ORDER NO. 23-005

ENTERED Jan 20 2023

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.	ORDER

DISPOSITION: PARTIES DIRECTED TO COMPLY WITH THIS ORDER

I. SUMMARY

This docket investigates whether a Qualifying Facility (QF) or a utility and its customers should pay for Network Upgrades[1] necessitated by the interconnection of the QF to a host utility, and what type of interconnection service is required.

Our current policy presumes that an interconnecting QF generator is responsible for all costs associated with interconnection, including costs for Network Upgrades, but allows for the possibility that cost responsibility will be shifted to the utility if there are quantifiable system-wide benefits from the Network Upgrades. In this proceeding, parties argued for various changes to that policy, including shifting responsibility for costs, cost-sharing, and shifting the burdens associated with proving whether system-wide benefits exist. As explained more below, we affirm our 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. However, we recognize certain inherent challenges regarding the ability for any party to demonstrate whether there are quantifiable system-wide benefits associated with Network Upgrades. We provide a further process, as described in this order, to bring greater understanding of, and transparency to, which system upgrades can reasonably be expected to further a utility's reasonable plans for upgrading its system.

[1] "Network Upgrades" includes system upgrades to the distribution system.

The schedule for this proceeding anticipated a second phase in order to determine cost allocations, in the event we determined to change our policy regarding cost responsibility. We decline to commit to a second phase. Instead, we seek to better facilitate responsible transmission system investments by both utilities and interconnection customers by improving understanding of and engagement with transmission planning processes, and we more clearly articulate how our Network Upgrade cost allocation policy should be tied to those processes. We will open an informal rulemaking docket to examine opportunities to improve the production and availability of information about the utility transmission planning processes. This docket also investigates whether QFs should interconnect with host utilities using Network Resource Interconnection Service (NRIS) or Energy Resource Interconnection Service (ERIS). We conclude that QFs should interconnect with NRIS with a limited exception. We recognize the value of more efficiently optimizing the existing transmission system, and therefore order changes that would allow some experience with allowing QFs to utilize ERIS under certain circumstances. However, we do not yet have sufficient information to determine that every on-system QF should have a right to choose ERIS without other changes to our construct for administering PURPA. Advocates for giving total flexibility regarding ERIS fail to effectively overcome concerns we have about how a standardized policy allowing for QF interconnection with ERIS would interact with, and likely be inconsistent with, our standard contracting process, terms, conditions, and rates. Without further development of, and investigation into the relationship between these elements, we are concerned that there would be significant legal and economic risks to ratepayers.

To facilitate further assessment about how on-system QF interconnection with ERIS would work and what efficiencies may be gained, but with lower risks, we adopt NewSun's suggestion to allow any on-system QF to choose to be studied for both ERIS and NRIS, at the QF's expense. We direct the utilities to develop and make appropriate filings that facilitate a QF's ability to pay for both ERIS and NRIS analyses. We further direct the utilities to engage in negotiation of a non-standard contract with any QF that chooses to interconnect with a host utility using ERIS, so long as the QF voluntarily commits to allow curtailment at a level that obviates the need for the Network Upgrades otherwise identified in a NRIS report. We also direct the utilities to make any filings necessary to allow this process to go forth as described in this order, and invite petitions to modify any tariffs or contracts, as necessary, if not brought forward by a utility within a reasonable timeframe following this order.

II. PROCEDURAL HISTORY

At the July 30, 2019 Public Meeting, Staff of the Oregon Public Utility Commission recommended opening several rulemakings and two investigations regarding the ongoing implementation of the Public Utility Regulatory Policies Act of 1978 (PURPA) in the

State of Oregon, including an investigation of the treatment of Network Upgrade costs for QFs. We approved Staff's recommendation, but regarding the treatment of Network Upgrade costs, we directed the Administrative Hearings Division (AHD) to consider whether the scope of the investigation should be expanded to address additional related issues.

Pursuant to this direction, AHD initiated this proceeding. The following parties filed petitions to intervene at the start of this process that were granted: Community Renewable Energy Association (CREA); Renewable Energy Coalition (Coalition); Northwest & Intermountain Power Producers' Coalition (NIPPC); and the Alliance of Western Energy Consumers (AWEC). NewSun Energy, LLC, was granted intervention on October 28, 2020. Obsidian Renewables, LLC, was granted intervention on February 11, 2021. The Oregon Solar+Storage Industries Association (OSSIA) was granted intervention on August 18, 2022.

To begin, AHD conducted a process to consider the appropriate scope of this investigation. After review of parties' written comments, the Administrative Law Judge adopted Staff's proposal to phase the proceedings and recommendations for issues lists for the two phases, as follows:

1. Who should be required to pay for Network Upgrades necessary to interconnect the QF to the host utility?

2. Should on-system QFs be required to interconnect to the host utility with Network Resource Interconnection (NRIS) or should QFs have the option to interconnect with Energy Resource Interconnection Service (ERIS) or an interconnection service like ERIS?

Depending on the resolution of these two questions, a second phase of the docket may be necessary, Staff indicates, to address implementation issues:

3. If the answer to Issue No. 1 is that users and beneficiaries of Network Upgrades (which typically are primarily utility customers) should pay for the Network Upgrades necessary to interconnect the QF to the host utility, how should that policy be implemented? For example, should utility customers, and other beneficiaries and/or users, fund the cost of Network Upgrades upfront, or should the QF provide the funding for the Network Upgrade subject to reimbursement from utility customers? Should

> the QF, utility customers, and other beneficiaries and users, if any, share the costs of Network Upgrades? [2]

On August 24, 2020, the electric utilities (Joint Utilities) jointly filed direct testimony. On September 2, 2020, NIPPC, the Coalition, and CREA (collectively the Interconnection Customer Coalition or Interconnection Coalition) filed a motion to strike portions of the joint utilities' testimony. On October 7, 2020, the motion was granted in part and denied in part. On October 19, 2020, the Joint Utilities filed revised direct testimony.

On October 27, 2020, the Interconnection Coalition filed a response to the revised direct testimony, noting that the utilities' revised testimony was not in exact accordance with the ruling issued on October 7, 2020. The Joint Utilities responded on October 29, 2020. On November 6, 2020, the Joint Utilities revised direct testimony was accepted.

The following parties filed response testimony on October 30, 2020: Staff, NewSun, and the Interconnection Coalition. On December 9 2020, an errata to response testimony was filed by the Interconnection Coalition, NIPPC, and CREA. On December 11, 2020, the following parties filed reply testimony: Staff, the Joint Utilities, and the Interconnection Coalition.

On January 19, 2021, NewSun filed a motion for an extension of time to file reply testimony pending the subsequent filing of a motion to compel. In response, on January 21, 2021, the procedural schedule was suspended. NewSun did not file a motion to compel until May 28, 2021.

On June 8, 2021, the suspension of the procedural schedule was lifted. On June 28, 2021, responses to the motion to compel were filed by NIPPC, the Coalition, and CREA, and the Joint Utilities. On October 22, 2021, Order No. 21-343 denied the motion to compel and established a procedural schedule that accepted the parties' request to set the deadline for initial briefs nearly six months after the final round of testimony. Order No. 21-343 was clarified on January 12, 2022.[3]

On January 19, 2022, the following parties filed reply testimony: Staff, the Joint Utilities, the Interconnection Coalition, and NewSun.

On June 3, 2022, prehearing briefs were filed by the following parties: Staff, the Joint Utilities, AWEC, the Interconnection Coalition, and NewSun. Cross-examination

[2] ALJ Ruling at 4 (May 22, 2020).
[3] *See* Order No. 22-008 (Jan. 12, 2022).

statements by the same parties were filed on June 9, 2022. As a result of these statements, the hearing was canceled on June 10, 2022.

On August 5, 2022, and September 2, 2022, either one or two rounds of post-hearing briefs were filed by the following parties: Staff, the Joint Utilities, AWEC, the Interconnection Coalition, NewSun, and OSSIA.

III. LEGAL BACKGROUND

PURPA[4] directs the Federal Energy Regulatory Commission (FERC) to promulgate regulations promoting energy purchases from QFs consisting of cogeneration and small power production facilities. PURPA's and FERC's regulations also require utilities to interconnect with QFs in order to facilitate those purchases.[5] While FERC develops the federal regulatory goals that broadly guide PURPA implementation, states have discretion to exercise their delegated authority to implement PURPA consistent with state law and regulatory policy within the boundaries established by federal law.[6]

A. Large Generator Interconnection

FERC began establishing standardized methods for allocating QF interconnection costs in 2003 with the adoption of Large Generator Interconnection Procedures (LGIP). These procedures provide a comprehensive process and a *pro forma* agreement for interconnections between large generators (over 20 MW) and transmission providers. In Order No. 2003, and subsequent orders, FERC identified two approaches for assigning costs for interconnection-related Network Upgrades to a transmission system: (1) a crediting policy that requires the interconnection customer to initially fund any interconnection-related Network Upgrades, with reimbursement through transmission credits; and (2) participant funding with assignment of costs directly to the interconnection customer.[7] FERC required non-independent transmission providers—*e.g.*, public utilities—to apply the crediting policy consistent with FERC's LGIP, but allowed independent transmission providers—*e.g.*, Regional Transmission Operators

[4] *See* 18 CFR § 292.301-314.
[5] *Id.*
[6] *S. Cal. Edison Co., San Diego Gas & Elec. Co.*, 70 FERC ¶ 61,215 at 61,675 (1995) ("Since 1980, the Commission has given the States wide latitude in implementing PURPA."); *Connecticut Light and Power Co.*, 70 FERC ¶ 61,012, 61-027-61,028 (1995).
[7] Staff Prehearing Brief at 4, n 8 (Jun. 3, 2022) (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61, 103 (2003), order on reh'g, Order No. 2003-A, 106 FERC ¶ 61,220, order on reh'g, Order No. 2003-B, 109 FERC ¶ 61,297 (2004), order on reh'g, Order No. 2003-C, 111 FERC 61,40 (2005).

