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**VIA ELECTRONIC FILING**

Attention: Filing Center  
Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
P.O. Box 1088  
Salem, Oregon 97308-1088

**Re: Docket UM 2032 – Investigation into the Treatment of Network Upgrade Costs for Qualifying Facilities**

Attention Filing Center:

Attached for filing in the above-captioned docket are the Joint Utilities' Comments on Scope and Proposed Issues List.

Please contact this office with any questions.

Sincerely,

*/s/ Alisha Till*

Alisha Till  
Paralegal

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 2032**

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

Investigation into the Treatment of Network  
Upgrade Costs for Qualifying Facilities.

**JOINT UTILITIES' COMMENTS ON  
SCOPE AND PROPOSED ISSUES LIST**

1            Idaho Power Company, Portland General Electric Company, and PacifiCorp, dba Pacific  
2 Power (together, the Joint Utilities) submit these comments addressing the scope of  
3 docket UM 2032 and offer a proposed issues list. On March 12, 2020, Staff proposed an issues  
4 list in this docket. That list consisted of requests intended to identify the potential cost impacts of  
5 interconnecting Qualifying Facilities (QF) to utilities' systems under the Public Utility Regulatory  
6 Policies Act of 1978 (PURPA). While this type of issues list may shed light on some of the cost  
7 impacts of QF interconnection, the Joint Utilities' understanding is that the Commission's QF cost-  
8 allocation policies themselves are, in fact, the key issue in this docket. Thus, the first issue to be  
9 addressed, in the Joint Utilities' view, is not a snapshot of current QF interconnection costs,<sup>1</sup> but  
10 the question of who should be financially responsible for QF-interconnection-driven network

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<sup>1</sup> In any case, the magnitude of QF interconnection-driven network upgrade costs is a time- and location-specific measure. A snapshot of current QF interconnection costs is therefore not an accurate measure of future QF interconnection costs or the ultimate impact of Commission cost-allocation policies. The costs of QF interconnection-driven network upgrades can vary widely based on the capacity of the system to accommodate QF power at the location where the QF chooses to site a project, a measure that itself can change over time as the characteristics of the system at that location change.

1 upgrade costs and the legal and policy basis for that decision. The Joint Utilities’ proposed issues  
2 list therefore reflects this focus.

3 In summary, the Joint Utilities believe that the Commission’s existing interconnection  
4 policies maintain the PURPA customer indifference requirement by making QFs responsible for  
5 paying for the network upgrades—which are system facilities required at or beyond the proposed  
6 point of interconnection—associated with a higher level of interconnection service, network  
7 resource interconnection service or NRIS. The Commission should retain these policies and  
8 refrain from any action that shifts QF interconnection costs onto utility customers. To do so would  
9 not only undermine the Commission’s steadfast commitment—and legal obligation—to maintain  
10 customer indifference,<sup>2</sup> it would eliminate a critical incentive for economic QF siting and be  
11 contrary to the Commission’s goal of “encourag[ing] economically efficient development of  
12 QFs.”<sup>3</sup>

13 Consistent with the foregoing, the Joint Utilities recommend the following straightforward  
14 issues list for this case:

- 15 • Should the Commission maintain its current policy of requiring QFs to pay for  
16 network upgrades that would not have been needed but for the QF?<sup>4</sup>

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<sup>2</sup> See *S. Cal. Edison Co., San Diego Gas & Elec. Co.*, 71 FERC ¶ 61,269 at p. 62,080 (1995) (“The intention [of Congress] was to make ratepayers indifferent as to whether the utility used more traditional sources of power or the newly-encouraged alternatives.”).

<sup>3</sup> *Portland Gen. Elec. Co. v. Pac. Nw. Solar, LLC*, Docket UM 1894, Order No. 18-025 at 4 (Jan. 25, 2018) (Commission intention to “encourage the economically efficient development of QFs, while protecting ratepayers by ensuring that utilities pay rates equal to that which they would have incurred in lieu of purchasing QF power.”).

