

ORDER NO. 21-491

ENTERED Dec 28 2021

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1930

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Request for Approval of Waivers for Seven
Community Solar Program Projects.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on December 28, 2021, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.



BY THE COMMISSION:

A handwritten signature in blue ink, appearing to read "Nolan Moser".

Nolan Moser
Chief Administrative Law Judge

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.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 28, 2021**

REGULAR CONSENT EFFECTIVE DATE _____ N/A _____

DATE: December 20, 2021

TO: Public Utility Commission

FROM: Joe Abraham

THROUGH: Bryan Conway, JP Batmale, and Sarah Hall **SIGNED**

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1930)
Requests approval of waivers for seven Community Solar Program projects.

STAFF RECOMMENDATION:

Grant the recommended waivers for the Community Solar Program projects.

DISCUSSION:

Issue

Whether the Commission should grant the recommended waivers for the seven projects in the Community Solar Program (CSP or Program).

Applicable Rule or Law

Section 22 of Senate Bill 1547, effective March 8, 2016, and codified in ORS 757.386, directs the Commission to establish a community solar program (hereinafter referred to as "Program" or "CSP").

On June 29, 2017, the Commission adopted formal rules for the Program under OAR Division 88 of Chapter 860. OAR 860-088-0050 details the requirements for project certification.

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Section 2.1.2 of the PIM requires the Project Manager should be the entity that enters into an agreement with the utility for the delivery of power and to collect on-bill charges for subscriptions (“Community Solar Power Purchase Agreement”).

Section 3.16 of the CSP Program Implementation Manual (PIM) allows the PA to recommend a waiver of PIM provisions on a case-by-case basis. Any recommended waiver is subject to approval by the Oregon Public Utility Commission.

Analysis

Background

The PA recently received applications for PIM rule waivers from the following projects. After reviewing the applications and supporting documentation provided by the PMs, the PA has recommended that the Commission grant the requested waivers to permit the project owners to sign their respective CSP PPAs.

Projects Requesting Waivers

Project Name	Name of Project Manager	Utility Territory	Project Size (kW-AC)	Attachment #
Carnes Creek Solar	Conifer Community Energy 5, LLC	PGE	2500 kW-AC	A
Cosper Creek Solar	Conifer Community Energy 1, LLC	PGE	2500 kW-AC	B
Fruitland Creek Solar	FC PM, LLC	PGE	1750 kW-AC	C
Linkville Solar	Linkville PM, LLC	PAC	2800 kW-AC	D
Kaiser Creek Solar	Keiser Creek Project Manager, LLC	PGE	2000 kW-AC	E
Sandy River Solar	SR PM, LLC	PGE	1850 kW-AC	F
Sesqui-C Solar	Conifer Community Energy 3, LLC	PGE	2500 kW-AC	G

The PIM requires the CSP Project Manager to sign the CSP Purchase Agreement. In conversations with project developers and utilities, Staff and the PA have found this requirement to often be non-viable if the Project Manager and project owner are different entities, and have proposed to revise the PIM to permit the project owner to sign the PPA even if they are not the Project Manager. That proposed revision would also require the Project Manager to attest that they have the authority of the project owner to manage the project in the Oregon Community Solar Program. Until the PIM is revised, the PA supports granting a waiver of the PIM requirement that the Project Manager sign the CSP Purchase agreements to projects that request it, so long as that

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same attestation is provided. The Commission has already approved the same waiver request for other projects as part of the project certification process.

The Project Managers for seven pre-certified projects are requesting this waiver prior to being certified due to their financing needs, and each has provided the necessary attestation. Financing must be completed as part of the development process prior to certification, and our understanding is that these projects are being jointly financed. As part of the financing process, the lender for these projects has asked the projects to provide certainty that the project owner, and not Project Manager, would be permitted to sign the CSP Purchase Agreement under the program. This requires the projects to request this waiver in advance of requesting certification. The PA acknowledges the need of projects to satisfy lender requirements as part of the development process and supports granting waivers at this point for the seven projects.

Conclusion

Staff has discussed the waiver applications with the PA and reviewed CSP requirements. Staff supports the PA's recommendation that the Commission approve the projects waivers.

PROPOSED COMMISSION MOTION:

Grant the recommended waivers in the Community Solar Program.



General Waiver Request Form

The Oregon Community Solar Program allows for Project Managers to submit a waiver to the Program Administrator for select Program Implementation Manual (PIM) project requirements on a case-by-case basis. The Program Administrator may recommend a waiver of any PIM provision as part of the pre-certification, certification, or major project amendment process, subject to final approval by the Oregon Public Utility Commission.

To request a waiver to the low-income subscription discount requirement, please fill out the Low-Income Discount Waiver Request Form at www.oregoncsp.org. This form is applicable for all other waiver requests. .

The process for requesting a waiver is as follows:

1. **The Project Manager will fill out this waiver request form and submit to the Program Administrator on the Community Solar Program Platform at www.oregoncsp.org.** Waiver requests may be submitted as part of the project pre-certification or certification submittal process. It is recommended that Project Managers submit their waiver requests early in the process in order to better inform their project planning.
2. **The Program Administrator will review the waiver request and provide a recommendation to the Oregon Public Utility Commission.** As part of this review, the Program Administrator may schedule a meeting with the Project Manager to discuss their project plans. Waiver requests will not be granted automatically but will be considered based on their merits on a case-by-case basis. The final decision to grant a waiver is made by the Commission at the time that a project is pre-certified or certified, and the recommendation provided by the Program Administrator is not binding.
3. **The Oregon Public Utility Commission will make a final determination on whether to grant the waiver request at the time of pre-certification or certification.** As part of approving a waiver, the Commission may place additional conditions on a project that must be met

Oregon Community Solar Program Waiver Request

Project Manager Entity Name: Conifer Community Energy 5, LLC

Point of Contact Name: Jonathan Nelson

Point of Contact Phone Number: 303-709-9600

Point of Contact Email: jonathan@coniferenergypartners.com

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PIM Chapter: 2

PIM Section: Section 1

Description:

Section 2.1.2 of the PIM states that "the Project Manager should be the entity that enters into an agreement with the utility for the delivery of power and to collect on-bill charges for subscriptions ("Community Solar Power Purchase Agreement")"

Please provide a brief narrative that describes:

- a) The reason that you are requesting a waiver, and
- b) How this waiver would benefit the Program and/or Program Participants.

You may submit this narrative as a separate document if preferred. You may also attach documentation to this waiver request if relevant and necessary.

Carnes Creek Solar, LLC and Conifer Community Energy 5, LLC are requesting a waiver to the above requirement that the Project Manager is the entity that enters into the Community Solar Power Purchase Agreement with the utility. Conifer Community Energy 5, LLC does not own the facility and it is our understanding that PURPA requires the QF/project owner to be the one to execute the PPA. Conifer Community Energy 5, LLC has the full authority of Carnes Creek Solar, LLC to manage the project for the Oregon Community Solar Program on behalf of Carnes Creek Solar, LLC and Carnes Creek Solar, LLC has the full authority of Conifer Community Energy 5, LLC to execute the Community Solar Power Purchase Agreement.



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