

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2111

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Investigation Into Interconnection Process
and Policies

JOINT COMMENTS ON BEHALF
OF THE COMMUNITY
RENEWABLE ENERGY
ASSOCIATION, RENEWABLE
ENERGY COALITION, AND THE
OREGON SOLAR + STORAGE
INDUSTRIES ASSOCIATION

COMMENTS

The Community Renewable Energy Association (“CREA”), the Renewable Energy Coalition (the “Coalition”), and the Oregon Solar + Storage Industries Association (“OSSIA”) (collectively the “Interconnection Trade Associations”) respectfully submit these comments on Staff’s Report with respect to the proposed rules governing execution of the interconnection agreement, applicability, capacity changes, data conversion to export capacity, dispute resolution process, and interconnection handbooks.

The Interconnection Trade Associations continue to recommend the proposed changes summarized in the May 5, 2023 comments, June 28, 2023 comments, and July 3, 2023 comments. The Interconnection Trade Associations do not repeat these recommendations here, but those comments are attached to these comments for reference. Staff has proposed edits to OAR 860-082-0030(3) related to the generator interconnection agreement term that are acceptable to the Interconnection Trade

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STORAGE INDUSTRIES ASSOCIATION

Associations and address our concerns, and the Interconnection Trade Associations are no longer proposing any further edits on this issue. However, all the other issues in the comments remain unresolved. The Commission should adopt the Interconnection Trade Associations recommendations from the May 5, June 28, and July 3 comments.

Dated this 18th day of August 2023.

Respectfully submitted,

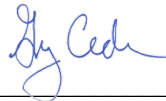
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Attachment A

**Joint Comments on Behalf of the Community Renewable Energy
Association, Renewable Energy Coalition, and the Oregon
Solar + Storage Industries Association**

May 5, 2023

**BEFORE THE PUBLIC UTILITY COMMISSION
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I. INTRODUCTION

In accordance with the Public Utility Commission of Oregon (“Commission” or “OPUC”) Staff’s Workshop and Schedule Update dated April 18, 2023, the Community Renewable Energy Association (“CREA”), the Renewable Energy Coalition (the “Coalition”), and the Oregon Solar + Storage Industries Association (“OSSIA”) (collectively the “Interconnection Trade Associations”) respectfully submit these comments on Staff’s draft proposal for updates to the Commission’s Division 82 rules as circulated on March 31, 2023 (hereafter “Staff’s Proposed Rules”).

The Interconnection Trade Associations appreciate the Commission’s commitment to investigating how to improve the interconnection process for generators in Oregon and believe that many of Staff’s proposed edits appropriately update the rules with respect to the issues identified for this phase of the proceeding. The Interconnection Trade Associations have had relatively limited involvement in the workshops during this phase due to limited resources and the prioritization of the issues selected for this phase

of the proceeding but wish to express that properly updating the rules with respect to the issues at hand is important. The Interconnection Trade Associations stand by the discrete comments circulated on February 14, 2023, addressing the proposed rule OAR 860-082-0030(1)(b) related to interconnection handbooks, and now submit further comments on additional discrete issues of significance in the draft rule amendments,¹ as follows:

1. **Applicability**: The applicability of the small generator interconnection rules, OAR 860-082-0005(1), should be updated consistent with the Commission’s recently adopted Division 29 rules governing purchases from qualifying facilities (“QFs”) by focusing on the potential output of facility in alternating current (“AC”), thus making the rules applicable to facilities with export capacity to the grid of up to 10 megawatts (“MW”) AC.² This edit would modernize the rules for newer technologies—such as solar co-located with battery energy storage—that do not easily conform to the traditional “nameplate capacity” framework developed for traditional induction or synchronous generators.

¹ Lack of specific comment on any specific issue in the proposed rules does not necessarily reflect support or agreement with the proposal, and the Interconnection Trade Associations reserve the right to provide additional comments during this informal process or during the formal rulemaking on other issues.

² The current rules specify 10 MW. There is a lack of clarity what rules or policies apply for facilities sized over 10 MW but less than 20 MW. The Interconnection Trade Associations are not specifically advocating for retention of the 10 MW limit but simply referencing the current limit to explain the proposed focus on AC output. The issue of what rules or policies apply to projects 10-20 MWs will be addressed later this in proceeding. Order No. 22-126, Appendix A at 10, 16-17 (Apr. 22, 2022).

2. Capacity Changes: The rules should allow for capacity reductions of up to 60 percent of nameplate capacity and/or export capacity prior to execution of a system impact study agreement and an additional 15 percent prior to execution of a facilities study agreement without material modification review. That revision would make the Division 82 rules consistent with the policies in the Federal Energy Regulatory Commission’s (“FERC”) Large Generator Interconnection Procedures (“LGIP”) as well as FERC’s procedures for small generators taking network resource interconnection. Staff’s proposal only allows for a 10-percent capacity reduction and only if there is no adverse effect on lower queued customers, but this limited, possible reduction is not sufficient to allow small generators to right size their facilities to the capacity available upon receipt of interconnection studies.

Capacity increases should also be permitted where there is no impact to lower queued customers. That revision would make the Division 82 rules consistent with the policies in FERC’s LGIP as well as FERC’s procedures for small generators taking network resource interconnection.