(RTOs) and Independent System Operators (ISOs)—to request authority to implement either participant funding or some other method.[8]

In 2010, consistent with FERC's LGIP, we adopted state procedures for QFs larger than 20 megawatts (MW) interconnected with a utility's transmission or distribution system. The order reflects adoption of FERC's LGIP with only a few modifications, including for the cost allocation for Network Upgrades. On that issue, we rejected the position that Transmission Providers should automatically reimburse QFs for Network Upgrades, concluding that repaying QFs for the cost of Network Upgrades that are not demonstrated to deliver system-wide benefits would result in inappropriately high costs for a utility's customers:

> As noted by the Utilities, transmission costs and network upgrades are included in the calculation of avoided cost rates. Consequently, QFs are currently compensated for these costs pursuant to the rates established in their respective purchased power agreements with the utilities. *For this reason, we conclude that Article 11.4 should be modified such that Interconnection Customers are responsible for all costs associated with network upgrades unless they can establish quantifiable system-wide benefits, at which point the Interconnection Customer would be eligible for direct payments from the Transmission Provider in the amount of the benefit.* We are not persuaded by ICNU's arguments that requiring Transmission Providers to pay for network upgrades would not affect the avoided cost rate and thus impose higher costs on the ultimate ratepayer.
>
> ICNU's reliance on the reimbursement provisions set forth in the CA-LGIA is misplaced, as the CA-LGIA is a FERC tariff that is not bound by the limitations imposed by PURPA. Moreover, ICNU's argument that FERC has long held that Network Upgrades provide system wide benefits is not persuasive to this point. None of the authorities cited are related to facilities governed by PURPA and thus none faced the limitation of the avoided cost rate.[9]

The quoted order establishes Oregon's existing policy, which allows a QF to be reimbursed for the portion of its Network Upgrades demonstrated to provide

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[8] *Id.*, n 9 (citing Order No. 2003, 104 FERC ¶ 694; Order No. 2003-A, 106 FERC ¶ 696.).
[9] *Id.* at 4-5, n 10 (citing *In the Matter of Public Utility Commission of Oregon Investigation into Interconnection of PURPA Qualifying Facilities with Nameplate Capacity Larger than 20 Megawatts to a Public Utility's Transmission or Distribution System* (Docket No. UM 1401), Commission Order No. 10-132 (Apr. 7, 2010).); n 11 (citing Order No. 10-132 at 3-4 (emphasis added).).

"quantifiable system-wide benefits."[10] The Commission adopted a modified QF Large Generator Interconnection Agreement (LGIA)[11]. The adopted LGIA reflected that costs associated with Network Upgrades are paid for by Interconnection Customers unless they can establish quantifiable system-wide benefits, at which point the Interconnection Customer would be eligible for direct payments from the Transmission Provider in the amount of the benefit.[12]

Another difference between FERC's LGIP and our procedures is that the latter does not include an option for ERIS. ERIS determines what is needed to safely inject power onto the grid, but does not go as far as NRIS, which determines what is needed to bring the QF's power onto the grid *and* deliver that power to the utility's load. NRIS is currently a QF's only option to interconnect to a utility.

B. Small Generator Interconnection

In 2006, FERC adopted Small Generator Interconnection Policies (SGIP) and a *pro forma* Small Generator Interconnection Agreement (SGIA) for generators under 20 MW. Rather than specifying interconnection services such as ERIS or NRIS, FERC's SGIP provides for "small generator interconnection service" described as being comparable to ERIS. The SGIP provides for construction upgrades, called "Network Upgrades," to a utility's transmission system when needed to interconnect a QF. FERC adopted the same pricing policy for Network Upgrades as in the LGIA (*i.e.*, upfront payment by the interconnecting generator subject to reimbursement).

In 2009, we adopted our own SGIP.[13] Order No. 09-196 adopted administrative rules governing the interconnection of small generator facilities having an electric nameplate capacity of 10 MW or less. Our SGIP also does not categorize interconnection service as either ERIS or NRIS, and provides for construction upgrades, called "System Upgrades," to a utility's transmission system when needed to interconnect a QF. Although we rejected allocation of the costs for System Upgrades to the host utility, we outlined limits on the scope of costs that a utility may allocate to the interconnection customer:

> The proposed rules, however, include language that is meant to strictly limit a public utility's ability to require one small generator facility to pay

[10] *See 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 No. UM 1401, Order No. 10-132 at 3 (Apr. 7, 2010).
[11] *Id.*, *See* Appendix A and B.
[12] Order No. 10-132 at 3.
[13] Staff Prehearing Brief at 5, n 13 (citing *In the Matter of a Rulemaking to Adopt Rules Related to Small Generator Interconnection*, Docket No. AR 521, Order No. 09-196 at 4 (Jun. 8, 2009).).

> for the cost of system upgrades that primarily benefit the utility or other small generator facilities, or that the public utility planned to make regardless of the small generator interconnection. Under the proposed rules, a public utility may only require a small generator facility to pay for system upgrades that are "necessitated by the interconnection of a small generator facility" and "required to mitigate" any adverse system impacts "caused" by the interconnection. We therefore believe the proposed rules adequately protect small generator facilities and that ICNU's fears are unfounded.[14]

Regardless of the type of interconnection study performed (*i.e.*, ERIS or NRIS), a completed interconnection request results in interconnection alone. To move the interconnected generator's energy over the transmission system also requires transmission service. When a request for transmission service is received, studies must be performed regarding whether the Transmission Provider can safely and reliably provide the requested service without upgrades to the transmission system.

IV. PARTIES' POSITIONS

A. Issue Number 1: Who Should Be Required to Pay for Network Upgrades Necessary to Interconnect the QF to the Host Utility?

Although our current QF interconnection policies presume that interconnecting generators will be responsible for all costs necessitated by their interconnection, including Network Upgrades to the host utility's transmission system, they also allow the possibility for exempting costs for Network Upgrades that a QF demonstrates create "quantifiable system-wide benefits."[15] The first question in these proceedings addresses whether the costs of Network Upgrades should be paid for by QFs or utilities, and part of the debate has also included which parties should bear the burden of demonstrating whether wider benefits of Network Upgrades exist. Parties' positions range from recommendations for the continuation of our current policies, either entirely or partially, to replacement of our current policies with new policies that shift both the initial cost burden, and the responsibility to demonstrate the scope of benefits provided by Network Upgrades. We summarize each party's position below.

[14] *Id.*, n 14 (citing Order No. 09-196, p. 4.).
[15] Order No. 10-132 at 3.

1. Staff

a. Recommendations

Staff recommends we continue existing policies stated in Oregon's LGIP but take steps to improve implementation.[16] Staff proposes that interconnection-related Network Upgrade costs exceeding a host utility's avoided Network Upgrade costs—*i.e.*, the Network Upgrade costs subject to allocation under 18 CFR § 292.306—be allocated between the interconnecting QF and the host utility (and its retail customers). Under Staff's proposal, this allocation would be done commensurately with the benefits that the Network Upgrades provide. In its final brief, Staff specifies the costs that should be subject to some shared allocation with a hypothetical example:

> For example, assume a utility's avoided cost prices include a cost input of $100,000 for avoided Network Upgrades and assume that Network Upgrades for the QF's actual interconnection with the host utility cost $200,000. In this scenario, the QF must absorb the first $100,000 of Network Upgrade costs because QF is being compensated for $100,000 of Network Upgrade costs through the avoided cost prices. These costs cannot be allocated to the purchasing utility because doing so would require the utility to pay twice. In fact, 18 C.F.R. § 292.306 does not authorize the Commission to allocate Network Upgrade costs that do not exceed the costs of Network Upgrades included in the calculation of avoided cost prices.[17]

Staff requests that we clarify that the calculation of avoided costs includes avoided interconnection costs, and that we expressly require utilities to include avoided Network Upgrade costs in their calculation of avoided costs.

Staff also recommends that we reject all other Network Upgrade costs allocation proposals because none are based on an evaluation of actual transmission system benefits from Network Upgrades. Staff further recommends that we undertake such an investigation in Phase II. Staff initially considered the appropriateness of an allocation methodology for QF interconnections causing Network Upgrades that would allocate the benefits of Network Upgrades based on a default assumption about the beneficiaries—*e.g.*, presuming a 75/25 split—and noted similar approaches taken in Idaho and by an independent transmission operator. In its final brief, however, Staff changed positions and asserted that it is premature to conclude that the Commission will be unable to arrive

[16] Staff Response Brief at 1-2, nn 2-3 (Aug. 5, 2022).
[17] Staff Final Brief at 2, n 4 (Sep. 2, 2022).

at a generic cost-allocation methodology tied to an examination of the actual, rather than assumed, system benefits provided by Network Upgrades. Staff recommends exploring how to identify system benefits and design a cost-allocation methodology in Phase II.

b. Review of Other Proposals

Staff initially observed that all parties agree cost responsibility for Network Upgrades should follow the benefits, despite general disagreement about where those benefits flow. After review of their opening briefs, Staff concluded its initial observation was incorrect as to the positions of the Joint Utilities and AWEC.