<sup>4</sup> For larger QFs, Commission policy states that QFs “are responsible for all costs associated with network upgrades unless they can establish quantifiable system-wide benefits.” *In the Matter of the Pub. Util. Comm’n of Oregon Investigation into Interconnection of PURPA Qualifying Facilities with Nameplate Capacity Larger than 20 Megawatts to a Pub. Utility’s Transmission or Distribution System*, Docket No. UM 1401, Order 10-132 at 3 (Apr. 7, 2010).

- 1           • Should the Commission maintain its current policy of requiring QFs to receive  
2           NRIS?

3           While this issues list is reasonably straightforward, the issues in this case are, in fact, legally  
4           and factually complex, involve significant jurisdictional questions, and require a fully developed  
5           legal and factual record. In order to reach a meaningful policy resolution in this docket, the Joint  
6           Utilities believe a number of sub-issues will need to be addressed. The Joint Utilities briefly touch  
7           on these issues in more detail below.

8           Aside from these two issues and related sub-issues, the Joint Utilities do not believe any  
9           additional, discrete issues should be added to this docket at this time.<sup>5</sup>

## I. DISCUSSION

### A. The Commission ordered a narrow scope for docket UM 2032.

10           In its July 22, 2019, Public Meeting Memorandum filed in docket UM 2000, Staff  
11           recommended that the Commission open this docket to “investigate the treatment of network  
12           upgrade costs for QFs.”<sup>6</sup> Staff wanted “to examine whether it is appropriate to require QFs to  
13           select NRIS and in any event, whether it is appropriate to allocate costs of Network Upgrades to  
14           QFs.”<sup>7</sup> The Commission adopted Staff’s recommendation to open this docket, but also directed  
15           the Administrative Hearings Division to “consider, following a prehearing conference and after  
16           considering recommendations from the parties, whether the scope of the investigation into the  
17           

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<sup>5</sup> The Joint Utilities believe it is important to focus on the core questions in their proposed issues list before addressing any additional interconnection-related issues the parties may raise. The Joint Utilities would therefore propose saving additional, discrete interconnection issues for a subsequent phase of this docket.

<sup>6</sup> *In the Matter of the Pub. Util. Comm’n of Oregon Request to Adopt a Scope and Process for the Investigation into PURPA Implementation*, Docket No. UM 2000, Order No. 19-254, App’x A at 1 (July 31, 2019).

<sup>7</sup> Order No. 19-254, App’x A at 20.

1 treatment of network upgrade costs for QFs should be expanded to include a *limited number of*  
2 *additional, discrete issues related to interconnection of QFs.*”<sup>8</sup>

3 Consistent with that direction, the parties agreed to hold a scoping workshop on March 13,  
4 2020. Due to the COVID-19 crisis, the workshop was cancelled, and, in its place, Staff proposed  
5 an issues list and recommended that the parties provide written comments before convening to  
6 discuss the issues list. Staff identified five issues that were framed largely as requests for  
7 information that Staff believes should be included in the record.

8 The Joint Utilities appreciate Staff’s efforts to initiate the scoping process and provide an  
9 initial issues list for the parties’ consideration. Moreover, the Joint Utilities largely agree that  
10 Staff’s requested information is within the scope of this case. However, the Joint Utilities  
11 recommend reframing Staff’s requests so that the issues list identifies the specific questions the  
12 Commission will be asked to resolve, rather than describing evidence parties may provide.

13 **B. The Joint Utilities’ proposed issues list focuses on the matters identified in**  
14 **Order No. 19-254.**

15 Based on the Commission’s direction, the Joint Utilities recommend that this docket  
16 examine the following two issues:

- 17 • Should the Commission maintain its current policy of requiring QFs to pay for  
18 network upgrades that would not have been needed but for the QF?
- 19 • Should the Commission maintain its current policy of requiring QFs to receive  
20 NRIS?