3. GIA Term: The rules should provide the customer with the ability to ensure that its generator interconnection agreement (“GIA”) term does not expire before its power purchase agreement term and potentially could last as long as the life of the facility. The currently drafted Staff proposal would, absent the utility’s agreement, limit the customer to a term of 20 years after execution of the GIA, which will be shorter than the 20-year power sale term allowed under the Commission’s QF

rules and eliminates the ability to have the term renew for longer periods as is the current policy in FERC-approved GIAs.

4. Data Conversion to Export Capacity: The Interconnection Trade

Associations understand that it has been revealed in this process that one or more of the utilities logs the capacity of facilities into interconnection software based on the direct current (“DC”) rating of the component parts (e.g., solar panels) even when the facility’s AC export capacity from inverters is far lower. Apparently, due to this data input error, interconnection studies have been incorrectly overestimating the amount AC capacity being injected into the AC grid, and this error has likely resulted in significant overstatements of the upgrades needed to interconnect new generators. The rules should require the utilities to immediately correct this data error for prospective interconnections, and the Commission should set a date certain by which utilities must include in their databases the AC nameplate rating and export capacity of all existing interconnected facilities.

II. COMMENTS

Interconnection is an important step in developing energy projects. Without a fair, transparent, and functional process for interconnecting to a utility, interconnection customers are unable to progress in the development process. Thus, interconnection can also be a major impediment to developing energy projects. The purpose of this phase of the rulemaking is to “[f]ocus on underlying methodologies and ensuring readiness for the types of projects being promoted by state policy (community, resiliency, flexible decarb)[.]” including “[e]nsuring rules, policies, and practices for identification of

upgrades account for modern technologies and industry best practices[.]”³ Accordingly, the proposed edits in these comments seek to update the rules to take into account best practices for encouraging interconnection of small generators utilizing new technologies and to promote right sizing the generator to the grid to the extent reasonably possible.

1. **Applicability: The 10-MW Capacity Measurement for Eligibility to use the Small Generator Interconnection Rules Should Be Consistent with the 10-MW Capacity Measurement for Eligibility for Small Qualifying Facilities to Use the Commission’s Standard Power Purchase Agreement.**

The applicability of the small generator interconnection rules, OAR 860-082-0005(1), should be updated consistent with the Commission’s recently adopted Division 29 rules governing purchases from QFs by focusing on the potential output of facility in AC, thus making the rules applicable to facilities with export capacity to the grid of up to 10 MW AC. This edit would modernize the rules for newer technologies—such as solar co-located with battery energy storage—that do not easily conform to the traditional “nameplate capacity” framework developed for traditional induction or synchronous generators. The Interconnection Trade Associations understand from discussion with Staff that Staff may have intended for the draft rules here to be consistent with the proposal in these comments, but as currently drafted the proposed rules do not unambiguously achieve that objective.

Staff’s currently proposed rule revisions on applicability states as follows:

(1) OAR 860-082-0005 through 860-082-0085 (the “small generator interconnection rules”) govern the interconnection of a small generator facility

³ Staff’s Scoping Announcement, Docket No. UM 2111, at 3 (Feb. 10, 2022).

with a nameplate ~~capacity~~ rating of 10 megawatts or less to a public utility's transmission or distribution system. These rules do not apply if the interconnection between the small generator facility and the public utility is subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC). These rules do not apply to the interconnection of a net metering facility to a public utility that meets the requirements of ORS 757.300(9).⁴

* * * *

(28) "Nameplate rating" means the sum total of maximum rated power output of all of a small generator facility's constituent generating units and/or ESS as identified on the manufacturer nameplate in Alternating Current (AC), regardless of whether it is limited by any approved means.

While the Interconnection Trade Associations agree with the proposed clarification that the eligible capacity should be measured in AC and not DC, the eligibility should focus on the whole facility's output and not the sum of the facility's individual components. The proposed definition of nameplate rating and the applicability section are now out of sync with the Commission's closely related Division 29 rules that make standard contracts available to proposed facilities with a "power production capacity" of 10 MW AC, which is the whole facility's "send out" measured at the point of interconnection.⁵ That measure used in the Division 29 rules properly accounts for the

⁴ Quotations of Staff's proposed draft rule revisions throughout these comments show the changes proposed by Staff to the currently effective rules in strikethrough or underline and purple font.

⁵ See *In re Rulemaking to Address Procedures, Terms, and Conditions Associated with QF Standard Contracts*, Docket No. AR 631, Order No. 23-152, Attachment at OAR 860-029-0010(20), (32) & 860-029-0045 (April 25, 2023) (measuring capacity for purposes of the 10-MW standard contract eligibility as the entire facility's maximum send-out at the point of interconnection in AC); see also *Solar Energy Indus. Ass'n v. FERC*, 59 F4th 1287, 1291-94 (D.C. Cir. Feb. 14, 2023) (affirming FERC's use of the send-out rule to measure capacity of hybrid QFs).

co-location of battery storage with solar, wind, or other resources, and it thereby encourages the use of battery storage by allowing small generator facilities to co-locate battery storage with their facility without compromising their access to the streamlined contracting procedures for small facilities.

In contrast, Staff’s Proposed Rules, if applied as written, would discourage facilities from adding storage to their facility. It would do so by summing the capacity of the power generation components with the potential output of the storage component for purposes of measuring applicability of the streamlined small generator interconnection rules. If a project proponent designs its 8 MW AC solar array to include a 3-MW battery, for instance, it is disqualified from using the small generator interconnection rules under the currently drafted rules. That could discourage the use of valuable storage resources that will enhance the capacity value of small-scale renewable resources.