Both parties argue, Staff indicates, that our authority over the allocation of Network Upgrades is extremely limited under PURPA because a utility's avoided costs act as an overall cap on all costs associated with the purchase of QF power that may be passed to retail customers. Given this purported cap, both parties suggest a "but for" allocation test. Under this test, a QF would be allowed to share Network Upgrade costs with the purchasing utility only if the utility had already determined through transmission planning that the Network Upgrade at issue is necessary for reliability or capacity expansion. In other words, even if system-wide benefits clearly resulted from a Network Upgrade, Staff understands the Joint Utilities and AWEC to say that PURPA would require the QF to pay for its costs, if the utility had not already planned to construct it.

Staff disagrees with the Joint Utilities' and AWEC's fundamental position that avoided costs act as a cap on a sharing allocation of Network Upgrade costs. Staff notes that "[i]nterconnection costs subject to allocation under 18 C.F.R. § 292.306 are specifically defined as the costs to interconnect that exceed a utility's avoided costs."[18] The rule's express language neither compels nor suggests that states' authority regarding the allocation of interconnection costs is limited, Staff asserts, and also points out that FERC has not issued any order since adoption of 18 CFR § 292.306 that abridges the discretion. Rather, Staff urges that FERC's more recent Order No. 2003 adopting a crediting policy for interconnection costs for QFs is inconsistent with the Joint Utilities' interpretation of PURPA. Staff argues that although FERC may have anticipated that states would allocate interconnection costs to QFs, as the Joint Utilities assert, such expectations do not change the broad discretion granted to the states.

Staff does not dispute that our authority is circumscribed by the ratepayer indifference standard, which applies to every element of all transactions between QFs and utilities. Staff does not understand the ratepayer indifference standard to mean that all costs associated with QF transactions with purchasing utilities are subject to an avoided cost

[18] Staff Response Brief at 5, n 12 (**bold** not in original).

cap. Rather, Staff asserts that the standard can be satisfied if ratepayers are allocated interconnection costs that are commensurate with the benefits received. Staff notes that the Georgia Public Service Commission reached this conclusion in a 2021 order that rejected arguments that reimbursing QFs for the cost of interconnection-related Network Upgrades is an impermissible subsidy, violating the ratepayer indifference standard.[19] The order that noted FERC had concluded in Order No. 2003 that reimbursements for Network Upgrades were not a subsidy because Network Upgrades benefit all transmission system users.[20]

Staff further counters the Joint Utilities' position on the allocation of costs for Network Upgrades by pointing out that their "but for" test is essentially FERC's "participant funding" method for allocating costs, and that FERC does not allow vertically integrated utilities to use this funding method due the test's subjectivity and the potential for vertically-integrated utility's to use it to their own advantage.[21] Staff further observes that FERC asks, in its Advance Notice of Proposed Rulemaking for generation interconnection costs, about the reasonableness of continuing to allow even independent transmission providers to use the participant funding method to allocate costs.[22]

On the other hand, Staff also does not support recommendations by NewSun and the Interconnection Coalition to adopt versions of FERC's "crediting policy" that requires vertically-integrated utilities to reimburse interconnection customers' upfront costs for Network Upgrades. Staff indicates concern that QFs, who are not transmission customers, would not pay any costs for the Network Upgrades, resulting in uneconomic decisions posing risks to utility customers.

2. Joint Utilities

a. Retain Our Current Policy of Allocating All QF Interconnection Costs to the QF

The Joint Utilities assert that our current policy of allocating QF interconnection costs, including Network Upgrade costs, to the QF is appropriate and should be affirmed because it: (1) is consistent with PURPA's customer indifference standard; (2) provides a critical financial incentive for QFs and other generators to site projects in economically efficient locations; and (3) ensures just and reasonable rates for customers. They also emphasize "that, as a matter of law, any QF-driven costs allocated to retail customers

[19] *Id.* at 6, n 14 (citing *Capacity and Energy Payments to Cogenerators under PURPA*, 2021 WL 1224144 (Ga.P.S.C.), pp. 4-5 (March 21, 2021).).
[20] *Id.* at 7, n 15.
[21] *Id.*, n 17.
[22] Staff Response Brief at 7.

must be just and reasonable and *must* comport with 'the limitation of the avoided cost rate,'"[23] with any costs above such ceilings being allocated to QFs. Finally, they assert, our current policy treats QFs fairly.

The Joint Utilities indicate that FERC specified, soon after PURPA's passage, that state-jurisdictional QF interconnections would be governed by state law and policy when a QF sold all its output directly to the interconnected utility.[24] In 1980, FERC promulgated PURPA-specific interconnection regulations applicable to directly interconnecting QFs that included an obligation to pay any interconnection costs assessed by a state regulatory authority, and provided for a manner for payments that could include reimbursement to a utility over a reasonable period of time.[25] The Joint Utilities emphasize that FERC presumed that "the QF will reimburse the utility (and by extension, retail customers) for the costs of its interconnection, not the other way around."[26] The Joint Utilities indicate that we explicitly exercised jurisdiction over QF Network Upgrades by adopting FERC's LGIP with modifications to reflect state policy.

Although FERC's non-QF interconnection policies have evolved over time, FERC's QF interconnection policies have not changed much since 1980, the Joint Utilities state. Moreover, FERC has never, to the Joint Utilities' knowledge, applied its non-PURPA interconnection policies to state-jurisdictional QFs, despite explicit requests to do so. FERC recently declined to apply its general interconnection policies to QFs, the Joint Utilities observe, in *Beaver Creek*, which involved a challenge by QF developers to the Montana Public Service Commission's policy of assigning Network Upgrade costs to QFs, without refund or regard to system benefits provided by the Network Upgrades.[27] FERC rejected the request to declare the policy to be discriminatory because it differed from FERC's interconnection policies and principles established in Orders 2003 and 2006.[28]

The Joint Utilities argue that under dual PURPA obligations, a utility must purchase QF power while keeping its customers economically indifferent to the source of power. They further explain that we implemented these two PURPA obligations by directing utilities to address the costs associated with QF interconnection as part of the interconnection process, rather than as an adjustment to the avoided cost prices. Addressing QF interconnection costs through the interconnection process also facilitates a site-specific

[23] Joint Utilities Post-hearing Response Brief at 4, n 5 (Sep. 2, 2022).
[24] Joint Utilities Prehearing Brief, at 12, n 15 (Jun. 3, 2022).
[25] *Id.* at 13, n 16.
[26] *Id.* at 7, n 17.
[27] *Id.* at 14, n 20 (citing *in re Beaver Creek Wind, et al.*, Petition for Enforcement and Declaratory Ruling, Dkts. EL1-86-000, QF20-1303-000, QF20-1304-000 (June 24, 2021).).
[28] *Id.*, n 21.

evaluation of a QF's interconnection costs, which is important because QF site selection is a key driver of total costs, the Joint Utilities note. The Joint Utilities further assert that "[i]n adopting interconnection policies that allocate Network Upgrade costs to the QFs that cause them, this Commission expressly noted the prohibition against requiring customers to subsidize QFs by explaining that this Commission's QF interconnection policies and allocation of Network Upgrade costs are bounded by the 'limitations of the avoided cost rate.'"[29]

The Joint Utilities argue that even if PURPA did not require the Commission to ensure that customers are indifferent to the purchase of QF power, state regulatory policy regarding just and reasonable rates would mandate that interconnection-driven Network Upgrades be allocated to the interconnecting generators causing them. The Commission's current generator interconnection policies provide a critical financial incentive for QFs and other generators to site projects in economically-justified locations, the Joint Utilities maintain. Without this price signal, QFs would be indifferent to costs caused by their siting choices. A generator's interconnection costs can vary dramatically, they indicate, based on siting, load, existing transmission system facilities, and existing generation, as well as some other factors such as project size. They argue that the biggest factor affecting the cost of Network Upgrades is the site chosen by the QF. It is, therefore, critical that our policies incentivize economically sensible projects, the Joint Utilities assert.

Current policies are also appropriate, the Joint Utilities argue, because they treat all state-jurisdictional interconnection customers comparably, with respect to interconnection costs. Division 82 of our administrative rules sets forth the state regulatory policies for interconnecting small QF and non-QF generators, making both types of customers responsible for the costs of their interconnection.[30] The same policy applies to QF-specific large generator interconnection policies with only minor differences, as reflected in the Commission's QF-LGIP and QF-LGIA.[31] The Joint Utilities indicate that under these policies, all costs triggered by interconnection of a generator, including Interconnection Facilities, Distribution Upgrades, System Upgrades, or Network Upgrades are assigned to the generator.