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<sup>8</sup> Order No. 19-254 at 1 (emphasis added).

1           The Joint Utilities believe that these two broadly stated issues adequately define the scope  
2 of the matters for investigation in this docket and clearly frame the questions that the Commission  
3 will be asked to resolve. While the Joint Utilities believe these two questions raise the core issues  
4 to be addressed in this docket,<sup>9</sup> a number of important sub-issues will presumably need to be  
5 addressed as part of reaching meaningful policy decisions in this docket.

6           **1. Issue 1: Whether the Commission should maintain its current policy of**  
7           **requiring QFs to pay for network upgrades that would not have been needed**  
8           **but for the QF.**

9           The Joint Utilities submit that an exploration of the following sub-issues will be important  
10 to addressing the Joint Utilities' first issue:

- 11           • *Does PURPA's customer indifference standard apply to QF interconnection costs?*  
12           The Commission's current QF interconnection policies reflect a determination that  
13           utility customers should remain financially indifferent to the utility's obligation to  
14           purchase QF power. The QF parties seek to modify these policies, raising the  
15           threshold question of whether PURPA's customer indifference standard applies to  
16           QF-interconnection-driven network upgrade costs. The Joint Utilities submit that  
17           PURPA, the Federal Energy Regulatory Commission's (FERC) implementing  
18           regulations, and existing Commission precedent all support the proposition that  
19           PURPA's customer indifference standard applies to QF interconnection costs. The  
20           Joint Utilities believe it is important to address this legal and policy issue in this  
21           proceeding.
- 22           • *What is the Commission's legal authority for addressing allocation of QF-*  
23           *interconnection-driven network upgrade costs?* For non-QFs, interconnection-

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<sup>9</sup> The Joint Utilities emphasize that it is not useful to examine the NRIS question without first confirming the Commission's cost-allocation policies. To ensure customer indifference to QF generation, QFs must pay for the cost of network upgrades required by their chosen point of interconnection. Requiring NRIS is a practical and efficient method for both determining and allocating those costs.

1 driven network upgrades on a utility’s transmission system are FERC-jurisdictional  
2 and subject to FERC pricing policy. FERC’s PURPA regulations flip this ordinary  
3 jurisdictional allocation on its head and makes clear that states, not FERC, have  
4 jurisdiction to address QF interconnection costs, even when the QF interconnection  
5 occurs on otherwise FERC-jurisdictional facilities. The Joint Utilities submit that  
6 the Commission not only has the legal authority to assign interconnection-driven  
7 network upgrade costs to QFs, but the obligation to do so. The clear grant of  
8 authority in FERC’s PURPA regulations allowing states to address QF  
9 interconnection costs evidences an intent to let state policy drivers and customer  
10 indifference mandates, rather than FERC’s interconnection pricing policy, drive the  
11 allocation of QF-interconnection-driven network upgrade costs under PURPA. The  
12 Joint Utilities believe it is important to address this legal and policy issue in this  
13 proceeding.

14 **2. Issue 2: Whether the Commission should maintain its current policy of**  
15 **requiring QFs to receive NRIS.**

16 The Joint Utilities believe this issue also requires evaluation of a number of sub-issues, but  
17 first provide some context for those sub-issues.

18 As background, studying a generator for interconnection service entails an evaluation of  
19 the interconnecting generator’s impact on the utility’s system. Importantly, the level of network  
20 upgrades that will be triggered by a generator’s request for interconnection service can turn on  
21 several factors.<sup>10</sup> One critical factor is the level of complexity involved in simply “plugging in”  
22 the generator. If, for example, plugging in and turning on a generator causes too many electrons  
23 to flow through too small of wire, this may result in the need to construct costly network upgrades  
24 associated with upgrading long sections of the relevant circuit, such as replacing reclosers,

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<sup>10</sup> In this discussion, the Joint Utilities use the term “network upgrades” to generally refer to any upgrades at or beyond the point of interconnection.

