

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 2011**

In the Matter of  
  
PUBLIC UTILITY COMMISSION OF  
OREGON,  
  
General Capacity Investigation.

NEWSUN ENERGY LLC  
APPLICATION FOR REHEARING OR  
RECONSIDERATION

**I. INTRODUCTION**

NewSun Energy LLC (“NewSun”) respectfully submits this Application for Rehearing or Reconsideration of the Public Utility Commission of Oregon’s (“Commission” or “OPUC”) Order No. 22-468. Good cause exists to reconsider this decision because the ultimate recommendation did not consider the input of all expert stakeholders and therefore did not result in a well-balanced resolution of the issues. Specifically, among other issues raised by stakeholders, the capacity best practices document does not account for the full value of capacity and does not appropriately balance the need for transparency for non-utility stakeholders. Rather, as Staff noted in its September 23, 2022 proposal, the final recommendation was based solely on consulting with E3 and meetings with each of the three regulated utilities.<sup>1</sup> Other expert stakeholders contributed years of time and effort into this docket and were ultimately not consulted when it came to the final recommendation. It was an error to reach the final recommendation without consultation with each of the participants in UM 2011 because Commission policy supports and encourages stakeholder participation, and to a growing degree. Had the remainder of the stakeholders been consulted, the outcome would have reflected a more

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<sup>1</sup> <https://edocs.puc.state.or.us/efdocs/HAH/um2011hah164835.pdf>.

balanced resolution of the issues accounting for the full value of capacity and creating additional transparency.

## II. APPLICATION FOR RESONSIDERATION

Good cause exists to reconsider to further examine the value of capacity because the final recommendation was not informed by discussions with all the dockets many expert participants and therefore, does not reflect a well-balanced resolution of the issues fully accounting for the value of capacity and providing the transparency non-utility stakeholders desperately need.

Utility recommendations flip-flopped based on the outcome of their modeling. Utilities initially pushed for a methodology based on the Loss of Load Probability (“LOLP”). In January 2022, utilities produced initial results of both LOLP modeling and Effective Load Carrying Capability (“ELCC”). Upon the release of those results, Portland General Electric Company (“PGE”) changed its recommendation to ELCC.<sup>2</sup> PacifiCorp continues to support flexibility to use LOLP.<sup>3</sup> Other stakeholders indicated support for the LOLP methodology to be produced instead of or alongside ELCC in order to better facilitate transparency and flexibility.<sup>4</sup> However, following the February 15, 2022 workshop, Staff contracted with E3 to provide further analysis and met with each of the three regulated utilities to arrive at the conclusion that ELCC should be used with only the possibility that a utility may use an alternate method such as LOLP if ELCC is not practical from a workload perspective.

Where this decision errs, however, is in failing to consider that other expert stakeholders, not consulted during the critical time in which Staff developed its final recommendation, find

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<sup>2</sup> <https://edocs.puc.state.or.us/efdocs/HAH/um2011hah17126.pdf>.

<sup>3</sup> Order 22-468, Appendix A at 6.

<sup>4</sup> See *Id.*

value in the utility of LOLP methodologies.<sup>5</sup> Had these other stakeholders been consulted, then Staff's recommendation would have resulted in a more balanced resolution of the issues. It is also worth the consideration by the Commission of the message sent to stakeholders by such an approach which seems to devalue the non-utility stakeholders' input, participation and expertise in a docket which comprised roughly two years of process, and continues a pattern of excessive deference to the regulated utilities notwithstanding the significant expertise of many other stakeholders participating in this and other commission processes. In this docket, certain stakeholders hired third party experts for the first time in attempts to fully participate given the significance of the docket.

Further, the Order, does not account for the full value of capacity. The docket was opened with the stated purpose of looking at "valuing capacity holistically and consistently across dockets and technology types."<sup>6</sup> Throughout the docket, stakeholders asked for a quantification of the value of capacity, including how capacity can avoid harm to ratepayers in, for example, Texas-style blackouts that might result in millions of dollars of costs to ratepayers. However, this docket is closing having not addressing "capacity value." In addition, by requiring that the preferred portfolio be included in the baseline, the best practices is not consistent with the requirement under PURPA that qualifying facilities be paid to *avoid* such capacity additions. ELCC methodology by presuming the existence of certain resources thus necessarily blurs, diminishes and obscures the potential capacity contributions of new generators, including those of prospective QFs. Given that the "best practices" sets up a default methodology from which to evaluate all other use cases, not addressing these critical issues in this docket suppresses critical

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<sup>5</sup> See OSSIA Comments (Oct. 24, 2022) <https://edocs.puc.state.or.us/efdocs/HAC/um2011hac16372.pdf>.

<sup>6</sup> <https://apps.puc.state.or.us/orders/2019ords/19-155.pdf>.

information and allows an incorrect assumption to be the starting point.

### **III. RECOMMENDATIONS**

To address the concerns raised herein, NewSun recommends the following:

1. Adopt the recommendations by stakeholders in this docket to account for the full value of capacity, or at a minimum and in the alternative, to clarify that the resolution reached in this docket does not constitute a decision by the Commission that such values should not be included in the value of capacity, and
2. Amend the best practices document to reflect that LOLP should be provided alongside ELCC in all applicable settings (e.g. IRPs, CEPs and avoided cost dockets) as a best practice in order to ensure transparency for non-utility stakeholders. Such LOLP values should be produced for each year of the applicable planning or forecast period, biannually, or at a minimum at all key milestone years (such as immediately before a procurement year and at all projected retirements or reductions in practical availability of capacity from fossil generation units).

### **IV. CONCLUSION**

For the reasons articulated herein, the Commission should grant rehearing or reconsideration of Order No. 22-468 and adopt the recommendations included herein.

Respectfully submitted on this 30th day of January 2023.

/s Jacob Stephens

CEO

NewSun Energy