To remove ambiguity, the Interconnection Trade Associations recommend that Staff align the eligibility for standard contracts with the eligibility for the small generator interconnection to limit confusion and to encourage use of storage devices with small generators. The Interconnection Trade Associations propose that the rules be applicable to any facility with an “export capacity” of 10 MW or less. Staff’s proposed rules define that term, at OAR 860-082-0015(11), as follows:

(11) “Export capacity” means the amount of power that can be transferred from the small generator facility to the distribution system. Export capacity is either the nameplate rating, or a lower amount if limited using an acceptable means identified in OAR 860-082-003X.

The Interconnection Trade Associations recognize that there may be valid reasons to focus on the summed capacity of the generation and storage equipment in interconnection studies such that the definition of “nameplate rating” should remain as proposed. However, for purposes of eligibility to use the small generator rules, the proposed definition of export capacity is the more appropriate measure for the reasons stated above.

2. Capacity Changes: The Rules Should Allow Capacity Changes to Encourage Customers’ Ability to Right Size Their Proposed Facilities to Available Capacity on the Grid.

The rules should allow for capacity reductions of up to 60 percent of nameplate capacity and/or export capacity prior to execution of a system impact study agreement and an additional 15 percent prior to execution of a facilities study agreement without material modification review of the impact on lower queued customers. Capacity increases should also be permitted where there is no impact to lower queued customers. That revision would make the Division 82 rules consistent with the policies in FERC’s LGIP as well as FERC’s procedures for small generators taking network resource interconnection.

Staff’s Proposed Rules only allow for a 10-percent capacity reduction and only if there is no adverse effect on lower queued customers,⁶ but this limited, possible reduction is not sufficient to allow small generators to right size their facilities to the capacity available upon receipt of interconnection studies. The Commission’s currently effective

⁶ Proposed OAR 860-082-0015(25)(1)(c); OAR 860-082-0015(27).

rules for small generators provide no reasonable capacity reductions as a matter of right. Notably, the Commission has previously waived this rule to allow a capacity reduction that would allow a proposed community solar facility to right-size its facility to the feeder and avoid significant upgrades, even though a lower queued customer objected that the avoided upgrades may ultimately be shifted to it.⁷ Thus, the Interconnection Trade Associations agree with the direction in which Staff’s Proposed Rules move by proposing to loosen the current rules’ absolute bar on capacity reductions. But, as explained below, allowing capacity decreases of only 10 percent, and only if there is no adverse impact on a lower queued customer, is not sufficient.

The relevant revisions proposed by Staff are as follows:

OAR 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 small generator facility other than a minor equipment modification. This includes changes affecting the nameplate capacity rating of the proposed small generator facility.

* * * *

OAR 860-082-0015(~~20~~)(27) “Minor equipment modification” means a change to a small generator facility or its associated interconnection equipment that:

* * * *

(c) Includes a reduction in the nameplate rating and/or export capacity of the small generator facility of 10 percent or less provided that a change made to a small generator facility with a pending completed application must not adversely impact lower queued projects . . .

⁷ *In Re Marquam Creek Solar, LLC*, Docket No. UM 1631, Order No. 21-145, at 1-2 (May 7, 2021).

Thus, Staff's Proposed Rules will allow for a minimal 10-percent reduction of nameplate rating and/or export capacity only if there are no lower queued customers affected in any way, such as through the need for a re-study. As a practical matter, the newly proposed right for capacity reduction will only be available if no lower queued customers in the same vicinity are in the queue because a re-study or some other conceivable adverse impact would almost always occur to the lower queued customer. This extremely limited right to capacity reduction is too limited to be of much value.

While the rules should also provide as much data upfront to allow the customer to make the most informed interconnection request possible, the practical reality is that the customer often-times will not really know how much interconnection capacity is available until it receives the results of the utility's interconnection screens or a detailed study. Staff's Proposed Rules appear to increase the detail and transparency of the screening and study results, but customers also need the capability to act on that information with more flexibility than provided in Staff's Proposed Rules to adjust their capacity to right-size the project to the grid. More generally, capacity reductions are often needed during the development process for a number of reasons beyond the interconnection customer's control, including permitting issues and other development considerations that are moving in tandem with the interconnection process.

The right to make significant capacity reductions and other design changes during the interconnection process is an important tool that should be made available to small generators. As the BTRIES Toolkit filed in this docket explains, "system impacts may not be known until after the screening or study process, interconnection customers would

like to be able to modify projects after receiving results without submitting a new application and losing their interconnection queue position.”⁸ Further, where the practice is to not allow meaningful design changes during the process, “time delays and costs . . . can be substantial for both utilities and customers.”⁹ For battery storage in particular, “it may be possible for the customer to revise the Export Capacity to a new limit” to avoid costly upgrades and maximize use of existing capacity on the grid.¹⁰ Similarly, “Customers may consider adding storage to a [distributed energy resource] design (that did not originally contain ESS) in order to address identified upgrades or screen failures.”¹¹ Thus, the BTRIES Toolkit recommends allowing customers to “decrease nameplate capacity or Export Capacity, or potentially changes to the operating schedule” upon receipt of its supplemental review studies after failing the initial screening for fast-track process.¹²

FERC has allowed for an absolute right to make significant reductions of proposed “electrical output” during the interconnection process regardless of the impact on lower-queued customers and even allows capacity increases if there is no adverse

⁸ *Building a Technically Reliable Interconnection Evolution for Storage: Toolkit & Guidance for Interconnection of Energy Storage & Solar-Plus-Storage*, p. 103 (March 2022) (hereafter “BTRIES Toolkit”). This report was filed in this docket by the Interstate Renewable Energy Council on March 30, 2022.

