

June 15, 2020

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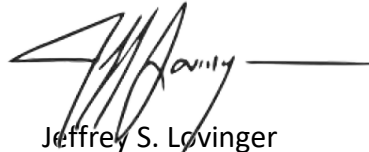
**Re: UM 1631 – In the Matter of Carnes Creek Solar, LLC, Petition for Waiver
of OAR 860-082-0025(b) & (c)**

Attention Filing Center:

Enclosed for filing today in the above-named docket is Portland General Electric Company's Additional Comments Opposing Petition For Waiver.

Thank you for your assistance.

Very truly yours,


Jeffrey S. Lovinger

Attachment

1010106

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1631**

In the Matter of
Carnes Creek Solar, LLC,
Petition for Waiver of
OAR 860-082-0025(b) & (c)

**PORTLAND GENERAL
ELECTRIC COMPANY'S
ADDITIONAL COMMENTS
OPPOSING PETITION FOR
WAIVER**

Portland General Electric Company (“PGE”) appreciates Staff’s careful analysis of the issues in this proceeding.¹ PGE agrees with Staff that the Public Utility Commission of Oregon (“Commission”) should deny the petition for waiver.

PGE disagrees with the reply filed by Carnes Creek Solar, LLC (“Carnes Creek”), on June 12, 2020. The reply distorts and mischaracterizes PGE’s arguments. Carnes Creek then asks the Commission to be skeptical of PGE’s arguments based on Carnes Creek’s misrepresentations.² The Commission should reject this tactic.

I. INTRODUCTION

Under OAR 860-082-0025(1)(b) & (c), an existing or queued generator must submit a new interconnection application and receive a new queue position if the generator changes its nameplate capacity.

This policy is important for several reasons. It maintains fairness and efficiency in the interconnection queue. It allows the utility to keep the queue moving forward. It prevents queue manipulation that can harm lower queued generators. It protects the utility and its customers

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¹ See Staff Report (Jun. 11, 2020).

² See e.g., Carnes Creek’s Reply in Support of Petition for Waiver (“Reply”) at 11-12 (Jun. 12, 2020).

from queue manipulation.³ And it protects the safety and reliability of the electric system by ensuring that resized projects are restudied with current data and that all adverse impacts are identified and addressed.

Against these important reasons for enforcing the rule, Carnes Creek advances three arguments for waiver, none of which provides sufficient good cause to support waiver. *First*, Carnes Creek argues waiver is appropriate to make the interconnection process consistent with the Oregon Community Solar Program (“CSP”).⁴ But the CSP rule in question applies to the CSP pre-certification queue, not to the interconnection queue. *Second*, Carnes Creek suggests it faces a timing dilemma. Carnes Creek states it must initiate and exercise its land use permit by September 4, 2020.⁵ Carnes Creek argues that without a waiver, PGE will not be done studying the resized interconnection before September 4, 2020. And Carnes Creek states that in such a case it likely will not be able to develop the project.⁶ However, in its reply, Carnes Creek admits that it does not really face a timing dilemma and that it can meet its land use deadline by simply “pulling building permits” with Marion County.⁷ *Third*, Carnes Creek argues that waiver is justified because it will allow Carnes Creek to avoid the need for costly system upgrades.⁸ But PGE disagrees. This proceeding, which is a simple petition for waiver and not a formal contested case proceeding, is not the proper forum to resolve a technical dispute regarding the system upgrades required for the project. In any event, PGE has applied a reasonable, prudent,

³ Without the rule, higher queued projects can resize and remain in their queue position. This can result in substantial delays in the queue. This in turn can result in lower queued projects filing complaints against PGE claiming that PGE must compensate them for queue delays by extending the term of their power purchase agreement, by extending their scheduled commercial operation date, or by extending their 15-year fixed-price period. Each of these outcomes can harm PGE’s customers by exposing them to high contract prices for a longer period of time. This is not a theoretical concern; several interconnection applicants have filed such claims against PGE.

⁴ Petition for Waiver (“Petition”) at 7 (Apr. 23, 2020).

⁵ *Id.* at 6, 8.

⁶ *Id.*

⁷ Reply at 11.

⁸ Petition at 7-8.

and consistent approach to evaluating the need for system upgrades and expects they will continue to be required even if the Carnes Creek project reduces its nameplate capacity to 2.3 MW.