The Joint Utilities contrast competitive independent power producers (IPPs) from QFs, explaining reasons for their different treatment. They indicate that concerns about uncontrolled costs in the context of PURPA do not apply to IPPs. When a utility enters a voluntary agreement to purchase power, the utility takes steps to ensure contract costs,

[29] Joint Utilities Prehearing Brief at 12, fn. 38 (citing Order 10-132 at 3-4.).
[30] *Id.* at 18, n 63.
[31] *Id.*, n 64.

including interconnection and delivery costs, are prudent. As these steps are unavailable when a power purchase is involuntary made under PURPA, a utility's retail customers rely on the Commission's policies and rules to protect them from unreasonable QF costs.

b. Provide Guidance on Quantifiable System-wide Benefits Standard or Replace It

The Joint Utilities acknowledge that our current policy on QF interconnection costs also incorporates a theoretical "quantifiable system-wide benefits standard" that transfers responsibility for costs to a host utility. However, they also observe, this standard has not been implemented due to a lack of definition and measurement. The Joint Utilities do not know of an existing "methodology for quantifying, let alone allocating to specific grid users, the financial value of generalized grid benefits such as 'increased capacity' or 'increased reliability' from Network Upgrades made at random, QF-chosen locations on the transmission system."[32] They note that Staff concedes it may be too difficult to develop such a methodology, and that a general allocation such as 75/25 may instead need to be adopted. If we choose to try to develop a methodology for quantifying system-wide benefits from Network Upgrades and an allocation approach in a second phase, the Joint Utilities request upfront guidance on how we define quantifiable system-wide benefits.

Even if quantifiable system-wide benefits could be defined and measured, the Joint Utilities indicate the standard would still be flawed by not imposing either limitation on, or prioritization of, transmission system investments, despite the Commission normally requiring such for transmission system planning. The Joint Utilities argue that the quantifiable system-wide benefits standard is unworkable, and recommend we replace it with the following standard: a QF is required to pay for all Network Upgrades caused by its interconnection except Network Upgrades already identified in the host utility's transmission plan, or as necessary for higher-priority service requests.[33]

c. Decline to Apply Federal Cost Allocation Policies to State-Jurisdictional Interconnection Customers

The Joint Utilities argue that we should decline the QF parties' invitation to import federal interconnection cost allocation policies to modify Oregon policies. They observe that all the QF parties contend that Network Upgrades necessitated by a QF's interconnection should be presumed to benefit all utility customers, while some QF

[32] *Id.* at 1.
[33] Joint Utilities Post-hearing Response Brief at 25.

parties suggest that a utility be allowed to demonstrate the fallacy of this presumption for particular Network Upgrades.

The Joint Utilities assert:

> To the extent these proposals would allocate a QF's Network Upgrade costs to retail customers, the proposals are misapplied given the limitations of the avoided cost rate, would result in uneconomical siting choices by QFs, and would harm customers.[34] To the extent these proposals would create a presumption of prudence that must be litigated by the utility in order to obtain relief for customers, they lack factual foundation and are, in any event, unworkable.[35]

The Joint Utilities explain the Commission already rejected, in 2010, the inclusion of FERC cost allocation policies in Oregon policy.[36] The Commission directed Oregon transmission providers to create the Oregon QF-LGIP and QF-LGIA to process Oregon QF interconnections. The Oregon QF-LGIP and QF-LGIA would be based on FERC's LGIP and LGIA, but without certain FERC-mandated provisions such as the obligation for utilities to reimburse interconnecting QFs for Network Upgrade costs. Changes in state policy from FERC policy made QFs, and not utilities and their customers, responsible for QF interconnection costs. These changes were based on a conclusion that FERC's policy is not consistent with PURPA's avoided cost framework, the Joint Utilities assert.

The Joint Utilities argue that reliance on FERC's broad view of benefits related to the transmission system is misplaced when applied to state regulatory policy regarding just and reasonable costs. They explain that, as part of an effort to spur competition in the bulk power markets by requiring public utilities to provide open access to their transmission systems, FERC adopted policies presuming that any construction of transmission facilities leads to a wider build-out of the interstate transmission grid and benefits for all grid users. They urge that Federal courts conclude that FERC has the discretion under the Federal Policy Act (FPA) "to take a broad view of the term 'benefits' and to allow full cost recovery of transmission system Network Upgrades triggered by interconnection and transmission requests, regardless of their cost, regardless of the number of generators seeking interconnection, and with no actual review of the 'upgrades' at issue."[37]

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[34] *Id.* at 20, n 69.
[35] *Id.*
[36] *Id.* at 21 (citing Order No. 10-132 at 3-4.).
[37] Joint Utilities Post-hearing Brief at 6.

However, the Joint Utilities observe, "[s]tate regulatory policy presumes that 'a cost-effective system is a better system,' rather than 'a larger system is a better system.'"[38] For transmission system upgrades not mandated by FERC, such as voluntary resource procurement and the purchase of QF power, the Joint Utilities assert that the Commission has the duty to subject Network Upgrades to retail rate recovery principles. Moreover, they indicate there is an exception to FERC's requirement that state commission pass through federally approved costs to retail customers called the *Pike County* exception.[39] They explain that the Supreme Court concluded: "although a state utility commission cannot second-guess a FERC-approved rate, a state utility commission 'can decide that the utility should not have bought power from [a particular] source at all.'"[40] This means, they assert, a state commission may conclude that a utility acted impudently by purchasing power from a particular generator. They argue that there is precedent for reliance on the *Pike County* exception "to review the prudence of a utility's generation procurement decisions without taking direct aim at the policies within FERC's authority."[41] Because state commissions could reasonably find impudence associated with a PPA that triggers exorbitant Network Upgrade costs, utilities are cognizant of the level of such costs when making generation acquisition decisions. This due diligence, combined with the Commission's prudence review, ensures checks on the free rein of utilities regarding the imposition of Network Upgrade costs on Oregon ratepayers.

3. AWEC

AWEC addresses only the first question in this phase of the proceedings, and considers it to be primarily legal in nature. To answer the first question, AWEC states, "the Commission must ascertain whether Network Upgrades are required but for the QF's interconnection with the host utility."[42] AWEC does not dispute that Network Upgrades may provide system-wide benefits, but argues that even if they did, QFs cannot be paid more than the avoided cost rates.

AWEC points to Order No. 10-132, which stated:

> "transmission costs and network upgrades are included in the calculation of avoided cost rates. Consequently, QFs are currently compensated for

[38] *Id.* at 7.
[39] *Id.* at 8.
[40] *Id.*, n 25 (citing *Miss. Power & Light Co. v. Mississippi*, 487 US 354, 385 (1988) (citing *Pike Cnty. Light & Power Co. v. Pa. Pub. Util. Comm'n*, 465 A2d 735, 737-738 (1983)).).
[41] *Id.* at 8-9 n 27.
[42] AWEC Prehearing Brief at 1.

these costs pursuant to the rates established in their respective purchased power agreements with the utilities."[43]

In the same order, AWEC argues, the Commission found arguments that the Commission should adopt FERC's policy to be "'not persuasive' because '[n]one of the authorities cited [were] related to facilities governed by PURPA and thus none faced the limitation of the avoided cost rate."[44]

4. The Interconnection Coalition

Under the Commission's current policy, Network Upgrades can be very expensive, the Interconnection Coalition indicates, with costs dependent on siting decisions, as well as the utility's approach to evaluating the need for upgrades. Utilities have considerable discretion regarding Network Upgrade costs, the Interconnection Coalition observes.

The Interconnection Coalition contends that policies regarding cost allocation for Network Upgrades should presume that all users of the transmission system benefit from Network Upgrades. Accordingly, the Interconnection Coalition argues that the costs for Network Upgrades should typically be paid for by all system users, rather than by the interconnection customer alone.

The Interconnection Coalition acknowledges there may be instances where Network Upgrade costs should be either entirely or fractionally allocated to an interconnection customer, but argues that the utility should bear the burden to demonstrate a different allocation. Utilities should have this responsibility, the Interconnection Coalition asserts, for five reasons: (1) they have more information about their system and their operations, (2) they are "monopoly providers of interconnection services that have discriminated against and imposed unreasonable, unfair and unjust costs, and practices upon QFs,"[45] (3) their evaluation will facilitate a transparent and non-discriminatory standard as most interconnection customers lack the ability and resources to prove that particular Network Upgrades provide system-wide benefits,(4) FERC's long-time recognition that most Network Upgrades provide some benefit to the system, together with information asymmetry favoring utilities, support a presumption that Network Upgrades provide general benefits and that utilities must demonstrate otherwise, and (5) the utility should have the same burden of proof and persuasion as in a utility rate proceedings where the Commission exercises its expertise to address and resolve issues about whether costs exceed benefits.

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[43] *Id.* at 2, n 3 (citing Order No. 10-132, at 3 (Apr. 7, 2010).).
[44] *Id.* at 3, n 8 (citing Order No. 10-132, at 4.).
[45] Interconnection Customer Coalition Prehearing Brief at 8, n 21 (Jun. 3, 2022).

The Coalition asserts that these recommendations are consistent with the underlying principles of the Commission's current policy on Network Upgrade cost allocation, which allows an interconnection customer to be reimbursed if the Network Upgrade provides system-wide benefits. Indeed, the recommendation would implement the policy, the Interconnection Coalition asserts, by requiring an interconnection customer to pay only for Network Upgrade costs commensurate with the benefits provided.

The Interconnection Coalition also argues that its recommendations are consistent with PURPA's customer indifference standard because the interconnection customer would be reimbursed only for Network Upgrade costs that are associated with system-wide benefits. They argue that if the Commission found that the customer indifference standard did not allow utilities to pay for Network Upgrades, it would be a first for any agency to make that finding.