⁹ BTRIES Toolkit, p. 103.

¹⁰ BTRIES Toolkit, p. 104.

¹¹ BTRIES Toolkit, p. 104

¹² BTRIES Toolkit, p. 112; *see also id.* at p. 113 (providing proposed rule language); *id.* at p. 115 (proposing similar rule language for design changes made after receipt of a system impact study).

impact on lower-queued customers. FERC’s LGIP contains a provision (at § 4.4) that provides the customer with a right to make a reduction of up to 60 percent in plant capacity or interconnection service level upon receipt of the feasibility study and prior to executing the system impact study agreement, with a further 15-percent reduction upon receipt of the system impact study and prior to execution of the facilities study agreement.¹³ Those reductions can total 75 percent and are expressly allowed without “material modification” review for the impact on lower queued customers.¹⁴ Further reductions, as well as increases to capacity, are also potentially authorized under “material modification” review for impact on lower-queued customers at any point.¹⁵ If the “material modification” test applies (e.g., when a capacity decrease is in excess of 60 percent upon receipt of feasibility study), the FERC LGIP (at § 4.4.3) allows the customer to request that the transmission provider evaluate whether the proposed change will be deemed a material modification, and if so, to withdraw the proposed modification without losing its queue position.

¹³ See *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043, at PP 406-407 (April 19, 2018) (discussing the FERC rules); see also *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103, at PP 161-168 (July 24, 2003) (initially adopting this policy). FERC posts the most recent version of its LGIP online at: <https://www.ferc.gov/electric-transmission/generator-interconnection/final-rules-establishing-and-revising-standard>.

¹⁴ Order No. 845, 163 FERC ¶ 61,043, at PP 406-407.

¹⁵ FERC LGIP, § 4.4, available at <https://www.ferc.gov/electric-transmission/generator-interconnection/final-rules-establishing-and-revising-standard>.

FERC’s small generator interconnection procedures (“SGIP”), for facilities with capacity of 20 MW or less, are designed solely for a service comparable to energy resource interconnection service, which FERC did not expect to entail significant network upgrade costs, and thus FERC’s SGIP does not contain these same express downsizing provisions of the LGIP.¹⁶ However, if small generators under the FERC process choose to secure network resource interconnection service that includes deliverability to load—which is more analogous to the service typically offered under this Commission’s Division 82 rules—then the customer would use the LGIP and LGIA, including the right to make reductions to capacity.¹⁷ Thus, FERC’s policy is relevant to Oregon’s Division 82 process.

Notably, in Order No. 10-132, this Commission approved use of an LGIP provision that mirrors the FERC LGIP provisions with respect to downsizing rights.¹⁸

¹⁶ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, 70 Fed Reg 34 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180, P 40 (May 12, 2005) (stating, “we expect that, for most interconnections of Small Generating Facilities, there will be no Network Upgrades”) (May 12, 2005); *id.* at P 139 (explaining that “[t]he one interconnection service that the Commission proposed to make available to the Small Generating Facility is similar to the Energy Resource Interconnection Service that is offered under the LGIA”); *see also id.* at Appendix E, at § 1.4 (containing SGIP § 1.4, regarding modifications of interconnection request).

¹⁷ Order No. 2006, 70 Fed Reg 34, at P 140 (stating, “If [a customer] wishes to interconnect its Small Generating Facility using Network Resource Interconnection Service, it may do so. However, it must request interconnection under the LGIP and execute the LGIA.”).

¹⁸ *In Re Investigation into Interconnection of PURPA Qualifying Facilities with Nameplate Capacity Larger Than 20 Megawatts to a Public Utility’s Transmission or Distribution System*, Docket No. 1401, Order 10-132, App. A at pp. 20-22 (April 7, 2010) (containing OPUC-approved LGIA § 4.4).

Those rules remain in effect to this date for the utilities still using a serial queue. There is no justification for denying that downsizing right to small generators also.

The primary policy argument against allowing for reductions to the interconnection capacity requested is that, in avoiding the costs of major system upgrades through capacity reduction, the customer may be shifting those system upgrades to a lower queued customer. However, that concern does not justify constricting the right to make significant capacity reductions during the interconnection process. If the system upgrades are large, the first customer to discover them through the interconnection process should be allowed to reduce its capacity to right-size its facility to the existing grid, instead of maintaining a policy that hopes that a lower queued customer correctly guessed the correct right-sized capacity when it entered the queue. To the extent the lower queued customer may otherwise benefit from the first customer's withdrawal from the queue due to the inability to meaningfully reduce its capacity, the Interconnection Trade Associations question whether such gamesmanship is really the policy the Commission should be promoting in the interconnection rules.

