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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 is the Joint Utilities' Response to the Motion for Clarification, or in the Alternative for Reconsideration Submitted by the Interconnection Customer Coalition.

Please contact this office with any questions.

Sincerely,

Alisha Till
Paralegal

Attachment

**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.

**JOINT UTILITIES' RESPONSE TO
MOTION FOR CLARIFICATION, OR IN
THE ALTERNATIVE FOR
RECONSIDERATION SUBMITTED BY
THE INTERCONNECTION CUSTOMER
COALITION**

I. INTRODUCTION

Pursuant to OAR 860-001-0720(4), PacifiCorp d/b/a Pacific Power (PacifiCorp), Portland General Electric Company (PGE), and Idaho Power Company (Idaho Power) (together, the Joint Utilities) submit this Response to the Motion for Clarification, or in the Alternative for Reconsideration of the Community Renewable Energy Association, the Northwest & Intermountain Power Producers Coalition, and the Renewable Energy Coalition (collectively, the Interconnection Customer Coalition or ICC) filed on March 17, 2023 (hereinafter, the Motion).

The Motion addresses two issues that the ICC raised for the first time in the final round of testimony, which precluded the development of a full record, including responsive testimony from the Joint Utilities' expert witnesses. First, the ICC requests the Commission clarify that Qualifying Facilities (QFs) should be able to request a novel form of interconnection service referred to as "lesser" Network Resource Interconnection Service (NRIS) that the ICC claims is modeled on a Puget Sound Energy (PSE) tariff.¹ Second, the ICC requests the Commission clarify, or in the alternative grant reconsideration or rehearing, that a QF will not be charged for the costs of aged

¹ Motion for Clarification, or in the Alternative for Reconsideration of the Community Renewable Energy Association, the Northwest & Intermountain Power Producers Coalition, and the Renewable Energy Coalition at 1 (Mar. 17, 2023) (hereinafter, Motion).

facilities and equipment required for the QF's interconnection if the equipment would have been replaced in the near term even without the QF interconnection.²

First, the Public Utility Commission of Oregon (Commission) should reject the ICC's request for clarification approving the use of "lesser NRIS." In the guise of a request for clarification, ICC requests substantive changes to how QF interconnection studies are performed and asks the Commission to approve the use of a novel and untested "lesser NRIS" interconnection study for certain QFs. "Lesser NRIS" deviates from the Federal Energy Regulatory Commission's (FERC) two established types of interconnection service—NRIS and Energy Resource Interconnection Service (ERIS).³ "Lesser NRIS" is not supported by the evidentiary record—indeed ICC's own non-expert witness testified that he did not understand its details,⁴ and because the ICC raised the issue in its final round of testimony the Joint Utilities' expert witnesses were unable to respond. Moreover, "lesser NRIS" would potentially compromise transmission system reliability and safety and could place the Joint Utilities in a position of violating critical North American Electric Reliability Corporation (NERC) standards.⁵ While the Commission granted QFs the opportunity to receive ERIS in certain limited circumstances and subject to critical retail customer protections in the power purchase agreement, the Commission did not approve the use of "lesser NRIS." The ICC's requested clarification is therefore outside the scope of the order and cannot be adopted as a clarification.⁶

Second, the Joint Utilities oppose ICC's request that the Commission determine conclusively that interconnecting QFs are not responsible for the costs of replacing aged equipment

² Motion at 2-3.

³ See Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/27-28.

⁴ Interconnection Customer Coalition/300, Lowe/14.

⁵ See Joint Utilities' Posthearing Brief at 44-45 (Aug. 5, 2022).

⁶ Order No. 23-005 at 33-35 (Jan. 20, 2023).

because such a determination requires development of a factual record that is not present here. Conceptually, the Joint Utilities agree that it may be reasonable to presume that a QF would not be responsible for the costs of replacing equipment in circumstances where a utility is firmly committed to replacing the same equipment in the immediate near term, regardless of whether the QF interconnection proceeds. But defining the circumstances where such a presumption would apply is not as clear-cut as looking to a utility’s local transmission plan to determine whether a particular Network Upgrade is planned.⁷ Because the ICC did not raise this issue until its final round of testimony, the Joint Utilities’ expert witnesses were unable to respond to the recommendation, and the record was not fully developed. Most importantly, the Joint Utilities’ briefing raised serious implementation concerns that were not addressed by their expert witnesses in this case.⁸ Therefore, the Commission should defer resolution of this issue until a factual record can be developed in the informal rulemaking that will follow this case.