The Interconnection Coalition points out that the controlling regulation regarding Network Upgrade cost allocations is 18 CFR § 292.306, which requires interconnection costs to be nondiscriminatory and reasonable, and does not contain an avoided cost cap.[46] The Montana Supreme Court recently held, the Interconnection Coalition observes, that "the costs for a QF to interconnect must nonetheless be '*reasonable*' and '*directly related*' to the installation and maintenance of the physical facilities 'necessary' to permit interconnected operations."[47]

The Interconnection Coalition rejects the Joint Utilities' view that reimbursing QFs for Network Upgrade costs, except where utilities demonstrate the absence of system-wide benefits, will eliminate QF incentives to site efficiently. They argue that QF siting discipline will be maintained because it remains a significant financial matter for QFs to pay the upfront costs of a Network Upgrade, even subject to reimbursement. They point to FERC's explanation: "by placing the Interconnection Customer initially at risk for the full cost of the Network Upgrades, the upfront payment provides the Interconnection Customer *with a strong incentive to make efficient siting decisions* and, in general, to make good faith requests for Interconnection Service."[48]

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[46] Interconnection Customer Coalition Post-hearing Response Brief at 3-4, nn 10-13.
[47] *Id.* at 4, n 14 (citing *CED Wheatland Wind, LLC v. Mont. Dep't of Pub. Serv. Regul.*, 408 Mont 268, 282, 509 P3d 19, 27 (2022) (quoting 18 CFR § 292.101(b)(7)) (emphasis in *CED Wheatland Wind*).).
[48] NewSun's Prehearing Brief at 4, n 7 (Jun. 3, 2022), (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-A, 106 FERC ¶ 61,220 at P 613 (*emphasis* added)).

5. NewSun

FERC delegated authority to states over PURPA interconnections with the intention of providing a less burdensome interconnection pathway for QFs, NewSun argues, meaning that "state jurisdictional QF interconnection customers should be no worse off than if the QF interconnected under FERC's policies."[49] Current policies regarding cost allocation for Network Upgrades should be replaced with policies based on FERC's framework, NewSun asserts. NewSun recommends the Commission make QFs initially responsible for funding Network Upgrade costs, with 100 percent reimbursement by host utilities upon energization or over a 5-year period. [50] As support for this recommendation, NewSun indicates that FERC's approach is easy to implement, aligns costs and benefits, and equalizes the playing field for all QFs and generators.

FERC's framework is easy to implement, NewSun indicates, with a "bright-line" approach. NewSun also observes that reimbursement is not received by an interconnecting generator if its facility never reaches commercial operation.[51] NewSun asserts that adopting FERC's approach will avoid contested cases to address "who 'benefits' from a particular upgrade,"[52] and would eliminate the need for Phase II, or could be used in the interim until the Phase II question is addressed and resolved.

FERC's approach also aligns the costs and benefits of Network Upgrades, NewSun asserts. NewSun contends that "network upgrades benefit the system by 'increasing overall system capacity and in general the robustness of the interconnected system.'"[53] FERC already determined, in most cases, that network upgrades benefit the integrated system as a whole and, therefore, all users, NewSun argues. NewSun discusses several general and specific examples in testimony and briefs. For example, NewSun points to larger line sizes being used to "move more power as well as allow the system to operate farther from its peak capacity and mitigate associated stresses and failure points under peak system conditions or unplanned outages."[54] Another example is a simple disconnect switch added to a transmission line that enables the transmission owner to isolate or break up a portion of that line to mitigate for wildfire risk and/or keep power to some customers when outages occur, NewSun explains. NewSun notes that the Joint Utilities agree that Network Upgrades such as new or upgraded transmission lines, substations, conductors, protection and control equipment, breakers, poles, reclosers, supervisory control and indication equipment, and indication equipment "provide greater

[49] NewSun Post-hearing Brief at 6 (Aug. 5, 2022).
[50] *NewSun's* Prehearing Brief at 4, n 7 (Jun. 3, 2022) (citing NewSun/100, Rahman/12.).
[51] *Id.,* n 6 (citing FERC Pro Forma).
[52] *Id.* at 4.
[53] *Id.* at 6, n 18.
[54] *Id.*, n 19.

system benefits, including to add or enhance operational function, resolve overloading issues, decrease the risk of equipment failures, improve clearing times for protective relaying schemes, and to comply with reliability requirements."[55]

Since this docket began, NewSun observes, the environmental landscape has changed in Oregon with passage of HB 2021. "Oregon's 100% clean electricity mandate requires a massive buildout of renewables," NewSun asserts.[56] NewSun observes that organizations, including the Commission, recognize the importance of the transmission system regarding the new resources.[57] NewSun argues that aligning Oregon's interconnection policies with those of FERC will facilitate development of the QF renewable resources by putting them on equal footing with QFs and generators subject to FERC-jurisdictional interconnections, such as: (1) off-system QFs; (2) QFs selling less than 100 percent of their output to the interconnecting utility; and (3) generators certified as a QF that execute a bilateral non-PURPA PPA.[58]

6. OSSIA

OSSIA recommends we adopt an approach like FERC's cost allocation methodology for Network Upgrades. Like FERC, we should judge almost all Network Upgrades to provide benefits to the retail customers of the host utility, OSSIA asserts. OSSIA points to testimony by NewSun supporting the premise that almost all network upgrades caused by QF interconnections provide benefits to all users of the transmission system.[59] The system-wide benefits include increased infrastructure, improved reliability, decreased congestion, and increased load serving capability, OSSIA observes.[60]

OSSIA also argues we should follow FERC's lead to require interconnecting generators to initially fund Network Upgrades, but direct host-utilities to fully reimburse the generators over some period so long as they achieve commercial operation. OSSIA points to FERC's finding that the significant risk of not being reimbursed for upfront Network Upgrade costs associated with not reaching commercial operation sufficiently incents economical siting decisions.

OSSIA agrees with NewSun and the Interconnection Coalition that host utilities have the opportunity to demonstrate that the Network Upgrades at issue benefit only the

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[55] *Id.*, n 21.
[56] NewSun Post-hearing Brief at 19.
[57] *Id.* at 20, nn 61-62.
[58] NewSun Prehearing Brief at 8, n 27.
[59] OSSIA Post-hearing Brief at 3, n 4 (Aug 5, 2022) (citing NewSun/200, Andrus/15.).
[60] *Id.*, n 5 (citing NewSun/200, Andrus/15; NewSun/400; Andrus/9-15; and NewSun/500, Boissevain/3-11).

interconnecting utility. As host utilities have the most complete information regarding their transmission systems, they are in the best position to determine and show evidence that a specific network upgrade does not provide any benefits to their customers, OSSIA observes.

B. Issue Number 2: Should On-system QFs be Required to Interconnect to the Host Utility with Network Resource Interconnection (NRIS), or Should They Have the Option to Interconnect with Energy Resource Interconnection Service (ERIS) or an Interconnection Service Like ERIS?

1. Staff

Staff recommends the requirement that NRIS be used to interconnect a QF and a host utility. NRIS is the only service allowing a QF to function as a "network resource," meaning transmission service provided for that resource is firm and uninterrupted, Staff indicates.[61] Moreover, NRIS interconnection studies determine whether "at full output, the aggregate of generation in the local area can be delivered to the aggregate of load" in context of reliability criteria on the host utility's transmission system.[62] ERIS, in contrast, facilitates an interconnection permitting a QF to deliver on the existing transmission system on an as-available basis, Staff indicates. Accordingly, Staff further explains, ERIS interconnection studies identify only the facilities and upgrades necessary to safely and reliably interconnect the generating resource to the system, but not the upgrades needed to move an interconnected QF's output to load. For these reasons, Staff concludes that NRIS must be required for a utility to meet the dual obligations of PURPA (must-take and no unwarranted shifting of costs to retail customers).

Staff argues that NewSun, Interconnection Coalition, and OSSIA ignore the legal complexities related to PURPA's must-take obligation when they propose to move away from requiring NRIS and allowing for ERIS. They argue that this cannot be squared with the inability of a utility to curtail a QF in circumstances that are not expressly allowed by FERC.[63] Staff cites a 2013 declaratory order from FERC finding a PURPA PPA that included a QF curtailment option to be inconsistent with the utility's must-take obligation.[64]

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[61] Staff Prehearing Brief at 2, n 5 (citing Staff/200, Moore/3).
[62] *Id.*, n 6 (citing Staff/200, Moore/4).
[63] Staff Response Brief at 10, n 25 (citing *Excelon Wind I*, 140 FERC 61,152 at ¶ 50 (recognizing that the circumstances in which QF purchases may be curtailed is limited under PURPA and FERC's PURPA regulations, and that FERC has rejected attempts by purchasing utilities to curtail QFs in other circumstances beyond those limited exceptions).).
[64] Staff Prehearing Brief at 15 (citing *Pioneer Wind Park 1, LLC*).

Staff argues that even if a QF agrees to curtailment, the proposal to allow ERIS does not account for two facts: (1) a QF cannot know if it can procure point-to-point transmission service from a host utility until after executing a PURPA contract; and (2) after execution, a PURPA contract cannot be unilaterally modified by a utility to account for any upgrade costs to move the QF's output to load. These facts create risks that costs will be shifted to ratepayers, making ERIS unworkable, according to Staff.

