

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: December 27, 2022**

**REGULAR**  **CONSENT**  **EFFECTIVE DATE** \_\_\_\_\_ **N/A**

**DATE:** December 12, 2022

**TO:** Public Utility Commission

**FROM:** Ted Drennan

**THROUGH:** Bryan Conway, Caroline Moore, and Scott Gibbens **SIGNED**

**SUBJECT:** OREGON PUBLIC UTILITY COMMISSION STAFF:  
(Docket No. UM 1631)  
Portland General Electric request for partial waiver of 860-039-0030(3)  
requirements for Level 1 applications.

**STAFF RECOMMENDATION:**

Staff recommends the Public Utility Commission of Oregon (Commission) approve the request by Portland General Electric (PGE or Company) to waive requirements to deny all interconnection requests for Level 1 net energy metering (NEM) applicants who fail to meet one or more of applicable criteria and direct the Company to file a report on the use of the waiver by July 1, 2023.

**DISCUSSION:**

Issue

Whether the Commission should approve PGE's request to waive the OAR requirement that a Level 1 net metering customer's application be rejected if it fails to meet one or more of the applicable criteria.

Applicable Law

OAR 860-039-0030(3)  
(3) Within 10 business days after the public utility notifies a Level 1 applicant that the application is complete, the public utility must notify the applicant that:

- (a) The net metering facility meets all applicable criteria and the interconnection will be approved upon installation of any required meter upgrade, completion of any required inspection of the facility, and execution of an interconnection agreement; or
- (b) The net metering facility has failed to meet one or more of the applicable criteria and the interconnection application is denied.

The evaluation criterion set forth in OAR 860-039-0005(2) for waiver of Division 039 rules is "good cause shown." The Commission has discretion to determine what constitutes "good cause."

## Analysis

### *Background*

On June 22, 2020, the Commission opened Docket No. UM 2111 Investigation into Interconnection Practices and policies. The Commission adopted a phased scope for the investigation that included "Modernizing Screening and Study Practices" as one of its Phase 1 issues. Staff launched a working group focused on screening and study practices on August 9, 2022, and expressed an interest in identifying "quick win" opportunities to safely and reliably improve interconnection for distributed energy resources.

On November 4, 2022, PGE filed a request for a partial waiver of OAR 860-039-0030(3). The Company requested expedited consideration, allowing the filing to be effective on December 31, 2022. The following discusses this request.

Under current rules, the Company must approve applications to interconnect under Level 1, 2, and 3 NEM Interconnection Procedures if the applicant satisfies all the applicable criteria set forth in the OARs. However, the Company is authorized to approve an interconnection request for Level 2 applicants that do not satisfy all the criteria under certain conditions, i.e., when the public utility determines the net metering facility may nonetheless be interconnected consistent with safety, reliability, and power quality.<sup>1</sup> The Company has no such flexibility for Level 1 reviews. Under OAR 860-039-0030, PGE has ten days following receipt of a completed NEM interconnection application to notify the applicant that the facility meets all applicable criteria, and the application is approved or that the facility has failed to meet one or more of the applicable criteria and that the interconnection application is denied.

The Company would like to waive the requirements that Level 1 NEM applications **must** be denied if one or more of the applicable criteria are not met to allow some flexibility when interconnection can nonetheless be accomplished, consistent with safety, reliability, and power quality.

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<sup>1</sup> See OAR 860-039-0035(3)(b).

Current requirements for the three NEM interconnection levels are included in the following table.

Level	Eligibility	Size	OAR Reference
Level 1	Inverter-based	25 kw or less	860-039-0030 (1)
Level 2	Does not qualify for, or failed Level 2 interconnection review process	2 MW or less	860-039-0035 (1)
Level 3	Does not qualify for, or failed Level 1 interconnection review process	2 MW or less	860-039-0040 (1)

Under the current requirements, a NEM interconnection applicant who failed Level 1 could reapply under the Level 2 or Level 3 option, pay the application fee, and go through the review process a second time using the appropriate criteria for the new applicant level. However, if the applicant then failed in the Level 2 process, current rules allow the utility to approve the interconnection if it is consistent with safety, reliability, and power quality<sup>2</sup>.

PGE presented their initial proposal at the August 9, 2022, to the UM 2111 working group. UM 2111 is looking to modernize interconnection rules, and as stated in Staff's memo dated February 11, 2022, "a desire to target root cause solutions that will help a range of generator types." The proposed solution specifically targeted the root cause of many interconnection failures, failure to meet Level 1 criteria. Discussion also continued at the following workshop, September 14, 2022.

