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UTAH ASSOCIATION  
OF ENERGY USERS

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**Via Email**

PacifiCorp Transmission  
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Re: PacifiCorp Generator Interconnection Procedure Reform Revised Straw Proposal

The following comments are submitted by the Utah Association of Energy Users (“UAE”) in response to the PacifiCorp Generator Interconnection Procedure Reform Revised Straw Proposal (“Proposal”), published on October 28, 2019.

UAE has numerous concerns about the Proposal, which appears to discriminate in favor of PacifiCorp’s merchant function and against non-utility developers. While those concerns are broad, UAE limits its comments herein to certain concerns regarding the commercial readiness criteria set forth in 5.1.2.1 of the Proposal. UAE’s decision not to comment on other portions of the Proposal should not be interpreted as assent or that UAE lacks concerns regarding other aspects of the Proposal.

**UAE COMMENTS RE: COMMERCIAL VIABILITY CRITERIA IN SECTION 5.1.2.1**

Section 5.1.2.1 of the Proposal states that the new interconnection queue “will be open only to those interconnection projects that can demonstrate commercial viability” by meeting one of the following commercial readiness criteria:

- An executed term sheet or PPA for the sale of a facility’s output, where the term of the sale is not less than five (5) years; or
- Reasonable evidence that the project has been selected in a procurement process by or for a load-serving entity, or is being developed by a load-serving entity; or
- A non-refundable deposit of \$250,000 in lieu of commercial viability.

The Proposal goes on to state in Section 5.2.1.3 that a project currently in the interconnection queue cannot utilize the “in lieu of” payment to demonstrate commercial viability to remain in the queue during the Transitional Process.

UAE has two main concerns about this section. First, UAE is concerned that this language will preclude a qualifying facility (“QF”) from entering the interconnection queue or remaining in the queue during the Transitional Process. Second, UAE is concerned that this process will allow PacifiCorp’s merchant function (or any other load-serving entity) to clog up the interconnection queue without ever having to show that the projects it places into the queue are commercially viable. These concerns are expressed in further detail below.

**A. QFs may be precluded from entering into the interconnection queue or remaining in the interconnection queue during the Transitional Process**

UAE is concerned that the commercial viability criteria set forth in Section 5.1.2.1 will prevent QFs from entering the queue or receiving necessary interconnection studies. In at least some of the states in which it operates (*i.e.*, Utah and Wyoming), PacifiCorp’s merchant function will not execute or negotiate a PPA with a QF developer until *after* the QF project has received a completed interconnection study (or other similar interconnection demonstration) that supports the project’s proposed commercial operation date. This, combined with the commercial viability requirements set forth in Section 5.1.2.1, creates a circular problem for QFs: A QF cannot obtain a PPA or term sheet without a completed interconnection study, but this Proposal bars a QF from entering into the interconnection queue because it can’t obtain a PPA or term sheet.

Theoretically, a QF could make the “in lieu of” payment of \$250,000 to enter the queue, but it’s unclear whether there will be enough time for a QF to meet the Increased Readiness Commitment Milestone (a signed PPA or term sheet). In other words, if a QF can only enter the queue by making the \$250,000 “in lieu of” payment, it will receive a study report after the completion of the Power Flow/Voltage Study and the Stability/Short Circuit Study. Once it has that report, it can approach PacifiCorp’s merchant function and begin PPA negotiations, but those PPA negotiations may not be completed by the time the QF is obligated to meet the Increased Readiness Commitment Milestone.

It should be noted that a QF currently in the interconnection queue would not be able to meet any of the commercial viability requirements to remain in the queue during the Transitional Process because the Proposal specifically states in Section 5.2.1.3 that a project currently in the interconnection queue cannot utilize the “in lieu of” payment to demonstrate commercial viability to remain in the queue during the Transitional Process.

Tariff provisions that effectively bar QF projects from being built would seem to violate the Public Utilities Regulatory Policies Act (“PURPA”) and would likely result in litigation challenges to the Proposal. UAE requests that PacifiCorp provide a clear path for QFs to enter the interconnection queue and remain in the queue through the Transitional Process.

**B. The Proposal Unreasonably Assumes That All Projects Being Developed By A Load-Serving Entity Are Commercially Viable**

Section 5.1.2.1 of the Proposal identifies the following criterion as a measure of commercial viability:

- Reasonable evidence that the project has been selected in a procurement process by or for a load-serving entity, or is being developed by a load-serving entity; or

UAE raises two objections to this provision: 1) The Proposal unreasonably assumes that all projects developed by load-serving entities are commercially viable, and 2) Projects developed by load-serving entities should not automatically be permitted to enter the Gateway South-specific cluster study.

**1. The Proposal Unreasonably Assumes That All Projects Developed By Load-Serving Entities Are Commercially Viable**

UAE objects to the portion of Proposal asserting that any project “being developed by a load-serving entity” meets the commercial viability requirement in 5.1.2.1. The assumption that any project being developed by a load-serving entity automatically, and in all circumstances, is commercially viable is not reasonable and is not consistent with the goals of a “first ready, first served” process.