1 installing voltage regulators or transfer trip, and possibly even replacing the substation transformer  
2 or transmission line conductor. All of these would be network upgrades associated with FERC's  
3 lower-level type of interconnection service called energy resource interconnection service, or  
4 ERIS.

5 ERIS studies only plugging in and turning on the generator, so an ERIS evaluation does  
6 not consider deliverability issues associated with the interconnecting generator's chosen site. This  
7 means that when it is time to make transmission service arrangements, the interconnecting  
8 generator will be eligible to deliver its output only using whatever type of transmission service is  
9 available on the system as it currently exists, i.e., maybe there will be firm transmission capacity  
10 available if the generator has chosen to site its project on an unconstrained point on the system, or  
11 maybe there will only be non-firm transmission capacity available if the generator has chosen to  
12 site its project on a constrained point on the system. This ERIS study's lack of insight into whether  
13 additional upgrades will be necessary to ensure firm deliverability may not matter, depending on  
14 the intended use of the generator. For instance, if a generator simply intends to sell excess power  
15 into the market now and then, but is willing to use non-firm transmission service that may result  
16 in curtailment to do so, an ERIS study may be all that is needed to accurately identify the universe  
17 of network upgrades that will be necessitated by this generator's intended use.

18 If, on the other hand, the generator is interconnecting with the intent of delivering its output  
19 on firm transmission to serve load, then a second critical factor will affect whether the  
20 interconnection will trigger the need for network upgrades—whether the system is constrained in  
21 the area where the generator chooses to interconnect. The more constrained the system in that  
22 area, the more likely an interconnection study will identify deliverability-related network upgrades  
23 needed to accommodate the generator's interconnection service.



1           This identification is made when the generator is evaluated for a higher-level of  
2 interconnection service called network resource interconnection service, or NRIS. NRIS is  
3 specifically designed to evaluate firm transmission service deliverability issues and to identify  
4 network upgrades designed to resolve them.<sup>11</sup> The NRIS study does this because, unlike the ERIS  
5 study, it examines the upgrades required to allow the aggregate of generation in the local area of  
6 the proposed interconnection to be delivered to the aggregate of load on the transmission system,  
7 while the newly proposed generator is assumed to be operating at full output on a stressed  
8 transmission system during peak load conditions. Thus, while all interconnecting generators are  
9 evaluated for the impacts of plugging in to the system (or ERIS) as described above, generators  
10 receiving NRIS are also evaluated for deliverability to load.

11           In addition, if only an ERIS evaluation is performed, that does not mean that no other  
12 network upgrades would be needed as a direct result of the QF siting choice to allow the generator  
13 to be used to serve load on firm transmission. It simply means that, if such network upgrades are  
14 needed, they will not be identified until a transmission service request study is performed to allow  
15 the utility to deliver the QF output to load on firm transmission.

16           With this context, the Joint Utilities submit that an exploration of the following sub-issues  
17 is critical to reaching a meaningful policy decision on this issue.

- 18           • *What is the scope of incremental additional network upgrade costs caused by QF*  
19 *interconnection?* For the Commission to meaningfully address the allocation of  
20 QF-interconnection-driven network upgrades, it must first be able to identify the  
21 network upgrades caused by QF interconnection. QFs are differently situated from  
22 other types of generators in ways that are important to answering this question.

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<sup>11</sup> Neither NRIS nor ERIS conveys transmission service.

