

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

**UM 2032**

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

Staff Investigation into Treatment of Network  
Upgrade Costs for QFs

NEWSUN ENERGY LLC'S INITIAL  
COMMENTS ON JOINT UTILITIES'  
APPLICATION FOR APPROVAL OF  
COMPLIANCE FILING

**I. Introduction**

NewSun Energy LLC (“NewSun”) hereby submits its initial comments to the Oregon Public Utility Commission (“Commission”) regarding the Joint Utilities’ Application for Approval of Compliance Filing (“Joint Filing”) in response to the Commission’s Order Nos. 23-005 and 23-164 (collectively the “Orders”). As explained herein, certain details of the Joint Filing require modification for clarity, to avoid adding redundant procedural requirements, and to ensure consistency with the Orders. NewSun offers these comments solely on the implementation of the Commission’s Orders regarding the ability of Interconnection Customers to study both Energy Resource Interconnection Service (“ERIS”) and Network Resource Interconnection Service (“NRIS”), and does so without waiver of NewSun’s positions in its pending appeal of the Orders regarding treatment and allocation of Network Upgrade costs.<sup>1</sup>

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<sup>1</sup> Oregon Court of Appeals Case No. A180896.

## II. Comments

### A. The Joint Utilities do not clearly implement the Commission's Orders regarding an Interconnection Customer's ability to elect ERIS or NRIS.

QFs get to choose whether they wish to receive either NRIS or ERIS. In Order 23-005, the Commission adopted NewSun's proposal "to allow any on-system QF to choose to be studied for both ERIS and NRIS." The Commission directed the Joint Utilities to:

negotiate a non-standard contract that implements a QF's decision, after review of both reports, to interconnect with a host utility using ERIS in exchange for the QF's voluntary commitment to allow curtailment at a level that the utility agrees obviates the need for the Network Upgrades identified in a NRIS report and can be accommodated through appropriate transmission service (*e.g.*, non-firm or PTP).<sup>2</sup>

In other words, the QF can ask that the utility study both NRIS and ERIS and then, after those studies are complete, the QF may choose to use either NRIS or ERIS.

While each of the Joint Utilities generally allows an Interconnection Customer to elect to study both NRIS and ERIS prior to executing a Facilities Study Agreement,<sup>3</sup> each of the following revised interconnection request forms include language that appears to force the Interconnection Customer to choose NRIS at the time of making the interconnection request:

- Idaho Power Company ("Idaho Power" or "IPC") and Portland General Electric ("PGE")'s Interconnection Request for a QF Large Generating Facility;<sup>4</sup>
- Idaho Power's Application for Small Generator Facility Interconnection<sup>5</sup>; and
- PacifiCorp's Interconnection Request for a QF Large Generating Facility<sup>6</sup>.

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<sup>2</sup> Order No. 23-005 at 34.

<sup>3</sup> See Joint Filing at 24, 235.

<sup>4</sup> *Id.* at 53.

<sup>5</sup> *Id.* at 156.

<sup>6</sup> *Id.* at 343.

These revised applications require, in substance, that the applicant identify its requested interconnection service by checking one of the following boxes:

Network Resource Interconnection Service

Check here only if Applicant [or Interconnection Customer] requesting Network Resource Interconnection Service also seeks to have its Generating Facility studied for Energy Resource Interconnection Service.

While these applications borrow language from FERC's *pro forma* LGIP Appendix 1 – Interconnection Request for a Large Generating Facility, the application appears to presuppose that the Interconnection Customer is requesting NRIS at the time of making the interconnection request. If interpreted literally, these interconnection request forms would only give the customer the ability to add an ERIS study to its NRIS request—but they would have already specified NRIS as the requested form of service. The literal interpretation of this wording is not consistent with the Commission's Order, which allows a customer to request both studies be performed *prior to* requesting a particular interconnection service.

The language used in PGE's<sup>7</sup> and PacifiCorp's<sup>8</sup> Small Generator Facility Interconnection Application best reflects the true options for an Interconnection Customer under the Commission's Orders:

Type of Interconnection Service Requested (check one):

Network Resource Interconnection Service only

Applicant wishes to be studied for both Network Resource Interconnection Service and Energy Resource Interconnection Service and understands it will need to select one service type prior to the Facilities Study.

This phraseology makes it clear that the applicant-customer is not locked into NRIS at the time of application. Each of the Joint Utilities should modify all of their interconnection applications

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<sup>7</sup> *Id.* at 181.

<sup>8</sup> *Id.* at 372.

as necessary to use the precise language used in PGE’s and PacifiCorp’s Small Generator Facility Interconnection Application.