Similarly, the concern that a lower queued customer may be forced into a re-study in the case of the first customer lowering its capacity is also not sufficient justification for constricting the right to reduce capacity during the process. The fact that a lower queued generator that is in the study phase may be adversely impacted by the decisions and actions of a higher queued generator is an unfortunate fact of how a properly functioning serial interconnection queue should work, and a higher queued generator has a de facto higher priority right relative to lower queued projects. When balancing the interests of

the different customers, it is more important to provide flexibility to the higher queued customer. FERC explained in addressing this point in Order No. 845:

Furthermore, lower-queued interconnection requests have always faced potential impacts from the decisions of higher-queued interconnection requests. For example, lower-queued interconnection requests are frequently impacted by the withdrawal of higher-queued interconnection requests. The impact on lower-queued interconnection requests from a withdrawal higher in the queue is similar to what would happen when a higher-queued interconnection customer requests a reduction in interconnection service level. In both cases, the higher-queued interconnection request could avoid paying for some level of network upgrades (if such upgrades are required), and lower-queued interconnection requests could be impacted as a result.¹⁹

This Commission has also applied similar reasoning when it granted a waiver of the existing rule in *Marquam Creek Solar*, reasoning that the beneficial impact of the capacity reduction to the higher queued customer was known and significant while the adverse impact on the lower queued customer was speculative.²⁰

In sum, therefore, the Interconnection Trade Association recommend that the rules be revised to be consistent with the FERC LGIP modification rights for changes to capacity.

3. GIA Term: The Rules Should Allow the Customer to Select a GIA Term that Coincides with its Power Purchase Agreement Term or a GIA Term that Can be Renewed for the Life of the Facility.

The rules should provide the customer with the ability to ensure that its GIA term does not expire before its power purchase agreement term and potentially could last as

¹⁹ Order No 845, 163 FERC ¶ 61,043, P 409.

²⁰ *In Re Marquam Creek Solar, LLC*, Docket No. UM 1631, Order No. 21-145, at 2.

long as the life of the facility. Staff's Proposed Rules, in OAR 860-0082-0030(3), does not unambiguously allow the customer to select a term of the GIA that works for its project.

The currently proposed rule revision provides as follows:

OAR 860-0082-0030(3) Before beginning operation of a small generator facility, an interconnection customer or applicant must receive approval of the facility under the small generator interconnection rules and must execute an interconnection agreement with the interconnecting public utility. Applicants or interconnection customers are entitled to a ~~maximum~~ 20-year term for an interconnection agreement, but can be a term mutually agreed upon between the interconnecting utility and customer.

Staff's Proposed Rules improve on the currently effective rule by striking the limitation to a "maximum" term of 20 years, which has resulted in utilities limiting GIA terms to 20 years after the execution of the GIA and potentially several years before the end of a 20-year power sale term in a power purchase agreement.²¹ However, the improvement can only be realized if the utility agrees, and the rule appears to provide no reasonableness requirement on the utility's part in offering such agreement.

The rules should remove ambiguity on the customer's right to a term length of its choosing. A GIA with a term that ends prior to the term of the power purchase

²¹ The Commission's recently updated Division 29 rules allow for a power sale term of up to 20 years after the scheduled commercial operation date, or longer in some cases where there is a delay in achieving commercial operation and thus commencement of the 20-year power sale term. *See In re Rulemaking to Address Procedures, Terms, and Conditions Associated with QF Standard Contracts*, Docket No. AR 631, Order No. 23-152, at Attachment at OAR 860-029-0005(49), 860-029-0120(2), (4), (5), (6)(d) (April 25, 2023).

agreement can be an impediment to financing construction of the facility. If the term of the GIA ends while the power purchase agreement is still in effect, it could cause an inadvertent breach of the power purchase agreement if the utility imposes expensive interconnection upgrade costs in a new GIA. Additionally, the customer should ultimately have the right to extend the GIA term for the life of its facility, which is how FERC-approved interconnection agreements work.

Specifically, under FERC's LGIA, the term of the agreement is 10 years or such longer term requested by the customer, but in either case the agreement automatically renews each year thereafter and, unless there is a breach, the transmission provider cannot terminate the agreement until permanent closure of the facility.²² The FERC-approved LGIA provides as follows:

2.2 Term of Agreement. Subject to the provisions of Article 2.3, this LGIA shall remain in effect for a period of ten (10) years from the Effective Date or such other longer period as Interconnection Customer may request (Term to be specified in individual agreements) and shall be automatically renewed for each successive one-year period thereafter.

2.3 Termination Procedures.

2.3.1 Written Notice. This LGIA may be terminated by Interconnection Customer after giving Transmission Provider ninety (90) Calendar Days advance written notice, or by Transmission Provider notifying FERC after the Generating Facility permanently ceases Commercial Operation.²³

²² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-A, 106 FERC ¶ 61,220, P 197 (March 5, 2004) (allowing termination only upon permanent closure).

²³ *Id.* at Append. 6, LGIA, §§ 2.2-2.3.

FERC's SGIA similarly automatically renews each year after the initial 10-year term.²⁴

The Interconnection Trade Associations recommend that the Division 82 rules mirror the language of the FERC LGIA and provide the flexibility for the customer to select a term length of its choosing and to have the agreement continue on a year-to-year basis thereafter until permanent closure of the facility unless terminated earlier by the interconnection customer.

4. Data Conversion to Export Capacity: The Rules Should Require the Utilities to Expediently Correct the Data Input Error that Relies on DC Capacity of Interconnection Customers' Facilities.

The Interconnection Trade Associations understand that it has been revealed in this process that one or more of the utilities logs the capacity of facilities into interconnection software based on the DC rating of the component parts (e.g., solar panels) even when the facility's AC export capacity from inverters is far lower. Apparently, due this data input error, interconnection studies have been incorrectly overestimating the amount of AC capacity being injected into the AC grid, and this error has likely resulted in significant overstatements of the upgrades needed to interconnect new generators. This is an error that needs to be promptly corrected to allow for distributed energy resources to effectively utilize the existing capacity on the system and enable Oregon to meet its clean energy goals. Two actions should be taken to correct this situation.