1 Utilities are required by PURPA to take 100 percent of a QF's power and deliver it  
2 to load using firm transmission; moreover, they are prohibited by FERC precedent  
3 from economically curtailing QFs. These utility obligations—to take and deliver  
4 100 percent of QF power to load using firm transmission, without the option of  
5 economic curtailment—remain the same whether the QF sites in an area that is  
6 physically capable of accommodating these obligations or in a constrained area that  
7 requires expensive network upgrades to accommodate these obligations. These  
8 rigorous mandates drive the cost-causation issue associated with QF-  
9 interconnection-driven network upgrades. For this reason, these operational  
10 mandates must be taken into account when identifying the scope of incremental  
11 additional network upgrades caused by QFs. FERC has designed NRIS studies  
12 intended to identify the network upgrades caused by this very intended use of a  
13 generator, and in its prior orders, the Commission has followed suit, requiring QFs  
14 to be studied to identify the upgrades they cause.

- 15 • *How should utilities identify and measure the incremental additional network*  
16 *upgrade costs caused by QF interconnection?* As noted previously, utilities  
17 currently conduct robust interconnection studies—NRIS studies—to ensure that the  
18 network upgrades caused by QFs, given PURPA's operational mandates, are  
19 identified as early as possible and relayed to QF project developers. These studies  
20 follow FERC's study procedures for NRIS, a comprehensive interconnection  
21 service with the principal purpose of making an interconnecting generator eligible  
22 to deliver its output to load on a firm basis. This match between a QF's NRIS  
23 interconnection studies and the operational requirements that QF generation  
24 imposes on the system serves the useful purpose of identifying with a reasonable  
25 degree of precision the network upgrades that would be needed to deliver the QF's  
26 power to load. QFs have advocated for the use of less robust interconnection  
27 studies to determine their cost responsibilities. Less robust interconnection studies  
28 such as those that occur in the ERIS interconnection process are designed to capture  
29 only a subset of the interconnection-driven network upgrades that can be caused by  
30 interconnecting QFs, and therefore fail to identify the costs that should be allocated

1 to QFs. The Joint Utilities believe it is important for the Commission to understand  
2 the basis for the Commission’s current policy of requiring QFs to be studied for  
3 NRIS instead of ERIS, the relationship between interconnection studies and  
4 transmission studies, and the implications of changing current Commission policy  
5 before modifying its policies in this docket.

- 6 • *Once QF interconnection driven network upgrade costs have been identified, how*  
7 *should they be allocated?* As noted above, the network upgrade costs identified in  
8 a QF’s NRIS interconnection study are currently allocated to QFs. NRIS  
9 interconnection studies are a useful and appropriate mechanism both for identifying  
10 and for allocating network upgrade costs to the QFs that caused them. The Joint  
11 Utilities believe that the Commission should fully explore the implications of any  
12 proposed new cost-allocation methodologies before changing its current policies.

### 13 **C. Staff’s Proposed Issues List**

14 Staff’s proposed issues list circulated via email to the parties on March 12, 2020, describes  
15 information that Staff believes should be included in the evidentiary record in this case. The Joint  
16 Utilities agree that nearly all of the information Staff identified is within the scope of this docket,  
17 as described by the Commission and as set forth in the Joint Utilities’ proposed issues list. But the  
18 Joint Utilities recommend that the issues list describe at a higher level the specific matters that the  
19 Commission will be asked to resolve, rather than describing the evidence that should be provided  
20 to assist the Commission in making its determination.

21 In addition, the Joint Utilities are concerned that if the issues list is framed as requests for  
22 specific information, then evidence that falls outside those specific requests could be potentially  
23 viewed as outside the scope of the case, even if the evidence were directly relevant to the  
24 fundamental questions that the Commission must resolve. At this early stage in the process, it is

1 unreasonable to expect the parties to describe every evidentiary basis for their position in an issues  
2 list, which could be the implied requirement under Staff's approach.

3 Although the Commission invited a limited number of additional issues, the Joint Utilities  
4 do not propose any additional issues for this docket in this initial phase.

## II. CONCLUSION

5 The Joint Utilities appreciate the opportunity to file these comments and, consistent with  
6 the foregoing, recommend approval of the issues list discussed above.

Dated April 9, 2020

**MCDOWELL RACKNER GIBSON PC**



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