2. Joint Utilities

Given FERC's articulation of the requirements for delivery of a QF's output, NRIS is the only appropriate interconnection service, the Joint Utilities argue. An NRIS interconnection study is the only type of interconnection study that allows a utility, a QF, and the Commission to identify, upfront, all deliverability issues associated with a particular site, the Joint Utilities indicate. A NRIS interconnection study identifies Network Upgrades needed to ensure that generation in the proposed interconnection area can be reliably delivered to the load on the transmission system provider's system during peak load conditions. NRIS allows a generating facility to be integrated with a transmission provider's system "in a manner comparable to that in which the Transmission Provider integrates its generating facilities to serve native load customers."[65] NRIS interconnection service is designed for generating facilities intending to serve retail load, and NRIS studies are tailored to provide the requisite information, the Joint Utilities assert.

ERIS, on the other hand, is a basic interconnection service that identifies Network Upgrades primarily needed to safely and reliably physically interconnect a generating resource to a utility's transmission system, the Joint Utilities state. ERIS turns "a blind eye to whether potential deliverability issues exist in the area of the generator's chosen interconnection site."[66] If Network Upgrades turn out to be required for deliverability reasons, they tend to be more costly than the Network Upgrades identified by ERIS, the Joint Utilities assert.[67]

Without an NRIS study, the Joint Utilities observe, the need for deliverability upgrades would be invisible until the utility must seek transmission service to deliver the QF's power from the point of interconnection to load and transmission service. At that point, however, the Network Upgrade costs fall within FERC's discretion and the Commission may be unable to prevent them from being allocated to retail customers. PURPA's customer indifference prohibits this outcome, the Joint Utilities assert.

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[65] Joint Utilities Prehearing Brief at 32, n 117.
[66] *Id* at 31, n 111.
[67] Joint Utilities Prehearing Brief at 30, n 104 (citing Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/19-20.).

Since QF generation is used to serve retail load, there is a practical reason to arrange firm transmission to manage delivery to that load, the Joint Utilities state. In any case, FERC requires delivery of a QF's output with firm transmission service, and limits curtailment to system emergencies, they assert. The Joint Utilities point to FERC's 2013 order in *Pioneer Wind Park I, L.L.C.*, (Pioneer Wind) for support. They argue FERC clarified that PURPA requires utilities to deliver QF power on firm transmission regardless of siting.[68] The case involved a QF project sited in a constrained area of PacifiCorp's Wyoming system. PacifiCorp sought to address the constraint by using a PPA provision allowing the utility to curtail the QF ahead of existing generators to the extent needed to honor PacifiCorp's existing transmission rights—*i.e.*, a "last-in, first-cut" approach to limited firm transmission.[69] FERC concluded, the Joint Utilities indicate, that the proposed PPA provision would violate PURPA by curtailing a QF as if it were a non-firm transmission service customer.

3. The Interconnection Coalition

The Interconnection Coalition recommends allowing an interconnection customer to have the option to interconnect with a purchasing utility using ERIS, an interconnection service like ERIS, or reduced deliverability. The Interconnection Coalition argues that these options could lead to more innovative and cost-effective solutions for addressing high interconnection costs. The Interconnection Coalition points out that the Commission "has acknowledged that utilities should 'begin to more seriously consider alternative transmission products that may deliver a significant portion of the value that some resources offer the system.'"[70] For this reason, this docket should authorize alternatives to NRIS, the Interconnection Coalition argues.

An alternative for on-system projects, the Interconnection Coalition explains, is delivery of a QF's output on a firm basis using Point-to-Point transmission service (PTP), allowing the QF facility to still be designated as a network resource. There are examples of PacifiCorp using PTP transmission service to transport energy from a QF in a load pocket to PacifiCorp's load somewhere else on the system, the Interconnection Coalition posits. They assert that even though PacifiCorp has stopped this practice due to a change in the company's interconnection process, this does not mean the option is not a viable alternative to NRIS. Responding to the Joint Utilities' position that allowing PTP transmission service for interconnection would shift costs from the QF to the utility transmission service request

[68] *Id.* at 33, n 120.
[69] *Id.* at 34, n 122.
[70] Interconnection Coalition's Prehearing Brief at 22, n 76 (citing Docket No. UM 2193, Order No. 22-130 at 4).

study process, the Interconnection Coalition states there is no evidence of any cost shifts when PacifiCorp used the PTP transmission service to get power out of a load pocket.

Another example, the Interconnection Coalition states, is Oregon's Community Solar Program (CSP), which allows utilities to study and interconnect CSP projects under "the scope of a FERC ERIS study."[71] If CSP projects may interconnect using ERIS, so should QFs, the Interconnection Coalition argues.

The Interconnection Coalition also points out that an off-system QF can ensure firm deliverability to a purchasing utility's system by interconnecting using ERIS on a non-purchasing utility's system and purchasing firm PTP transmission on the purchasing utility's system to a point of delivery having available transfer capability. It is also possible for a project to interconnect on the purchasing utility's system using ERIS, and purchase firm PTP transmission service from a non-purchasing utility to deliver firm energy to the purchasing utility at a point of delivery with available transfer capability. Both options could allow a QF designation as a network resource.

Another alternative to mandatory NRIS, the Interconnection Coalition comments, is to permit a QF to sell whatever amount of net output that can be delivered should firm deliverability not be available. From the perspective of public policy, this is a better approach to managing scarce resources, particularly as the electric grid becomes more congested. Puget Sound Energy (PSE) recently had a voluntary interconnection tariff (Schedule 153) take effect in its territory under the approval of the Washington Utilities and Transportation Commission (WUTC), the Interconnection Coalition observes.[72] The tariff allows QFs to choose limited curtailments when interconnecting to PSE as an alternative to paying for full Network Upgrades required by NRIS.[73] The Interconnection Coalition explains: "[t]he QF is allowed to choose a lower quality of interconnection service compared to NRIS while still addressing deliverability issues raised by the Joint Utilities."[74]

The Interconnection Coalition counters arguments by the Joint Utilities that the PSE tariff is prohibited by the ruling in *Pioneer Wind.* They argue that the ruling only prohibits the use of non-firm transmission when a QF objects. The Interconnection Coalition asserts that *Pioneer Wind* does not prohibit a QF from agreeing to voluntary curtailment and non-firm transmission.[75] The Interconnection Coalition also contradicts the Joint Utilities' claim that the legality of the PSE Tariff was not fully considered by the interested parties and the WUTC.

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[71] *Id.* at 19-20, n 70.
[72] *Id.* at 21, n 73.
[73] *Id.*, n 74.
[74] *Id.*, n 75.
[75] Interconnection Coalition Post-hearing Response Brief at 13, n 39 (Sep. 2, 2022).

The Interconnection Coalition also seeks to undermine the Joint Utilities' contention that the PSE tariff does not present an example of a workable alternative to NRIS because it either ignores NERC reliability and safety issues or shifts the funding of reliability and safety upgrades from a QF to the next service request. They argue that the underlying goal of the PSE tariff is to use limited curtailment to efficiently utilize the transmission system and avoid the need for system upgrades.

The Interconnection Coalition urges a decision to allow alternatives to NRIS in this docket, rather than waiting for additional data from Oregon's CSP in docket UM 1930, as Staff suggests. Because docket UM 1930 addresses only small solar QFs, it is not fully representative of all issues involved, the Interconnection Coalition observes; moreover, large QFs, not CSP QFs, will likely lead the way in finding innovative, cost-effective alternatives to NRIS.

The Interconnection Coalition supports the alternative recommendation by NewSun that, regardless of whether the Commission allows a QF to interconnect using ERIS, a QF should be allowed to be studied for both ERIS and NRIS. It is the understanding of the Interconnection Coalition that a QF already can be studied for both ERIS and NRIS, but they ask for confirmation. The Interconnection Coalition asserts that the right of a QF to be studied for ERIS should not be eliminated without further discussion in a separate or later phase of this proceeding.

4. NewSun

NewSun recommends allowing QFs to choose either NRIS or ERIS, arguing that the availability of ERIS will enable creative solutions to address transmission constraints. Such creativity is imperative to facilitate Oregon's clean energy future, NewSun argues, which explicitly necessitates the contribution of small-scale renewables and community-based projects to implementation of the state's 100 percent clean law.[76] Procurement of these resources will need to be massive, NewSun indicates, but interstate transmission system constraints are pervasive, making it difficult for on-system QFs to interconnect without triggering network upgrades. Economically efficient development sites for QFs and non-QFs are increasingly unavailable, NewSun points out.[77]

NewSun asserts that PURPA does not require a QF to interconnect with NRIS. NewSun notes that neither Staff nor the Joint Utilities argues otherwise, asserting instead that NRIS is the "'most appropriate'" or "'efficient'" interconnection service based on their

[76] NewSun Post-hearing Brief at 6, n 9 (citing ORS 469A.210).
[77] *Id.* at 5, n 6.

understanding of FERC's *Pioneer Wind Park I, L.L.C.*, ('*Pioneer Wind*') case.[78] NewSun also disputes the Joint Utilities' position that *Pioneer Wind* requires a QF's output to be delivered on firm transmission, thereby necessitating NRIS. NewSun argues that NRIS does not convey firm transmission service, but "studies whether the aggregate of generation in the local area can be delivered to the aggregate of the utility's native load consistent with reliability criteria and procedures."[79] NewSun further argues that "there is no requirement that a utility purchasing the output of a PURPA project deliver the output to its native load. On the contrary, once the QF power is delivered, the utility has the option to deliver the power to load, to deliver it to another utility, or sell it into the wholesale markets—all of which are core functions of the utility and consistent with the daily activities."[80] It is the utility's choice to deliver a QF's output to its load and to necessitate network resource status, NewSun argues. Even so, NRIS is not required for network resources since PGE's Port Westward 2 generating facility is interconnected with ERIS but designated as a network resource, NewSun states. Since these choices belong to the utility, NewSun argues the utility should pay the associated upgrade costs. NewSun further rebuts the assertion that the NRIS requirement provides better outcomes, by pointing out that under ERIS, a QF would be able elect to sell some or all of its output off-system rather than to a potentially distant, interconnected utility, thereby decreasing transmission congestion.