²⁴ FERC's SGIA, §§ 3.2-3.3, available at: <https://www.ferc.gov/sites/default/files/2020-04/sm-gen-agreement.pdf>.

First, the rules should require the utilities to immediately correct this data entry practice for prospective customers and, to the extent it still exists, for interconnection customers still in the queue and not yet connected. It appears that all parties are in agreement on this point.

Second, the data error should be promptly corrected in all affected systems with respect to all operating facilities where it exists. The Commission should set a date certain by which utilities must include in their databases the AC nameplate rating and export capacity of all operating facilities. The utilities should also file a report shortly thereafter confirming that the task has been completed. Without a date certain in the near term and a report, the Commission and stakeholders may have no easy way to ensure when this important data conversion will be completed.

III. CONCLUSION

The Interconnection Trade Associations recommend that the edits proposed above be incorporated in the draft proposed rules and additional actions be directed with regard to the data entry practice described above.

Dated this 5th day of May 2023.

Respectfully submitted,

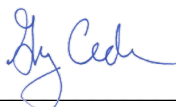
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Attachment B

**Supplemental Joint Comments on Behalf of the Community Renewable
Energy Association, Renewable Energy Coalition, and the Oregon
Solar + Storage Industries Association**

June 28, 2023

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2111

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Investigation Into Interconnection
Process and Policies

SUPPLEMENTAL JOINT
COMMENTS ON BEHALF OF THE
COMMUNITY RENEWABLE
ENERGY ASSOCIATION,
RENEWABLE ENERGY
COALITION, AND THE OREGON
SOLAR + STORAGE INDUSTRIES
ASSOCIATION

INTRODUCTION AND SUMMARY

In accordance with discussion at the Public Utility Commission of Oregon (“Commission” or “OPUC”) Staff’s Workshop held on June 20, 2023, the Community Renewable Energy Association (“CREA”), the Renewable Energy Coalition (the “Coalition”), and the Oregon Solar + Storage Industries Association (“OSSIA”) (collectively the “Interconnection Trade Associations”) respectfully submit these comments with respect to the proposed rules governing execution of the interconnection agreement in proposed OAR 860-082-0025(7)(f). As explained below, the Interconnection Trade Association generally supports the proposal of the Interstate Renewable Energy Council (“IREC”) but recommends revisions to the currently proposed provision to bring it in line with standard processes. Specifically, the Interconnection Trade Associations recommend three substantive edits:

- (i) Deposit: Delete the Joint Utilities’ proposed requirement that the applicant furnish a security deposit with the executed interconnection agreement;
- (ii) Time Period: Provide 30 days for the applicant to review and execute the public utility’s proposed interconnection agreement, and
- (iii) Dispute Resolution: Clarify and provide a reasonable process by which the applicant may initiate arbitration or an expedited complaint process under the rules if it disputes the public utility’s proposal.

The Interconnection Trade Association’s proposed edits to IREC’s latest proposed language are included as an appendix to these comments to clearly demonstrate the proposal, and each individual issue is explained below.

COMMENTS

A. Deposit: Delete the Joint Utilities’ proposed requirement that the applicant furnish a security deposit with the executed interconnection agreement.

The Joint Utilities proposed in their written comments that OAR 860-082-0025(7)(f) should require the applicant to submit a deposit with its signed interconnection agreement,¹ and subsequent proposals appear to have incorporated this proposal in the rule. The Interconnection Trade Associations strongly oppose requiring the applicant to submit a financial deposit on the short timeframe that will be applied to execution of an interconnection agreement. Instead, the deposit supporting procurement and/or

¹ Joint Utilities’ Comments, Docket No. UM 2111, pp. 4-5 (May 5, 2023).

construction should be governed by the interconnection agreement itself, which should require the deposit be furnished a reasonable time (e.g., 20 days) before commencement of those activities. Requiring the applicant to furnish a financial deposit for interconnection upgrades with the executed interconnection agreement will impede renewable energy development because the deposit can be significant—several hundred thousand or even millions of dollars in some cases. Developers will likely need time to raise such funds, and many may not be able to do so within the short timeframe (15-30 days) within which it is reasonable to require the interconnection agreement to be executed.

A review of other relevant interconnection rules confirms that requiring the applicant to furnish the financial deposit supporting construction with the executed interconnection agreement is not the normal process. The Commission’s current Division 82 rules do *not* state that financial security must be supplied with the executed interconnection agreement. The rules simply state that the customer must return the executed agreement within 15 business days.² The deadline to submit any financial deposit would be governed by the interconnection agreement itself, and that agreement should provide reasonable time to submit the deposit before the utility must begin procurement and construction. Similarly, the Federal Energy Regulatory Commission’s (“FERC”) Small Generator Interconnection Procedures (“SGIP”) (at § 4.8) provides the customer 30 days to sign the Small Generator Interconnection Agreement (“SGIA”), or

² OAR 860-082-0025(7)(e).

request that the disputed agreement be submitted to FERC for resolution.³ But it does not state that a deposit must be submitted within 30 days. Instead, the SGIP states the customer that executes the SGIA then proceeds under the SGIA. In turn, FERC's SGIA (§ 6.3) requires the financial security in the amount of the construction costs be submitted at least 20 days before commencement of procurement and/or construction. That process makes sense because the customer has time to raise the potentially significant financial deposit after execution of the interconnection agreement, but the customer cannot compel the utility to commence procurement and construction activities prior to doing so.