II. DISCUSSION

A. **The Commission should deny the ICC request for clarification seeking approval for a novel “lesser NRIS” interconnection study.**

1. Background

This docket investigated whether the Commission should retain its current policy requiring QFs to interconnect using the more comprehensive NRIS, which includes a deliverability assessment.⁹ In its final round of testimony, the ICC pointed to a PSE tariff as a “straightforward regulatory alternative to NRIS,”¹⁰ i.e., what the ICC now refers to as “lesser NRIS” in the Motion.

⁷ Order No. 23-005 at 32 (“We confirm and clarify our understanding that a QF is not financially responsible for any Network Upgrade appearing in the host utility’s near-term, local transmission plans, or that it would be responsible only for the costs of accelerating any such investment.”) (emphasis added).

⁸ See Joint Utilities’ Posthearing Response Brief at 34 (Sept. 2, 2022).

⁹ Order No. 23-005 at 2.

¹⁰ Interconnection Customer Coalition/300, Lowe/14.

Although testifying that the PSE tariff was “straightforward,” the ICC’s witness also made clear he was “not familiar with all the specific details of the tariff.”¹¹ Because the witness was unfamiliar with the tariff details, the evidentiary record consists of only one short paragraph describing the PSE tariff:

... this tariff creates an optional transmission interconnection service for QFs. The tariff allows a QF to choose limited curtailments as an alternative to paying full Network Upgrades if PSE has adequate available transmission capacity. Basically, it seems to me that a QF is allowed to choose a lower quality of interconnection service besides NRIS to avoid expensive Network Upgrades by agreeing to limited curtailments[.]¹²

Because ICC did not raise the PSE tariff until its final round of testimony, the Joint Utilities’ expert witnesses had no opportunity to respond. The evidentiary record is therefore incomplete. The Joint Utilities, however, addressed the PSE tariff in their briefing¹³ and argued, *inter alia*:

- First, the PSE tariff was approved without reconciling it with FERC’s *Pioneer Wind* holding that “the purchasing utility cannot curtail the QF’s energy *as if the QF were taking non-firm transmission service* on the purchasing utility’s system.”¹⁴
- Second, the tariff appears to establish a new, state-designed, interstate transmission service that effectively permits QF power delivery on non-firm transmission. By appearing to create a new form of interstate transmission service, the PSE tariff created a profound jurisdictional issue that was unresolved by the Washington Utilities and Transportation Commission (WUTC) and not addressed at all in the record of the PSE case.
- Third, the PSE tariff requires full delivery and therefore does nothing to address the cost of deliverability-related interconnection Network Upgrades. Instead, the PSE tariff would give QFs a break on a limited subset of interconnection-driven costs by requiring the utility to ignore certain NERC *reliability* and *safety* issues

¹¹ Interconnection Customer Coalition/300, Lowe/14.

¹² Interconnection Customer Coalition/300, Lowe/14-15.

¹³ Joint Utilities’ Posthearing Brief at 43-48.

¹⁴ *Pioneer Wind Park I, LLC*, 145 FERC ¶ 61,215 at P 38 (2013) (emphasis added).

caused by the QF in the QF's interconnection studies.¹⁵ This means the PSE tariff is likely to drive down reliability without relieving the QF from the most meaningful NRIS costs associated with delivery.