NewSun also maintains that a QF may negotiate a variety of purchase and sales terms under PURPA and Oregon law, including on an as-available basis. NewSun asserts: "*Pioneer Wind* stands for the proposition that a utility cannot *require* a QF to agree to greater curtailment than is permissible under PURPA, but as just noted above, a QF may choose to negotiate something different than what it is legally entitled to under PURPA."[81] Thus, even if the Commission decides that firm delivery requires NRIS, the Commission should recognize that less than fully firm delivery service can be selected by a QF.

In any case, NewSun asks us to allow QFs to be studied for both ERIS and NRIS. As a project may switch between being either FERC- or Oregon-jurisdictional, depending on offtake, NewSun indicates it is practical to allow a QF subject to Oregon's jurisdiction to be studied for both. Although a developer must select either the FERC- or state-jurisdictional queue at time of initial entry, the alternative offtake arrangements may still be under consideration and queues switched at any time, NewSun explains. Studying a QF for both ERIS and NRIS should not create additional burden on utilities as a NRIS study considers ERIS, NewSun indicates.

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[78] *Id.* at 6-7, n 7.
[79] *Id.* at 7 (*emphasis* removed), n 11.
[80] *Id.* at 7-8 (*emphasis* removed), n 13.
[81] *Id.* at 9.

5. OSSIA

OSSIA recommends flexibility for QFs to select either NRIS or ERIS. As QFs will help meet HB 2021 goals, the Commission should enable their operation by allowing them flexible transmission options, OSSIA states. Restricting QFs to the singular option of NRIS imposes extensive transmission upgrades in all situations regardless of need or the potential availability of other solutions, OSSIA asserts. As the Pacific Northwest transmission system is significantly constrained, particularly in Oregon, and will face significant challenges as the Commission and utilities work towards "a 100% clean energy future" under HB 2021,[82] OSSIA observes that QFs' ability to develop creative solutions to overcome transmission restraints should not be constricted by a requirement to always build expensive network upgrades.[83]

V. RESOLUTION

A. Issue one: Allocation of Network Upgrade Costs

We first address the primary question in these proceedings: who should pay for Network Upgrades initiated by a QF and needed to interconnect an on-system QF to a host utility? We appreciate the thorough discussion by Staff and the other parties regarding the pros and cons of our current policy and possible alternative policies, including their potential plusses and minuses.

Our current policy includes two elements. The first presumes that an interconnecting generator is responsible for paying all upfront costs associated with interconnection—including any and all costs for Network Upgrades. The second allows for the possibility that all or some portion of the ultimate cost responsibility for Network Upgrade costs assigned to the QF will be shifted to the host utility should the interconnecting generator demonstrate that the Network Upgrades in question provide quantifiable system-wide benefits. We separately address each element of our current policy.

1. Initial Presumption of QF Responsibility for Network Upgrade Costs

We are asked in this docket to decide whether, as a matter of continued policy, the upfront costs for Network Upgrades initiated by, and constructed solely for, a new interconnection by a QF to a host utility should continue to be borne automatically by the QF. This policy is based on a presumption that a QF is responsible for all costs caused solely by and directly attributable to the QF's interconnection.

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[82] OSSIA Post-hearing Brief at 4, n 10 (citing ORS 469A.410 2021).).
[83] *Id.* at 5.

After carefully reviewing all parties' positions, we do not understand any party to ask us to end this presumption that QFs must pay all upfront costs of Network Upgrades. Although NewSun, OSSIA, and the Interconnection Customers ask that responsibility for Network Upgrade costs ultimately be shifted from QFs to the host utilities based on reimbursement for initial investment after satisfaction of certain conditions, they do so based on the second element of our current policy. They argue that we should adopt FERC's premise that because every Network Upgrade benefits the entire transmission system in some way, QFs should be reimbursed, within certain guidelines, for their initial outlay for the costs to develop and construct Network Upgrades. We deem this argument to be more closely related to the second element of our current policy—*i.e.*, that the ultimate allocation of costs should align with system-wide benefits—and not a reason to abandon the first element of our current policy.

Staff recommends we affirm the presumption underlying the first element of our policy, but asks us to clarify that the calculation of avoided costs includes avoided interconnection costs. This means that, through avoided cost payments, QFs will be compensated for the cost of any Network Upgrades that would have been required by the power purchase the QF avoids. Thus, Staff asks us to clarify that it is Network Upgrade costs exceeding a host utility's avoided Network Upgrade costs that our policy presumes are allocated to a QF. If this position is correct, Staff asks us to make this explicit, by directing the utilities to include avoided Network Upgrade costs in their calculations of avoided costs.

AWEC and the Joint Utilities also recommend we affirm the presumption that avoided cost prices include avoided Network Upgrade costs. However, they argue that the calculation of avoided costs actually sets a cap on the amount of Network Upgrade costs that legally may be allocated to a host utility, notwithstanding the second element of our current policy that allows a QF's interconnection costs to be shared based on an allocation of quantified system-wide benefits.

We confirm Staff's understanding that avoided costs should include avoided interconnection costs. Although we understand avoided cost calculations to already include avoided Network Upgrade costs, we direct the utilities to explicitly make this clear, on a going forward basis, in their calculations of avoided costs. Like Staff, we also disagree with the Joint Utilities' assertion that avoided costs set a cap that precludes any payment of Network Upgrade costs by a utility under any circumstance. If Network Upgrade costs subject to allocation per 18 CFR. § 292.306 are defined as the costs

exceeding the utility's avoided costs, then avoided costs should not be interpreted as a cap.[84]

2. Quantifiable System-wide Benefits

We established, in Order No. 10-132, a policy that shifts to utilities the ultimate cost responsibility for Network Upgrades that QFs demonstrate produce quantifiable system-wide benefits. However, that policy has never been applied in practice. We are not aware of any attempts by a QF to demonstrate quantifiable system-wide benefits from a Network Upgrade. The record helps us understand the reasons why. While the system-wide benefits policy was a well-intentioned and fair-minded approach to the allocation of Network Upgrade costs, consistent with state regulatory principles, such as ratepayer indifference, it may be difficult to demonstrate system benefits.

Not only has demonstration of system benefits for interconnection customers been difficult since we announced the policy, the Joint Utilities persuasively argue it would also prove difficult in the future should the burden of proof be shifted to them. While utilities do not face the same lack of information about the utilities' grid that makes it challenging for QFs to demonstrate system-wide benefits, we discern that even with full access to system information there is a more fundamental difficulty underlying the exercise. Identifying and quantifying benefits from specific enhancements to a vast, complex transmission and distribution system is inherently challenging.

We suspect this project-specific fact-finding effort would likely continue to frustrate the goal of having Network Upgrade costs flow to the beneficiaries of the Network Upgrades. If QFs retain the burden, we recognize that the difficulty of engaging in the initial investigation and presenting a case would likely continue to impede interconnection customers from undertaking it. If the burden shifts to utilities, while they may embark on the development and presentation of cases demonstrating the lack of quantifiable, system-wide benefits for particular Network Upgrades, we anticipate major evidentiary disputes arising in such cases calling for complex, fact-specific determinations that would be time- and resource-intensive for all involved, thereby significantly undercutting the flow of the benefits at issue.

We conclude it is inappropriate, for the reasons discussed above, and described more fully below, to continue to build on this policy framework of allowing a QF to be reimbursed if it can demonstrate system-wide benefits by trying to force some more

[84] *See* the definition of interconnection costs in 18 CFR § 292.101(7) ("Interconnection costs means * * * Interconnection costs do not include any costs included in the calculation of avoided costs.").

detailed or formulaic determination of whether a QF-necessitated Network Upgrade benefits the system as a whole.

We commend Staff's readiness to undertake a second phase to define and determine how to identify the quantifiable, system-wide benefits of a specific Network Upgrade, and to develop a methodology that quantifies them in a manner allowing distribution of these benefits through cost allocation. We acknowledge, however, the Joint Utilities' assertion that they are unaware of an existing methodology for this undertaking, and conclude that committing to develop a novel approach in a second phase of these proceedings, while not necessarily impossible, may involve enormous time and resources to undertake without a high likelihood of success. For this reason, we do not adopt Staff's recommendation that we commit to a second phase of these proceedings having the purpose of developing an approach to identifying and quantifying system-wide benefits provided by a specific Network Upgrade and designing a methodology to allocate costs based on this approach. In short, although we recognize that our current policy suffers from practical limitations, we are hesitant to devote Commission and stakeholder resources to further developing a fact-specific methodology for cost allocation because we are not convinced that those practical limitations could be overcome.