B. Time Period: Provide 30 days for the applicant to review and execute the public utility's proposed interconnection agreement.

The currently proposed draft rule provides the customer 15 business days to execute the interconnection agreement or initiate negotiation of a non-standard interconnection agreement. However, as noted above, FERC's SGIP provides the customer with 30 days to execute the utility's proposed interconnection agreement or to initiate a dispute resolution process through the filing of an unexecuted agreement with FERC. The Interconnection Trade Associations recommend use of the 30-day period in FERC's SGIP for the applicant's review and execution of utility's proposed interconnection agreement.

³ Current versions of FERC's approved pro forma interconnection agreements and procedures are available at: <https://www.ferc.gov/electric-transmission/generator-interconnection/standard-interconnection-agreements-and-procedures>.

C. Dispute Resolution: Clarify and provide a reasonable process by which the applicant may initiate arbitration or an expedited complaint under the rules if it disputes the public utility’s proposal.

The currently proposed draft rule maintains the existing rule’s language suggesting that the applicant may request negotiation of a “non-standard” interconnection agreement if it chooses not to execute the utility’s proposed interconnection agreement.⁴ The Interconnection Trade Associations are concerned with the lack of clarity on the process for the alternative options to simply signing the utility’s proposed interconnection agreement. Those options include negotiating a non-standard interconnection agreement or, alternatively, initiating an available dispute resolution procedure, such as arbitration through use of Division 82’s arbitration process in OAR 860-082-0080, filing an expedited complaint pursuant to ORS 756.500, or filing a petition for alternative dispute resolution before a mediator pursuant to Division 2 of the Commission’s rules, OAR 860-002-0000 *et seq.* In most cases, a dispute would regard the contents of the proposed interconnection agreement’s addendums, which contain substantive provisions regarding the upgrades and costs required for the interconnection. A dispute over those issues may not be properly resolvable through negotiation of a “non-standard” interconnection agreement, but rather would more likely be resolvable through the Commission’s arbitration, complaint, or mediation processes. However, nothing in the current or proposed rules regarding execution of the interconnection agreement references the

⁴ OAR 860-082-0025(7)(e) (stating applicant must “return an executed interconnection agreement to the public utility or request negotiation of a non-standard interconnection agreement within 15 business days of receipt”).

option to initiate available dispute resolution processes, and thus there is ambiguity as to how quickly the applicant must initiate such a dispute resolution process to ensure it maintains its queue position while a good faith dispute is resolved.

Clarity regarding the rights of interconnection customers will save the Commission and interconnection customers significant resources and remove a powerful tool that at least Portland General Electric Company (“PGE”) has used to attempt to force interconnection customers to agree to PGE’s position or be removed from the interconnection queue. For example, in the Zena Solar dispute, PGE recently took the position that the interconnection customer should be removed from the interconnection queue (effectively killing the project) if the interconnection customer sought to challenge PGE’s proposed interconnection upgrades. The lack of clarity on the point in the Commission’s rules resulted PGE and the interconnection customer making five separate filings, totaling 101 pages of argument and 71 pages of exhibits and affidavits, regarding whether Zena Solar would be removed from the interconnection queue.⁵ The Commission ultimately decided that the interconnection customer could proceed with its

⁵ See generally *Zena Solar, LLC v. Portland Gen. Elec. Co.*, Docket No. UM 2164, Zena Solar Motion for Interim Relief and Preliminary Injunction (May 24, 2021); UM 2164, PGE Response to Motion for Interim Relief (July 2, 2021); UM 2164, Zena Solar Reply in Support of Its Motion for Interim Relief and Preliminary Injunction (July 23, 2021); UM 2164, PGE Leave to File Sur-Reply and Sur-Reply in Opposition to Zena Solar’s Motion for Interim Relief and Preliminary Injunction (Aug. 12, 2021); UM 2164, Zena Solar Motion to File Surreply and Surreply in Support of Its Motion for Interim Relief and Preliminary Injunction (Aug. 16, 2021).

complaint without compromising its queue position during the complaint proceeding,⁶ but not after the small interconnection customer engaged in significant litigation just to know whether it would have the opportunity to adjudicate its dispute.

To avoid unnecessary procedural disputes, the rules should clearly explain that initiation of available dispute resolution processes does not compromise the customer's queue position. The Commission's existing rules already specify that the applicant's queue position is maintained during pendency of an arbitration petition pursuant to OAR 860-082-0080, and it would be appropriate to also include the option to use an expedited version of the Commission's complaint process under ORS 756.500, or the recently adopted alternative dispute resolution process OAR 860-002-0000 *et seq.* The Interconnection Trade Associations are open to discussing additional details for an expedited version of a complaint process for this purpose in a future phase of this rulemaking.