In Order No. 23-005, the Commission affirmed its NRIS requirement “with a limited exception” to allow “ERIS under certain circumstances.”¹⁶ In particular, the Joint Utilities were directed, “when requested by a QF, to negotiate a nonstandard contract that implements a QF’s decision, after review of both [an NRIS and ERIS interconnection] reports, to interconnect with a host utility using ERIS in exchange for the QF’s voluntarily 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 [point-to-point]).”¹⁷

The Commission’s only reference to the PSE tariff occurred in its observation that, “[w]here an ERIS and NRIS study together reveal that voluntary curtailment or other solutions to avoiding Network Upgrades may exist, we favor experimenting, as WUTC has, with voluntary arrangements between QFs and utilities that allow for more efficient use of the existing transmission system at a time of increasing constraints.”¹⁸ The Commission neither endorsed the specific details of the PSE tariff nor acknowledged or resolved the many legal and factual issues raised by the Joint Utilities’ briefing, particularly the potential reliability issues created by the PSE tariff.

¹⁵ See *In re Puget Sound Energy’s Proposed New Schedule 153 Tariff*, WUTC Docket No. UE-210818, Puget Sound Energy’s Filing Letter at 2 (Oct. 29, 2021) (noting that study obligations under the proposed tariff are different from FERC’s NRIS study obligations because the proposed new QF-specific study process eliminates the transmission provider’s requirement to identify Network Upgrades needed “to ensure adequate redundancy in interconnection facilities and capacities in case of an N-1-1 outage.”) In other words, the QF-specific tariff relieves the transmission provider of the obligation to ensure its facilities comply with NERC Standard TPL-001-1 (Transmission System Planning Performance Requirements) as part of the interconnection process, despite the fact that FERC requires transmission providers to comply with NERC reliability standards.

¹⁶ Order No. 23-005 at 2.

¹⁷ Order No. 23-005 at 34.

¹⁸ Order No. 23-005 at 34.

2. *The “lesser NRIS” study methodology is unclear, lacks evidentiary support, and is unreasonable.*

The ICC asks the Commission to clarify that a QF can “interconnect using lesser forms of NRIS similar to PSE’s tariff or ERIS if the QF is willing to agree to curtailment and negotiates a non-standard contract.”¹⁹ The Commission should reject this request for clarification.

a. The record does not support using a “lesser NRIS” study.

There are two established forms of interconnection service—NRIS and ERIS.²⁰ ICC now requests that the Commission direct the Joint Utilities to provide a third form of interconnection service—the “lesser NRIS” that is apparently used in certain circumstances by PSE. But there is nothing in the record describing in detail what this “lesser NRIS” entails or how the Joint Utilities would implement the “lesser NRIS” in practice. Indeed, ICC’s own non-expert witness conceded that he did not understand the details of PSE’s tariff, which means that there is no basis in the evidentiary record for the Commission to “clarify” that QFs can interconnect using the novel “lesser NRIS.”²¹ Moreover, the lack of evidentiary record follows directly from the fact ICC proposed the “lesser NRIS” in its final round of testimony—meaning that the Joint Utilities’ expert witnesses had no opportunity to respond.²² The Commission’s order directed the Joint Utilities to provide ERIS—an established and well understood service—in limited circumstances.²³ The Commission should reject ICC’s request to modify its order.

b. “Lesser NRIS” could compromise system safety and reliability.

In addition, requiring the Joint Utilities to use the “lesser NRIS” would potentially compromise system reliability, as discussed by the Joint Utilities in their Posthearing Brief.²⁴

¹⁹ Motion at 7.

²⁰ See Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/16-17.

²¹ Interconnection Customer Coalition/300, Lowe/14.

²² Joint Utilities’ Posthearing Brief at 44-45.

²³ Order No. 23-005 at 33-35.

²⁴ Joint Utilities’ Posthearing Brief at 45-47.