#### *Staff Review*

PGE presented results of a historical analysis done by their Protection and Planning Teams in the waiver request. They determined that "many feeders could host additional small net metering projects without impacting safety and reliability."<sup>3</sup> Further, the current rules focus on a less current approach to screening projects that may be unnecessarily screening out safe and reliable projects.<sup>4</sup> The current screening practices are under investigation as a Phase 1 issue under Docket No. UM 2111. PGE is making this request as an interim improvement while all of the screening practices are being considered for modernization.

Since 2020, PGE received 740 Level 1 NEM applications that failed initial screens, and the applications were denied. The customers were required to reapply for Level 2 or

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<sup>2</sup> See OAR 860-039-0035(3)(b): The net metering facility failed to meet one or more of the applicable requirements, but the public utility determined that the net metering facility may be interconnected consistent with safety, reliability, and power quality. In this case, the public utility will notify the applicant that the interconnection will be approved following any required inspection of the facility and fully executed interconnection agreement. Within five business days after this notice, the public utility will provide the applicant with an executable interconnection agreement.

<sup>3</sup> See page two of the waiver application.

<sup>4</sup> The current rules focus on a circuit's annual peak load, instead of the daytime minimum load (DML). Use of the DML is currently considered a more appropriate method to determine potential feeder impacts.

Level 3 review. Of the 740, 721 were determined able to interconnect consistent with safety, reliability, and power quality. System upgrades were required for the remaining 19 to successfully interconnect.

#### *Stakeholder Feedback*

The Oregon Solar + Storage Industries Association (OSSIA) provided comments on November 22, 2022, that were generally supportive of PGE's waiver request. The comments raised a question about the level of utility discretion, stating:

If the utility uses their discretion to continually block projects without providing some explanation it will create significant uncertainty for developers and net metering applicants.<sup>5</sup>

While the requested waiver can only increase the number of NEM applications that move forward without further study, Staff believes that transparency into the analysis that PGE will perform under the waiver will benefit NEM applicants and the broader UM 2111 process.

OSSIA requests the Company notify past applicants who failed Level 1 screens on generation-limited feeders, and did not subsequently reapply at Level 2. Staff does not believe notification here is warranted for several reasons. First, it is not clear that the projects would be approved with utility discretion, sending a notice could be read by customers as implying such. Second, there is no accusation that the Company did anything improper in the past that would warrant sending notice to past applicants who failed Level 1 screens, as Staff finds the Company has followed all rules and regulations.

OSSIA also suggests PGE provide examples of Level 1 applications that were denied, with a corresponding explanation. Staff believes this discussion would be appropriate in UM 2111, which includes all of the Oregon IOUs, as well as additional stakeholders. Building off of that suggestion, Staff believes that, going forward, PGE should track projects that fail Level 1 screens, the reason for the failure, and underlying rationale for those facilities that are interconnected at the Company's discretion. PGE should report this data by July 31, 2023, and present it to the UM 2111 working group. Further updates to the working group may be agreed upon by working group members until the Staff investigation into screening policies concludes.

#### Conclusion

As part of the UM 2111 investigation, PGE presented a proposal that would allow utility discretion to allow for interconnection of NEM facilities that fail the Level 1 screens established in Oregon's NEM rules. This would occur when, at the utility's determination, the facility could be interconnected consistent with safety, reliability, and

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<sup>5</sup> See page one of OSSIA's November 22, 2022, filing.

power quality. In PGE's analysis over 97 percent (721 out of 740) of rejected applicants would have been able to safely and reliably interconnect under the waiver request, representing 7.3 MW of generating nameplate capacity.

Staff believes the proposal is a good step to address issues discussed in the UM 2111 docket that carries consensus agreement from stakeholders. The waiver is a quick win to increase the accessibility of interconnections for Level 1 applicants, who may be able to avoid a second application and associated fee, while Staff conducts a comprehensive review of the state's NEM and small generator screening policies. Staff sees no appreciable downside to the proposal, as the waiver only allows PGE to approve Level 1 applications that would have been denied previously.

**PROPOSED COMMISSION MOTION:**

Approve PGE's request to waive the OAR requirement that a Level 1 net metering customer's application be rejected if it fails to meet one or more of the applicable criteria. Additionally, direct the Company to report on the results of the waiver by July 1, 2023. The report should include the number of Level 1 NEM applications, number that fail, reasons for failures, and rationale for connecting those when using utility discretion during the first six months following Commission approval.