II. DISCUSSION

A. THE CSP DOES NOT ESTABLISH GOOD CAUSE TO WAIVE OAR 860-082-0025(1)(B) & (C).

Carnes Creek is conditionally pre-certified to participate in the CSP. Carnes Creek argues “the CSP rules allow project nameplate capacity reductions up to 199 kilowatts and considers such revisions ‘minor revisions.’”⁹ Carnes Creek suggests that good cause exists to waive OAR 860-082-0025(1)(b) & (c) because that would be consistent with the CSP rules.¹⁰ But as Staff and PGE have noted, this argument conflates the rules governing the CSP pre-certification queue with the rules governing the interconnection queue.¹¹ Under both the Commission’s small generator interconnection rules and PGE’s Commission-approved CSP interconnection rules, an interconnection applicant must reapply if it changes its nameplate capacity by any amount. PGE agrees with Staff that it is “not ... reasonable to equate the requirements for operating the CSP pre-certification queue with the requirements for operating a utility interconnection queue ... [c]hanging the size of projects in the CSP pre-certification queue does not impact other queued projects or the safety and reliability of the utility system.”¹²

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⁹ Petition at 7.

¹⁰ *Id.* at 1, 7.

¹¹ Staff Report at 5-6; PGE’s Comments Opposing Petition for Waiver (“PGE’s Comments”) at 9-10 (May 29, 2020).

¹² Staff Report at 6.

B. CARNES CREEK’S LAND USE PERMIT DOES NOT ESTABLISH GOOD CAUSE TO WAIVE OAR 860-082-0025(1)(B) & (C).

Staff notes that Carnes Creek tries to justify waiver by arguing that “the timeline to reapply for interconnection will compromise its land use permit status.”¹³ In the petition for waiver, Carnes Creek stated that its “land use permit must be initiated and exercised by September 4, 2020 in order to remain valid.”¹⁴ Carnes Creek noted “the interconnection study process will likely take longer than just a few months, and is not likely to be completed by September 4, 2020.”¹⁵ Given these facts, Carnes Creek argues that its project “is not likely to ultimately be developed if it is required to restart the interconnection process as required under OAR 860-082-0025(1)(b) & (c).”¹⁶

PGE understood Carnes Creek’s argument to be: (a) that it would not be able to meet its September 4, 2020, land use deadline if PGE was still studying the resized interconnection on September 4, 2020; and (b) that without a waiver PGE likely would be studying the resized interconnection on September 4, 2020. In short, PGE understood Carnes Creek to be arguing that it faced a timing dilemma that justified waiver of OAR 860-082-0025(1)(b) & (c).

In response, PGE pointed out that even if waiver is granted, PGE will need to restudy the interconnection at the new nameplate capacity of 2.3 MW.¹⁷ PGE noted that restudy will involve a new system impact study and a new facility study and that each of these studies typically take 60 business days.¹⁸ PGE stated: “As a result, if the waiver is granted in late June 2020, and the studies begin approximately July 1, 2020, PGE does not expect that the studies will be completed or that the parties will enter into a modified interconnection agreement or

¹³ *Id.* at 4.

¹⁴ Petition at 6.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ PGE’s Comments at 6.

¹⁸ *Id.*

complete any construction milestones before September 4, 2020.”¹⁹ PGE concluded, “waiver at this stage will not prevent Carnes Creek from missing the deadline in its land use permit.”²⁰

PGE’s point is simple. Even with a waiver PGE will need to restudy the resized project and PGE will not be done restudying the project by September 4, 2020. If that result creates a timing problem for Carnes Creek, as Carnes Creek suggested it would in its petition for waiver, then a waiver will not address Carnes Creek’s timing dilemma.

In its reply, Carnes Creek reveals that it is not facing any serious timing dilemma. Carnes Creek notes that it can meet its September 4, 2020, land use deadline by “pulling building permits for the project with Marion County.”²¹ This is good news. It means that PGE’s need to restudy the resized project will not frustrate Carnes Creek’s land use permit. It also means that Carnes Creek does not need a waiver to address any timing constraints associated with its land use permit. And it means that Carnes Creek was exaggerating the need for waiver in its petition for waiver.

It is important to note that Carnes Creek has mischaracterized PGE’s position regarding the land use permit. Carnes Creek suggests that it is PGE’s position that Carnes Creek cannot satisfy its land use permit until the interconnection is *complete*.²² Carnes Creek then states that PGE is simply “making up arguments” and that anyone familiar with project development and land use permitting knows this is not accurate.²³ Carnes Creek then encourages the Commission to be skeptical of all of PGE’s arguments.²⁴

Carnes Creek’s attack on PGE’s credibility is unfounded. PGE never stated that the interconnection must be completed before the land use permit can be satisfied. PGE has taken

¹⁹ *Id.*

²⁰ *Id.* at 7.

²¹ Reply at 11.

²² *Id.*

²³ *Id.* at 12.