Not all projects developed by a load-serving entity are viable, as is demonstrated by a review of the interconnection requests submitted by PacifiCorp’s merchant function over the last four years. In that time frame, PacifiCorp’s merchant function has submitted interconnection requests representing approximately 637 MW of capacity.<sup>1</sup> Of this approximately 637 MW of capacity, approximately 460 MW of capacity is represented by projects for which the proposed commercial operation date has passed without the merchant function signing an interconnection agreement.<sup>2</sup> Another project, representing approximately 110 MW, has a proposed commercial operation date of November of 2020, but is contingent on the construction of numerous network upgrades, including two separate segments of the Gateway transmission project that will not be completed until 2024.<sup>3</sup>

These are the very types of projects that, if they were being developed by anyone other than PacifiCorp, would be the target of a queue reform process designed to clear non-viable projects out of the queue. If the goal of interconnection queue reform is to prevent parties from making speculative interconnection requests that tie up interconnection capacity for commercially viable projects, load-serving entities should not be able to engage in that same behavior. Proposing to allow any project developed by a load-serving entity, such as PacifiCorp’s merchant function, to enter the interconnection queue without some additional showing of commercial viability is contrary to the goals of the reform process. Perhaps this is

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<sup>1</sup> This number does not include requests submitted that have since been deactivated.

<sup>2</sup> See Interconnection Queue Nos. 820, 821, 823, 858-861 & 876.

<sup>3</sup> See Interconnection Queue No. 863.

why neither PNM’s FERC-approved LGIP nor PSCO’s proposal to FERC permit load-serving entities to enter the interconnection queue without some additional showing. PacifiCorp’s Proposal would simply replace what it refers to as the “broken serial process” in Section 1.1 of the Proposal with a “broken cluster process” populated by PacifiCorp projects that are not commercially viable. This provision in the Proposal appears to violate the foundational principles of open access, non-discriminatory transmission service.

UAE suggests removing the provision that would allow load-serving entities to enter the interconnection queue without being required to make any further showing of commercial viability. Load serving entities are often required to obtain regulatory approval before constructing or acquiring a project.<sup>4</sup> Without such approval, those projects are not commercially viable and should not be permitted to enter the interconnection queue just because they are being developed by a load-serving entity.

UAE does not know the full scope of regulatory or decision-making requirements imposed on all load-serving entities within PacifiCorp’s footprint, and so it does not make any particular recommendation to modify the Proposal. Rather, UAE simply notes that the assumption underlying the Proposal—the assumption all projects being developed by a load-serving entity are commercially viable—is contradicted both by the current state of PacifiCorp merchant’s active interconnection requests and by the regulatory scheme in at least one of the six states in which PacifiCorp merchant operates.

Load-serving entities should not receive preferential treatment in the interconnection process. PacifiCorp should, therefore, revise the Proposal to remove the provision that would allow load-serving entities to enter the interconnection queue without some demonstration of commercial viability.

2. Projects Developed By Load-Serving Entities Should Not Be Permitted To Enter The Gateway-South Specific Cluster Study Without An Additional Showing Of Commercial Viability

Section 5.2.2 of the Proposal identifies special provisions related to projects that are dependent on the construction of Gateway South for interconnection. The Proposal contemplates a Gateway South-specific cluster study for those projects and states that any project dependent on Gateway South—including those with signed LGIAs—must demonstrate commercial viability by November 30, 2020 in order to enter that cluster. As noted above, Section 5.1.2.1 of the Proposal contemplates that all projects developed by load-serving entities may enter the interconnection queue simply by virtue of being developed by a load-serving entity. The combination of these portions of the Proposal presents serious concerns.

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<sup>4</sup> For example, PacifiCorp’s merchant function must receive pre-approval from the Public Service Commission of Utah if it seeks to construct or acquire a project of 100 MW or more of new generating capacity. See Utah Code § 54-17-302. To the extent that any regulated utility requires certain interconnection information prior to obtaining regulatory approval for a project, the utility should be able to obtain that information by submitting its project into an informational cluster study.

Any project developed by a load-serving entity, such as PacifiCorp's merchant function, that would be dependent on Gateway South for interconnection would automatically be permitted to enter the Gateway South-specific cluster study because the Proposal states that those projects are, *ipso facto*, commercially viable. By contrast, any project developed by a non-utility developer that is dependent on Gateway South would only be permitted to enter the Gateway South-specific cluster study if it meets some other criteria of commercial viability identified in Section 5.1.2.1.

Presumably, a non-utility project would need to be selected in the upcoming RFP to enter the Gateway South-specific cluster, whereas a utility project would not need to be selected in that RFP to enter that cluster. This would create an environment in which a PacifiCorp Merchant project could enter the Gateway South-specific cluster study and be advanced ahead of a non-utility project that already has a signed LGIA, even if neither project is selected in the RFP. PacifiCorp Merchant wouldn't even be required to enter its project into the RFP to enter the Gateway South cluster study. This threatens the competitiveness of the RFP, particularly if the total capacity of projects selected in the RFP is less than all of the interconnection capacity to be created by Gateway South. PacifiCorp Merchant's projects that were not selected in the RFP could—based on nothing more than the fact that they are PacifiCorp projects—enter the Gateway South-specific cluster study along with all of the projects selected in the RFP and gain an advantage over all other projects not selected in the RFP, including over projects that currently have signed LGIAs.

UAE suggests that, if PacifiCorp intends to conduct a Gateway South-specific cluster study, it permit *only* those Gateway South-dependent projects that either have signed a PPA or have been selected in the upcoming RFP to enter that cluster. This would remedy the problems cited herein and could serve to mitigate the harm to Gateway South-dependent projects with signed LGIAs that are not selected in the RFP.

## CONCLUSION

UAE appreciates the opportunity to provide comments on the Proposal and requests that PacifiCorp address the concerns stated herein before it submits any filing with FERC to modify the existing interconnection queue process.

DATED this 11th day of November, 2019.

Respectfully submitted,

By:



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