While the precise mechanics of PSE’s “lesser NRIS” are not entirely clear, what appears clear is that “lesser NRIS” would require the Joint Utilities to ignore certain NERC *reliability* and *safety* issues caused by the QF in the QF’s interconnection studies.²⁵ Thus, the term “lesser NRIS” is a misleading term, in the sense that it suggests the tariff would primarily impact the QF’s deliverability Network Upgrades, when in fact it appears to impact system reliability as a whole. A more accurate nickname for the service might therefore be “unreliable ERIS.” Specifically, “lesser NRIS” eliminates the transmission provider’s requirement to identify Network Upgrades needed “to ensure adequate redundancy in interconnection facilities and capacities in case of an N-1-1 outage.”²⁶ In other words, the PSE tariff relieves the transmission provider of the obligation to ensure its facilities comply with NERC Standard TPL-001-1 (Transmission System Planning Performance Requirements) as part of the interconnection process, despite the fact that FERC requires transmission providers to comply with NERC reliability standards.²⁷ Simply ignoring mandatory safety and reliability studies during the interconnection study process would either *increase* the likelihood of reliability events on the system, a problematic outcome, or shift the need to fund needed reliability and safety upgrades triggered by the QF to the *next service request* (and thus potentially to retail customers) or to the transmission provider when the issue later shows up in NERC reliability studies. The Joint Utilities flagged these concerns in briefing but because their expert witnesses were not given the opportunity to respond in testimony, the record does not include any discussion of the real-world consequences of adopting a highly technical “experimental” interconnection study that was apparently approved by the WUTC with minimal review.

²⁵ Joint Utilities’ Posthearing Brief at 45-46

²⁶ See Docket No. UE-210818, Puget Sound Energy’s Filing Letter at 2.

²⁷ Joint Utilities’ Posthearing Brief at 46, n. 164.

To the extent that use of “lesser NRIS” would be voluntary on the part of the Joint Utilities, the Joint Utilities are not comfortable studying their systems without considering all NERC reliability standards, as explained in briefing. While the Commission encouraged “experimenting” with QF interconnections *based on the combined results of NRIS and ERIS studies*,²⁸ the Commission should be clear that “experimenting” with QF interconnections should not compromise the safety and reliability of the transmission system or place the Joint Utilities in a position of potential non-compliance with NERC’s reliability standards.

The Commission should refrain from a blanket endorsement, on a motion for “clarification,” of a novel and untested interconnection study that was not fully vetted in the record and supported by *no* expert testimony. The Commission should therefore reject the ICC request for clarification. If the Commission is inclined to leave open the possibility of “lesser NRIS” in specific circumstances, then it should also be clear that utilities are not *required* to provide “lesser NRIS.”

B. The Commission should deny the ICC request for clarification or reconsideration regarding allocation of costs for replacing aged equipment.

1. Background

Throughout this case, the Joint Utilities recommended that the Commission affirm its preexisting cost-allocation policy for Network Upgrades, which was set forth in Order No. 10-132 and said a QF is required to pay for all Network Upgrades necessary to interconnect the QF to the host utility, unless the QF can demonstrate that its Network Upgrades provide “quantifiable system-wide benefits.”²⁹ In testimony, the Joint Utilities proposed a construct under which a QF

²⁸ Order No. 23-005 at 34.

²⁹ *In re Pub. Util. Comm’n of Or., Investigation into Interconnection of PURPA Qualifying Facilities with Nameplate Capacity Larger Than 20 Megawatts to a Pub. Util.’s Transmission or Distribution System*, Docket UM 1401, Order No. 10-132 at 3 (Apr. 7, 2010).

would be exempt from the cost of a Network Upgrade required for its interconnection if the utility has already determined through its transmission planning process that a particular Network Upgrade is necessary for reliability purposes or for transmission capacity expansion to allow for cost-effective load service, or was identified as a necessary upgrade in the study of a previous service request.³⁰

The ICC generally opposed the Commission’s existing policy and recommended changes that would have shifted significant costs from QF developers to retail customers.³¹ And despite having years to compile evidence, conduct discovery, formulate their recommendations, and craft their testimony, the ICC waited until its final round of testimony to propose for the first time that a QF should also be relieved of the obligation to pay for Network Upgrades to the extent the upgrade includes the replacement of equipment that was already going to be replaced as part of a utility’s general maintenance program. Notably, because the ICC waited until its last round of testimony to make this recommendation, neither the Joint Utilities nor any other party was able to submit responsive testimony. The record on this issue is therefore incomplete.