²⁴ *Id.*

no position on what must occur for Carnes Creek to satisfy its land use permit. Rather, PGE reacted to Carnes Creek's suggestion in its original petition that a waiver is needed so that PGE would not still be restudying the resized project on September 4, 2020.²⁵ PGE simply pointed out that even if waiver is granted, PGE will need to restudy the interconnection and that PGE likely will be studying the interconnection on September 4, 2020. The Commission should reject Carnes Creek's tactic of mischaracterizing PGE's position and then asking the Commission not to trust PGE.

C. AVOIDING SYSTEM UPGRADES DOES NOT ESTABLISH GOOD CAUSE TO WAIVE OAR 860-082-0025(1)(B) & (C).

Finally, Carnes Creek attempts to justify waiver of OAR 860-082-0025(1)(b) & (c) by arguing that waiver will allow Carnes Creek to avoid expensive system upgrades. This is not good cause for two reasons. *First*, it asks the Commission to resolve, through a waiver petition and without adequate facts or briefing, a complex technical issue and it asks the Commission to hold that PGE must accept a resized project without additional study and without the system upgrades that PGE previously determined are necessary for system safety and reliability. *Second*, Carnes Creek is wrong as a matter of fact. Waiver and resizing of the project to 2.3 MW is not expected to allow Carnes Creek to avoid the need for system upgrades.

1. This is not an appropriate proceeding in which to resolve a technical dispute.

When Carnes Creek filed its petition for waiver it stated "Carnes Creek does not ask the Commission to make a technical decision, but simply to waive OAR 860-082-0025(1)(b) & (c)[.]"²⁶ But in fact, Carnes Creek's strategy is to use a relatively informal waiver request to accomplish a *de facto* technical decision that the project nameplate can be reduced to 2.3 MW,

²⁵ Petition at 6.

²⁶ Petition at 1-2.

that no restudy is needed at that reduced capacity, and that no system upgrades are needed at that reduced capacity. This is inappropriate.

PGE completed its system impact study of the 2.5 MW Carnes Creek interconnection on October 25, 2019.²⁷ In that study, PGE reached the technical conclusion that the 2.5 MW project would create an increased risk of backfeed and damage to the high side of PGE's substation because the nameplate capacity of the project exceeds the *historic* daytime minimum load ("DML") on the substation transformer.²⁸ PGE determined that, at the time the system impact study was performed, the historic DML occurred on May 5, 2019, and was 2.4 MW.²⁹

Carnes Creek disagrees with PGE's technical analysis. Carnes Creek could have filed a complaint or petitioned the Commission at any time after October 25, 2019, to seek a technical determination that focused on whether PGE's analysis of the DML is reasonable and consistent. Such a contested case proceeding would have allowed the Commission to make a careful, fully informed, and well-reasoned determination regarding the technical dispute in this case. Instead, Carnes Creek waited until it was being removed from the interconnection queue in late April 2020, and then Carnes Creek filed a petition for waiver which purports not to seek a technical determination but which effectively seeks to lock in Carnes Creek's view of the technical merits in this case. The Commission should reject this strategy.

2. PGE's technical analysis is reasonable and has been consistently applied; PGE anticipates that a 2.3 MW project will still need system upgrades.

PGE will not know for certain how a reduction in nameplate capacity to 2.3 MW will impact interconnection requirements until PGE conducts a new system impact study and a new facility study on the resized project. However, PGE's strong expectation is that a 2.3 MW

²⁷ *Id.*, Attachment A at 1 (Carnes Creek System Impact Study at 1).

²⁸ *Id.* at 5-6.

²⁹ *Id.* at 5.

interconnection will create backfeed concerns and will require the same system upgrades that PGE required for a 2.5 MW project.³⁰ Carnes Creek has argued that PGE is being inconsistent.³¹ It is not. At the risk of oversimplifying, PGE provides the following brief explanation regarding its analytic process and how that process is being applied consistently.

When evaluating whether there will be backfeed, PGE follows a three-step analytic process. First, it determines the historic DML. Second, it determines if there are any installed or higher-queued projects on the feeder *whose generation is not reflected in the historic DML* and the aggregate nameplate capacity of any such generators. Third, PGE adds the value from the second step to the nameplate capacity rating of the project being studied to determine whether the aggregate exceeds the historic DML. If the aggregate value from the third step exceeds historic DML, then the project creates a risk of backfeed and system upgrades are needed. If the aggregate value from step three is less than historic DML, then there are no backfeed concerns and no need for system upgrades.