**B. The Joint Utilities’ requirement that Interconnection Customers attest to their intent to enter into non-standard contracts is unnecessary and improper.**

The Joint Utilities would each require that an Interconnection Customer provide a written attestation of its intent to enter into a non-standard contract at or before the point of executing an Interconnection Facilities Study Agreement (“IFSA”). For example, Idaho Power and PGE’s proposed revisions to their QF-LGIPs would require the following at the point of entering into an IFSA:

If Interconnection Customer chooses to be studied for Energy Resource Interconnection Service, then Interconnection Customer must provide to Transmission Provider a signed attestation that the Interconnection Customer intends to enter into a non-standard Qualifying Facility contract for the sale of electric energy or capacity from the Large Generating Facility.<sup>9</sup>

NewSun agrees that a QF electing ERIS is not eligible for a standard agreement. This election will be made upon completion and review of the NRIS and ERIS studies. The Commission’s Orders already make clear that each regulated utility is required, “when requested by a QF, to negotiate a non-standard contract that implements a QF’s decision, after review of both reports, to interconnect with a host utility using ERIS...”<sup>10</sup> A utility might therefore reasonably identify in its LGIP or schedules the requirement to negotiate a non-standard contract *after* an Interconnection Customer has elected to use ERIS, which election may be made *after* the Interconnection Customer has reviewed both the ERIS and NRIS reports. Requiring written attestation of intent to execute a non-standard agreement in order to choose ERIS is redundant and unnecessary. It is the equivalent of requiring the interconnection customer to submit a

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<sup>9</sup> Joint Filing at 24.

<sup>10</sup> Order No. 23-005 at 34.

signed attestation that they intend to follow the applicable rules and procedures. Doing that which is otherwise already required needs no additional “attestation.”

Instead of requiring a written attestation, NewSun suggests that the Joint Utilities modify their schedules to clearly state that an Interconnection Customer needs to utilize NRIS in order to be eligible for a standard contract, and that an Interconnection Customer electing ERIS (or another interconnection service that is less than the product offered under NRIS) will not be eligible for a standard contract. NewSun requests that the Joint Utilities remove the attestation requirements and language from the following provisions in their Joint Filing:

- PGE/IPC’s LGIP Article 8.1 (p. 37 of the Joint Filing)
- IPC’s Schedule 85 at 85-4 (p. 168 of the Joint Filing)
- PGE’s Schedule 202 at 202-1 (p. 219 of the Joint Filing)
- PacifiCorp’s LGIP at Article 8.1(d) (p. 252 of the Joint Filing)
- PacifiCorp’s Schedule 38 at 1 (p. 405 of the Joint Filing)

**C. The Joint Utilities’ attempt require execution of a non-standard contract *before* executing an LGIA is improper.**

In addition to requiring a written attestation of the Interconnection Customer’s intent to execute a non-standard contract, the Joint Utilities go a step further in requiring such non-standard contract actually be executed *prior* to executing an interconnection agreement.<sup>11</sup> If attestation of an executed non-standard contract is not provided to the utility within 60 days of the Interconnection Customer receiving the final interconnection agreement, then the interconnection application will be deemed withdrawn. Further, this execution and attestation requirement applies only to ERIS customers, and eliminates the ability for ERIS customers to

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<sup>11</sup> See, e.g., Joint Filing at pp. 42, 168, 219, 255, and 405.

use any other development milestones available to NRIS customers (for example: execution of a fuel supply or transportation contract, execution of a contract for supply of cooling water, execution of a contract for engineering/procurement/construction agreement, application for an air/water/land use permit).

This new prerequisite and discriminatory double standard goes beyond the scope of the Commission's Orders. The Commission has required that utilities: (1) allow customers to study both ERIS and NRIS (at the customer's cost); and (2) negotiate a non-standard contract that implements a customer's decision, after review of both reports, to interconnect subject to the QF's voluntary commitment to allow curtailments. Nowhere in the Orders did the Commission direct or authorize the Joint Utilities to modify their development milestones specific to ERIS customers. The proposed new requirement is unduly burdensome and discriminates against QFs pursuing ERIS to the extent that it eliminates the ability of ERIS customers to use the standard FERC *pro forma* development milestones. All QFs should be able to utilize the same list of development milestones, regardless of which type of interconnection service they are pursuing.

The Joint Utilities' contract execution requirements is an attempt to insert new commercial readiness standards into the state interconnection process without appropriate process. FERC just recently published its new *pro forma* LGIP with the goal of improving interconnection queue processing.<sup>12</sup> If the Joint Utilities wish to have the Commission adopt FERC's revised interconnection procedures for QFs, then such substantive issues need to be addressed by the Commission in a separate docket scoped for that purpose. Regardless, there can be no reasonable justification for denying ERIS customers the same development milestones afforded to NRIS customers.

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<sup>12</sup> *Improvements to Generator Interconnection Procedures and Agreements*, FERC Order No. 2023, 184 FERC ¶ 61,054 (2023).

NewSun requests that the Joint Utilities remove PPA execution and attestation as a prerequisite for an ERIS customer's execution of an interconnection agreement, and reinstate the development milestone options otherwise applicable to NRIS customers. This would specifically affect the following provisions of the Joint Filing:

- PGE/IPC's LGIP Article 11.3 (p. 42 of the Joint Filing)
- IPC's Schedule 85 at 85-4 (p. 168 of the Joint Filing)
- PGE's Schedule 202 at 202-1 (p. 219 of the Joint Filing)
- PacifiCorp's LGIP at Article 11.3 (p. 255 of the Joint Filing)
- PacifiCorp's Schedule 38 at 1 (p. 405 of the Joint Filing)

Dated this 22<sup>nd</sup> day of November, 2023.

Respectfully submitted,

s/Tyler Whitney

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