In briefing, the Joint Utilities addressed the ICC’s recommendation, arguing that ICC’s “new proposal is problematic for several reasons, but because the ICC did not raise this issue in testimony, the Joint Utilities’ witnesses were unable to address its complexities.”³² The Joint Utilities’ explained that, “[a]t a high level, however, this proposal raises concerns regarding sharing sensitive system information publicly; the potential for dispute regarding utilities’ prioritization of maintenance tasks; and potentially complex timing and cost-allocation questions

³⁰ See Joint Utilities/400, Vail-Bremer-Foster-Larson-Ellsworth/21; Joint Utilities/300, Wilding-Macfarlane-Williams/19-20; Joint Utilities/200, Wilding-Macfarlane-Williams/11-13.

³¹ See Order No. 23-005 at 17-18.

³² Joint Utilities’ Posthearing Response Brief at 34.

that are likely to be fact-specific and to require case-by-case adjudication.”³³ The Joint Utilities therefore recommended that the Commission reject the ICC proposal or address the issue in Phase II where the Joint Utilities would have an opportunity to provide additional factual testimony on this issue.³⁴

In Order No. 23-005, the Commission affirmed its “current policy that QFs are responsible for all interconnection costs, including Network Upgrades, except to the extent the upgrades can be demonstrated to be a benefit to the utility system.”³⁵ In particular, the Commission explained:

We confirm and clarify our understanding that a QF is not financially responsible for any Network Upgrade appearing in the host utility’s near-term, local transmission plans, or that it would be responsible only for the costs of accelerating any such investment. We assume that if a Network Upgrade was already identified in a utility’s near-term transmission planning process as being necessary, the costs for the Network Upgrade would not be assigned to the QF because it would represent a system-wide benefit. At the very least, we assume the QF would be able to easily demonstrate quantifiable system-wide benefits from a Network Upgrade already identified by a utility to provide such.³⁶

The Commission did not order a second phase of docket UM 2032. Instead, the Commission chose to “open an informal rulemaking docket to examine opportunities to facilitate better information being produced and potentially made available from utility transmission and system planning processes.”³⁷

2. *The Commission should defer addressing cost allocation for replaced equipment to the informal rulemaking to allow development of a full record.*

The ICC recommend that the Commission conclude that QFs should be “relieved of paying for upgrades that replace aged facilities and equipment that would have been replaced even without

³³ Joint Utilities’ Posthearing Response Brief at 34.

³⁴ Joint Utilities’ Posthearing Response Brief at 34.

³⁵ Order No. 23-005 at 1.

³⁶ Order No. 23-005 at 32.

³⁷ Order No. 23-005 at 32.

the interconnection.”³⁸ As a general matter, the Joint Utilities agree it is reasonable to presume that a QF would not be required to pay for equipment if the transmission provider had firmly committed to replacing the same equipment in the immediate near-term. However, as the Joint Utilities noted in briefing, the ICC recommendation creates significant concerns regarding sharing sensitive system information publicly; the potential for dispute regarding utilities’ prioritization of maintenance tasks; and potentially complex timing and cost-allocation questions that are likely to be fact-specific and to require case-by-case adjudication. Indeed, defining the limited circumstances where this type of presumption would apply is a far more complex task than simply looking to a transmission provider’s published local transmission plan to determine if the plan includes a particular Network Upgrade identified in a QF interconnection study. Because the record was not fully developed, the Commission would need to address the unexplored implication of the ICC recommendation, either in the informal rulemaking process ordered by the Commission or elsewhere, before the Commission could adopt any such policy. The Commission should therefore decline the ICC’s request and defer resolution of this issue until it can make an informed decision based on a fully developed factual record.

III. CONCLUSION

For the foregoing reasons, the Joint Utilities recommend that the Commission reject the ICC request for “clarification” that QFs should be allowed to interconnect using the novel “lesser NRIS.” The Commission should also reject the ICC request for clarification or reconsideration regarding the allocation of costs for replaced equipment and defer resolution of that issue until there is a complete factual record.

³⁸ Motion at 12.

Dated April 3, 2023.

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