PGE used the above three-step process when it evaluated the Carnes Creek interconnection. In fall 2019, PGE conducted a system impact study on the 2.5 MW Carnes Creek interconnection application. PGE completed the first step in the analytic process and concluded that the historic DML for the Waconda substation transformer occurred on May 5, 2019, and was 2.4 MW.³² PGE then conducted the second step in the analytic process and determined that there was one installed or higher-queued project whose generation did not contribute the May 4, 2019, historic MDL. That generator was SPQ0028, a 2.2 MW project that interconnected in early October 2019 and therefore did not impact the May 5, 2019, historic DML. PGE then conducted the third step and aggregated the capacity of SPQ0029 (2.2 MW)

³⁰ PGE's Comments at 5-6.

³¹ Reply at 2, 5-9.

³² Petition, Attachment A at 5 (Carnes Creek System Impact Study at 5).

and the capacity of the project under study (2.5 MW Carnes Creek) to obtain a step three value of 4.7 MW. Because the aggregate generation coming onto the feeder (4.7 MW) exceeded the historic DML (2.4 MW), PGE required that the Carnes Creek project provide system upgrades to address the risk of backfeed. Importantly, higher-queued SPQ0028 (2.2 MW) was not expected to exceed the historic DML (2.4 MW) by itself.

If Carnes Creek had originally applied for a 2.3 MW interconnection, then at step three in the October 2019 study process, PGE would have concluded that aggregate capacity to be added to the feeder was 4.5 MW (instead of 4.7 MW), and PGE would have still required system upgrades as the aggregate capacity (4.5 MW) would still exceed the historic DML of 2.4 MW.

Finally, if Carnes Creek now reduces its nameplate capacity to 2.3 MW, then PGE will need to restudy the interconnection. When PGE restudies backfeed, it will engage in its three-stage analysis. It will first determine the historic DML based on the last 18 to 24 months of load data for the substation transformer. Because SPQ0028 has been generating for nine months, PGE expects that a present-day study will find that the historic DML is now lower than 2.4 MW (likely lower than 1 MW). This is because the old historic DML of 2.4 MW will have been driven lower by the addition of a 2.2 MW project (SPQ0028) to the feeder. PGE will not know for sure until it conducts a new study, but PGE expects the new 2.3 MW nameplate capacity of the Carnes Creek project to exceed the new DML of the substation feeder which will include the impact of generation from the 2.2 MW SPQ0028 project.

3. Carnes Creek's Reply misrepresents PGE's position on system upgrades.

There are a number of ways in which the reply misrepresents PGE's position on the necessity of system upgrades. For example, the reply states: "PGE's assertion that Carnes would still face the same upgrades despite a lower nameplate capacity is directly contradicted by PGE's own admission that the capacity reduction would allow Carnes Creek to 'narrowly avoid

paying for upgrades' that would otherwise be required.”³³ PGE made no such admission. Carnes Creek is citing to page 8 of PGE’s comments where PGE is stating that granting waiver in this case would encourage *future interconnection customers* to make last-minute adjustments to *their* project specifications to narrowly avoid paying for upgrades their projects would otherwise require.³⁴ PGE did not state that Carnes Creek’s project narrowly avoids system upgrades.

As another example, Carnes Creek accuses PGE of “inconsistent determination of the MDL and inconsistent application of its protection standards.”³⁵ But as described above, PGE’s process for analyzing the backfeed issue is consistent and reasonable; it is Carnes Creek’s desire to apply old study results to new facts that is inconsistent and unreasonable.

III. CONCLUSION

PGE employs a reasonable and consistent approach to determining DML. There is no reason to believe that waiver of OAR 860-082-0025(1)(b) & (c) will allow Carnes Creek to avoid the need for system upgrades. Carnes Creek itself has indicated that waiver is not critical to its ability to meet its land use deadline. And it is clear that the rules governing resizing of a project for the CSP pre-certification queue are different from the rules governing resizing of a project for the interconnection queue. OAR 860-082-0025(1)(b) & (c) serve important public

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³³ Reply at 10-11.

³⁴ See PGE’s Comments at 8.

³⁵ Reply at 12.

purposes and there is no good cause to waive the rule in this case. Carnes Creek's April 23, 2020, petition for waiver should be denied.

DATED this 15th day of June 2020.

Respectfully submitted,

s/ Donald Light

Donald Light, OSB #025415
Assistant General Counsel
Portland General Electric Company
121 SW Salmon Street, 1WTC1301
Portland, Oregon 97204
Tel: (503) 464-8315
Fax: (503) 464-2200
donald.light@pgn.com

s/ Jeffrey S. Lovinger

Jeffrey S. Lovinger, OSB #960147
Markowitz Herbold PC
1211 SW Fifth Avenue, Suite 3000
Portland, OR 97204
Tel: (503) 295-3085
Fax: (503) 323-9105
JeffreyLovinger@MarkowitzHerbold.com