection regulations that impose the FERC Order 2006 interconnection policies and agreements with the minimum necessary change. Two sets of changes would clearly be necessary. First, all references to FERC would need to be modified. Second, under the FERC interconnection process an interconnection customer must pay for system upgrade costs but such costs are ultimately reimbursed through the provision of transmission credits. The transmission provider then rolls the cost of the system upgrades into the generally applicable rate it charges all interconnection customers for wholesale transmission service. Such an approach to

system upgrade costs does not work in the context of state-jurisdictional interconnections because the public utility is not selling transmission service to the interconnection customers (rather in most instances the customer is selling qualifying facility output to the utility at the utility's avoided cost).

At present, PacifiCorp uses a slightly modified form of the FERC Order 2006 interconnection agreement to address state-jurisdictional interconnections in Oregon. A redline version of that agreement is attached for your review. The redline revisions indicate the ways in which the PacifiCorp agreement differs from FERC's form interconnection agreement.

Use of the FERC Order 2006 procedures and agreements (with the minimum necessary modification) would have several advantages. First, the FERC Order 2006 approach is the result of an extensive rulemaking process and has been subjected to analysis and comment by numerous stakeholders. Second, the public utilities already implement the FERC Order 2006 process and agreements and are familiar with their application. Third, specific issues associated with implementation of the FERC Order 2006 interconnection process and agreements are the subject of an evolving body of decisional authority which authority could help Oregon in resolving any future disputes regarding its interconnection process if that process closely mirrors the FERC process.

PacifiCorp is willing to work with Commission staff and other stakeholders to develop an alternative to the Proposed Rules which alternative would mirror the FERC small generator interconnection process and agreements as much as reasonably possible given the slightly different context to which state rules must apply.

This concludes PacifiCorp's Third Set of Comments.

DATED: August 8, 2008

Respectfully submitted,

Andrea L. Kelly /ls

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Vice President, Regulation