Accordingly, the Interconnection Trade Associations recommend an edit to clarify that the applicant does not lose its queue position if it provides notice of intent to initiate an available dispute resolution process within 30 days of the receipt of the utility's


⁶ See *Zena Solar, LLC v. Portland Gen. Elec. Co.*, Docket No. UM 2164, Order No. 21-319 at 5 (Sept. 29, 2021) (stating, "We do not award an injunction, but we extend the interim relief that we granted on August 31, 2021, to December 10, 2021, by which time we plan to issue a final decision in this docket on an accelerated procedural schedule further addressed below."); see also *Zena Solar, LLC v. Portland Gen. Elec. Co.*, Docket No. UM 2074, Ruling at 1-2 (March 27, 2020) ("I find good cause to grant, on a temporary basis, the interim relief requested by Zena regarding their queue position.... Therefore, I grant Zena's motion for preliminary relief and direct PGE to keep Zena in its current position in the queue.")

proposed interconnection agreement and, within 30 days of providing such notice, files an arbitration petition pursuant to OAR 860-082-0080, an expedited complaint pursuant to ORS 756.500, or a petition for alternative dispute resolution before a mediator pursuant to OAR 860-002-0000 *et seq.*

Dated this 28th day of June 2023.

Respectfully submitted,

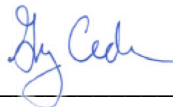
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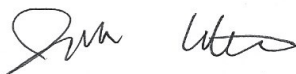
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ADDENDUM – PROPOSED RULE REVISION

Proposed Edits to IREC’s Proposal Filed June 16, 2023:

OAR 860-082-0025(7)(f) Interconnection Agreement. If the proposed interconnection requires no construction of facilities by the public utility, the public utility must provide the applicant an executed interconnection agreement no later than five business days after providing Tier 2 or Tier 3 screen results, approving the interconnection despite screen failure, the applicant options meeting, providing supplemental review screen results, or completing the last tier 4 study. If the proposed interconnection requires construction of facilities, the public utility must provide the applicant an executed interconnection agreement, along with a non-binding good faith cost estimate and construction schedule for any required upgrades, no later than fifteen 15 business days after the applicant options meeting, approval despite screen failure, providing supplemental review screen results, or completing the last tier 4 study. If the applicant does not return a countersigned interconnection agreement ~~and any required deposit~~ to the public utility, ~~or~~ request negotiation of a non-standard interconnection agreement, or provide the public utility with written notice of intent to initiate an available dispute resolution process within ~~15 business~~ 30 days of receipt of an executed interconnection agreement, the application is deemed withdrawn. In the event that the applicant provides notice of intent to initiate an available dispute resolution process, the applicant shall file an arbitration petition pursuant to OAR 860-082-0080, an expedited complaint pursuant to ORS 756.500, or a petition for alternative dispute resolution before a mediator pursuant to OAR 860-002-0000 et seq. within 30 days of sending the utility the notice of intent to initiate dispute resolution. The applicant’s queue position will be maintained during the applicant’s chosen dispute resolution process.

Attachment C

**Comments on Handbook Redlines on Behalf of the Community Renewable
Energy Association, Renewable Energy Coalition, and the
Oregon Solar + Storage Industries Association**

July 3, 2023

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2111

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Investigation Into Interconnection Process
and Policies

COMMENTS ON HANDBOOK
REDLINES ON BEHALF OF THE
COMMUNITY RENEWABLE
ENERGY ASSOCIATION,
RENEWABLE ENERGY
COALITION, AND THE OREGON
SOLAR + STORAGE INDUSTRIES
ASSOCIATION

The Renewable Energy Coalition (the “Coalition”), Oregon Solar + Storage Industries Association (“OSSIA”), and the Community Renewable Energy Association (“CREA”) (collectively the “Interconnection Trade Associations”) respectfully submit these comments on proposed rules OAR 860-082-0030(1)(b) related to interconnection handbooks. The Interconnection Trade Associations propose the following redlines to Oregon Public Utility Commission (“Commission”) Staff’s proposed rules filed on June 13, 2023. The Interconnection Trade Associations recommend the following changes:

OAR 860-082-0030(1)(b) Interconnection requirements handbook. Each public utility must post an interconnection requirements handbook on its public website. Prior to revising its interconnection requirements handbook, a public utility must provide public notice **and notice to interconnection customers with an interconnection agreement or active interconnection request. The public utility must also provide-and** an opportunity to comment and the public utility must respond to any comments received. **If a person challenges the revisions to the interconnection requirements handbook, then the public utility will file the**

revised interconnection requirements handbook with the Commission for review and approval. The public utility would bear the burden of proof to demonstrate the revisions to the interconnection requirements handbook are reasonable. Each public utility must file a compliance filing of its interconnection requirements handbook to be reviewed by the Commission that incorporates the preferred default settings in OAR 860-082-0030(1)(c).

The proposed notice requirements will ensure that developers with operating projects and projects that are in development will become aware of a utility's proposed changes to its interconnection handbook. If a party has concerns with the utility's proposed changes to its interconnection handbook, then the utility should be required to file the proposed changes with the Commission for Commission review and approval. The Interconnection Trade Associations are open to suggestions on the review and approval process, but in any process the utility should bear the burden to demonstrate its proposed changes are reasonable.

These recommended changes will provide more certainty to developers when selecting sites to develop. Currently, developers rely on information from the utilities, including their interconnection handbooks, when making business decisions, including but not limited to the cost and feasibility of projects, selection of land parcels for development, and obtaining financing. If the utility requires an upgrade unrelated to safety, reliability, or adverse system impacts that was not specified in the utility's handbook, then that can disrupt the developer's siting choices and add unplanned costs. These recommendations will increase transparency and improve the working relationship between the utilities and the developers.

Dated this 3rd day of July 2023.

Respectfully submitted,

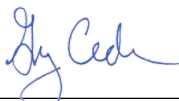
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