We are left, ultimately, with a choice between the presumption underlying Order No. 10-132—*i.e.*, that QFs must be held responsible for the cost of Network Upgrades needed to connect them—and that underlying FERC's policy—*i.e.*, that all system upgrade costs are ultimately the responsibility of the network provider. We are concerned, like the Joint Utilities, that allocating the costs for Network Upgrades to a host utility and its customers solely on an assumption of system-wide benefits would inappropriately sidestep the cost-benefit analysis and prioritization of transmission and distribution system investments that we normally, and justifiably, require in planning in order to ensure that rates remain just and reasonable. Moreover, we continue to agree with the fundamental premise of Order No. 10-132 that, under PURPA, we must use caution in assigning to ratepayers costs caused by QFs that may not otherwise have been prioritized. Ultimately, for these reasons, we conclude that requests in this docket to shift responsibility for Network Upgrade costs from QFs to the host utilities are based on federal policies and goals that are inconsistent with these state regulatory principles. For this reason, we reject arguments by NewSun, OSSIA, and the Interconnection Customers requesting we adopt the premise that QFs should be reimbursed, within certain guidelines, for initial costs to develop and construct any and all Network Upgrades.

Although it may well be that some Network Upgrades provide some broader benefit to the entire system, our state regulatory principles demand a greater level of prioritization for transmission and distribution system investment, a principle that applies to both

utilities and interconnection customers. We agree that state regulatory policy warrants a continued focus on cost-benefit analysis and transparent, planned, cost-effective system expansion, which stands in direct contradiction with federal policy presuming that a larger system necessarily is the best outcome for all users. Although we conclude that neither of these "all or nothing" presumptions produce the perfect balance for any individual Network Upgrade, when faced with the choice between them, we continue to conclude that state policy warrants a different answer than federal policy.
We are not persuaded that shifts in Oregon's policy landscape require us to reach a different result today about whether to adopt FERC's approach to Network Upgrade cost allocation. We recognize that HB 2021's 100 percent clean electricity standard and community-based planning emphasis, along with the requirement for 10 percent of capacity to come from small-scale resources, will require a significant resource transition and the development of new resources. We are also cognizant of the need to achieve these policies' requirements without exceeding their rate impact parameters, and this strengthens our emphasis on high quality planning and prioritization to achieve as many environmental and community benefits as possible. We are hesitant to make PURPA's must-take resources a bigger driver of system upgrade costs at a time when ratepayers are being asked to fund so many important and competing objectives.

Reaching this difficult conclusion does not mean that we will ignore the challenges faced by QFs seeking to interconnect in Oregon. Instead of focusing additional investigation efforts exclusively on QF interconnection cost allocation principles, however, we conclude it is better to dedicate additional investigation time to considering whether there are other circumstances that can reduce the burden of Network Upgrades for QFs and also improve the transparency and quality of overall utility analysis and prioritization of Network Upgrades that support reliability and enable new generation to serve load and state policy requirements.

We are convinced that the best way to evaluate any trade-offs regarding system upgrades and associated costs, particularly regarding whether they should be paid for by ratepayers, is through enforcing the utilities' obligation to study and plan for the system upgrades needed to reliably serve their load. Through enforcing this with a greater level of transparency, and perhaps rigor, we hope to allow for better identification of which Network Upgrades will provide a benefit to the system—and therefore should be chargeable to utilities, rather than interconnecting QFs. We reason that providing better information about the transmission system and utility transmission planning will also send realistic siting signals to QFs, thereby enabling better siting decisions that are more cost-effective and may fall within utility priorities and existing transmission planning.

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.

As described above, we desire to have more transparency and rigor around utilities' near- and longer-term system upgrade needs and plans. And, we seek to relieve QFs of bearing the costs of any infrastructure associated with their interconnection that appears in, or reasonably should appear in, those plans. We will 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.

Recognizing that the transmission study process is FERC jurisdictional, this investigation will be tailored to focus only on the associated issues that are state jurisdictional. Our goal is to improve all parties' understanding of the transmission study processes, and how transmission planning can be leveraged to: (1) better meet the Commission's needs regarding prudence review of transmission system investments by utilities; and (2) provide more transparent transmission system information to QFs to aid siting and potentially reduce associated Network Upgrade costs. We recognize that there will be legitimate questions around the scope of this investigation and how it should be approached. We expect that the initial phases of this investigation could be dedicated to further definition and understanding of the opportunities to meet the Commission's goals, as outlined in this order.

In short, although we do not adopt a different approach to cost allocation for Network Upgrades caused by QFs, we intend that a renewed and improved focus on utility transmission and system planning will make it more likely that QFs will only pay for the upgrades that are truly beneficial only to them and prioritized only by them, and not the wider system. Additionally, this focus on transmission and system plans will incent more cost-effective siting decisions. Finally, in order to ensure that utilities' plans include all reasonable upgrades that may be implicated by a QFs' interconnection, we expect that our investigation will establish some connection between these plans and the process by which a utility seeks to establish the prudence of these investments in its system for purpose of rate recovery.

B. Issue Two: QF Interconnection Options

We have determined that QFs should interconnect under NRIS, with a limited exception. In determining whether to allow QFs to seek interconnection under ERIS instead of NRIS, we must carefully consider how to best balance existing law and future policy goals regarding the requirements for the interconnection of on-system QFs to host utilities. We recognize that PURPA provides the framework for these requirements, with the dual requirements that a host utility take all delivered output from an on-system QF while keeping customers indifferent to that purchase as compared to another purchase of the same amount of energy.

While PURPA requirements have remained relatively constant over the years, the statutory context for state environmental and energy policy continues to evolve, with recent mandates driving the facilitation of a fully clean, future energy landscape that requires significant procurement and integration of new renewable energy resources. At the same time, the electric transmission system that will need to interconnect these new resources grows more constrained, with Network Upgrades increasingly needed, not only to safely and reliability interconnect a new generating resource to a host utility, but also to move output from a new resource to customer load.

Given these two situations, we acknowledge the value of trying to find and implement opportunities to more efficiently use the existing transmission system. We are, therefore, inclined to allow some level of optionality for QFs to connect using ERIS. We are not persuaded, however, that we have sufficient information to permit every on-system QFs to choose between interconnection with either ERIS or NRIS under our current construct for implementing PURPA. Advocates for this flexibility fail to effectively overcome the concerns of Staff and other parties that interconnection with ERIS creates significant legal and economic risks. For example, it is unclear how a right to curtail a QF should be integrated into a PPA under PURPA without triggering a claim by the QF that its rights to sell all power generated have been violated. Also, we note that the existing rates and payments for capacity would seem to be based on an assumption of firm deliveries of power from a QF, rather than deliveries subject to curtailment.

We conclude that more consideration of such issues is warranted, particularly Staff's assessment that ERIS ignores potential issues with delivery to the purchasing utility's load, making the need for related Network Upgrades invisible until the utility seeks transmission service, when associated costs would be subject to FERC jurisdiction and not allocatable to the interconnecting QF.

To facilitate further evaluation of the identified issues and develop more information and data about how on-system QF interconnection with ERIS works, we adopt NewSun's suggestion to allow any on-system QF to choose to be studied for both ERIS and NRIS. We clarify that a QF choosing to be studied for ERIS, in addition to NRIS, must pay for any additional costs associated with the extra study. We direct the utilities to develop and make filings, as necessary that facilitates a QF's ability to pay for both ERIS and NRIS analysis.

Where an ERIS and NRIS study together reveal that voluntary curtailment or other solutions to avoiding Network Upgrades may exist, we favor experimenting, as the 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. Therefore, we further direct the utilities, 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 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 PTP). Having dual ERIS and NRIS reports as a foundation for a QF's voluntary agreement to curtailment at a level that avoids the need for Network Upgrades and can be accommodated through PTP transmission service will mitigate Staff's most significant concern that Network Upgrades needed to deliver to load will not be identified until after any associated costs cannot be allocated to the QF. We also recognize that curtailment provisions will impact the QF resource's ability to respond to load during times of high system stress, and we anticipate that negotiations may need to address the avoided cost rate impacts of any reduction in the QF's capacity value.

In requiring utilities to engage with QFs in negotiating contracts that allow for voluntary curtailment, we do not dismiss Staff and the utilities' concerns that *Pioneer Wind* continues to present a problematic FERC precedent raising some level of legal risk. However, all QF parties to this proceeding have assured us of their view that *Pioneer Wind*, while preventing a utility from unilaterally requiring curtailment, does not stand for the proposition that PURPA is violated when a QF voluntarily agrees within a negotiated PURPA PPA to allow the utility to curtail delivery in order to reduce the QF's interconnection costs. We are unwilling to allow the specter of a FERC precedent to prevent mutually beneficial, mutually supported solutions that enable more efficient use of the grid. Moreover, we expect that, within a negotiated PPA, the utility could seek to

assign any incremental costs (*i.e.*, of litigation and any resulting increased transmission service costs) associated with this legal risk to the QF.

VI. ORDER

IT IS ORDERED that:

1. The utilities are directed to make clear, on a going forward basis, that avoided Network Upgrade costs are included in avoided cost calculations.

2. Staff is directed to open an informal rulemaking docket to examine opportunities to improve the production and availability of information about the utility transmission and system planning processes, such that there will be greater transparency about which Network Upgrades are likely to bring high priority benefits to the utility's system as a whole.

3. The utilities are directed to develop and make filings, as necessary, to facilitate a QF's ability to pay for both ERIS and NRIS analysis.

4. The utilities are directed to negotiate a non-standard contract implementing a QF's decision, after review of both ERIS and NRIS reports, to interconnect with a host utility using ERIS, so long as the QF voluntarily commits to allow curtailment at a level that obviates the need for the Network Upgrades identified in a NRIS report.

Made, entered, and effective Jan 20 2023.

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 Court of Appeals in compliance with ORS 183.480 through 183.484.