

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1631

In the Matter of

MARQUAM CREEK SOLAR, LLC,

Petition for Waiver of OAR 860-082-  
0025(1)(c), Applications to Interconnect a  
Small Generator Facility.

ORDER

**DISPOSITION: WAIVER GRANTED**

This order memorializes our decision, made and effective at our May 4, 2021 Regular Public Meeting, to grant Marquam Creek Solar, LLC's Petition for Waiver of OAR 860-082-0025(1)(c) to allow Marquam Creek Solar to adjust project capacity to the level Portland General Electric Company deems necessary, after further study, to minimize protective equipment costs, up to a decrease of 200 kW.

We find, based on circumstances unique to this project, that Marquam Creek Solar has demonstrated good cause to waive this rule. PGE has assessed significant interconnection costs for protective equipment due to this project's size in relation to a daytime minimum load (DML) calculation—a calculation that fluctuated in part because of the addition of net metering projects while the applicant's project was in the queue. Information presented in support of the waiver, including information from PGE, suggests that a slight project size change could trigger much lower interconnection costs. The applicant's argument that the change would be less than five percent of the project size was significant to our decision, but because PGE's final comments raised additional uncertainty about the level of size reduction needed to avoid significant investment in protective equipment, our waiver decision permits a change of up to 200 kW. This limitation on our waiver is without prejudice to a renewed request from the applicant if PGE determines that a size change greater than 200 kW is necessary, in which case, we would expect PGE to provide a robust explanation for the change in expectations.

Granting this waiver favors judicial economy by avoiding a near-certain dispute over interconnection costs. The applicant presented material technical and legal issues, including a third-party engineering opinion that diverges from PGE's study and an intention to seek to enforce a signed interconnection agreement with much lower stated costs; although the outcome is uncertain and PGE presented information in response, the applicant's arguments suggest a dispute would likely be contentious and protracted. Additionally, information presented indicates that, were the project to be removed from the interconnection queue and then return after re-sizing, it would likely face this same cost and raise the same dispute.

Finally, several of the technical issues presented here are ones that we intend to take up in an interconnection reform docket and may be more appropriately addressed there. The fact that several issues relevant to the disputes between Marquam Creek Solar and PGE will be taken up in the interconnection reform docket also factored into our decision to grant a waiver to Marquam Creek in this instance. That noted, our decision here does not prejudice our ultimate determination on those issues after future consideration in the interconnection reform docket.

PGE did not oppose this waiver, but Sulus Solar, the owner of the project next in line in the serial interconnection queue, was notified of the waiver request and did present a brief statement opposing the waiver. We are cognizant of potential harm to the lower-queued project, and in most cases will deny waivers to interconnection rules in order to avoid harm to lower queued projects and to maintain the integrity of the serial queue process.

Here, however, in addition to establishing unique circumstances favoring the waiver, the applicant provided information suggesting that ultimate harm to Sulus Solar is unknown because of the delay and uncertainty associated with dispute resolution between the applicant and PGE. We generally agree with Staff that waiver of interconnection rules designed to create a level playing field for all participants should not be granted. However, we also find that the potential for uncertainty and delay for lower-queued projects should not be a complete bar to the Commission granting relief in uniquely appropriate circumstances. Uncertainty and delay in interconnection costs and process is a standard, though unfortunate, feature of our current system of serial interconnection queue processing. Therefore, in this case, although we recognize potential for harm to Sulus Solar, we conclude that, on balance, a compelling and persuasive case for good cause to waive the rule has been shown.

For the forgoing reasons we grant the waiver, consistent with the condition outlined in this order.

Made, entered, and effective May 07 2021.



**Megan W. Decker**  
Chair



**Letha Tawney**  
Commissioner



**Mark R. Thompson**  
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.