

January 5, 2007

VIA ELECTRONIC FILING

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250

**Re: Docket No. UE-060649
Standards for Interconnection to Electric Utility Delivery Systems**

Dear Ms. Washburn:

On December 15, 2006, the Washington Utilities and Transportation Commission (WUTC or Commission) conducted a workshop in docket UE-060649, *Standards for Interconnection to Electric Utility Delivery Systems*. During the workshop, Commission staff asked PacifiCorp to comment on several interconnection issues. PacifiCorp appreciates the opportunity to participate in this important workshop process and provides the following comments and observations in response to staff's request.

A. Applicability.

During the December 15 workshop, participants discussed eight questions posed by Commission staff. The first of these questions involved the applicability of any WUTC rules governing interconnection of generation to electric utility systems. Stakeholders generally agreed that certain types of generation interconnections are subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) and therefore outside the scope of any interconnection rule ultimately adopted by the WUTC. Stakeholders also generally agreed that most other types of generation interconnection could be subject to regulation by the WUTC. There was some confusion as to the precise scope of FERC's jurisdiction over generation interconnection. WUTC staff asked PacifiCorp to provide its observations regarding FERC jurisdiction versus state jurisdiction over generation interconnections.

As presently understood by PacifiCorp, applicability of state or FERC interconnection rules is determined by the type of generation facility and the existing use of the host circuit rather than by any distinction between transmission and distribution systems. Specifically, (i) where a generation facility sells its output on the wholesale energy market; and (ii) where the host circuit (i.e., the transmission or distribution circuit to

which the facility is interconnected) has hosted other wholesale energy transactions and is therefore subject to the Open Access Transmission Tariff jurisdiction of FERC; then (iii) the interconnection of the facility to the host circuit is subject to FERC jurisdiction and FERC's interconnection rules apply and govern. In contrast, where power delivery is limited to the distribution grid, or where the generation facility is a qualifying facility and its net output will be sold to the host utility at avoided cost under the Public Utility Regulatory Policy Act (PURPA); then the interconnection of the facility and the host circuit are not governed by FERC, but rather, are presumably subject to regulation by state authority. It should be noted that under the right conditions, FERC interconnection rules might apply to interconnections with either a transmission or a distribution system. For example, where a wholesale generation facility interconnects to a distribution circuit that is already hosting wholesale generation, the interconnection is subject to FERC's interconnection rules. On the other hand, where a qualifying facility seeks to interconnect with a transmission system and sell all of its net output to the utility owning the transmission system, the interconnection is not subject to FERC's interconnection rules and would be governed instead by any applicable state regulations or tariffs.

These principles suggest the following conclusions:

1. Interconnection of a wholesale generation facility to a transmission or distribution system is subject to FERC jurisdiction and is therefore governed by FERC's interconnection rules (articulated in FERC Order Nos. 2003 and 2006) provided the host circuit has already hosted wholesale transactions.
2. As a corollary, the first wholesale generation facility to interconnect to a particular distribution system (and perhaps in rare cases the first wholesale generator to interconnect with a particular transmission system) will not be subject to FERC jurisdiction with regard to the interconnection and will not be subject to FERC's interconnection rules.
3. Net meter interconnections, interconnection of qualifying facilities under PURPA, and interconnection of facilities that do not export power (e.g., emergency generators and parallel no-sale generators) are not subject to FERC Order Nos. 2003 and 2006 and should be governed by any applicable state regulations and/or tariffs.

During the December 15 workshop, stakeholders generally agreed that the WUTC should adopt a rule governing interconnection of all types of generators that are subject to state regulation (e.g., net meters, qualifying facilities, and non-exporting generators) and that such rules should govern interconnection of such facilities where the capacity of the facilities does not exceed 300 kW (a few stakeholders lobbied for a smaller or a larger capacity threshold). Regarding interconnection of facilities with capacity in excess of 300 kW, stakeholders generally agreed that such interconnections should be governed by tariff filed by each utility subject to WUTC regulation.

B. Qualifying Facilities.

During the December 15 workshop, PacifiCorp observed that interconnection of Qualifying Facilities under PURPA is subject to certain restrictions that may not be present with regard to the interconnection of other types of generation facilities. WUTC staff has asked PacifiCorp to elaborate and we will attempt to do so here.

To the extent that interconnection of Qualifying Facilities presents unique requirements or limitations on the state's discretion, these limits are rooted in the fact that a utility's obligation to interconnect with, and purchase power from, a Qualifying Facility is a requirement of federal statute (PURPA) and that statute directs that the utility shall pay its avoided cost for such power. In this way ratepayers are required to purchase Qualifying Facility output at a rate that is equal to the rate they would pay had the Qualifying Facility not existed and the host utility had obtained the power consumed through other reasonable and prudent means (i.e., construction of additional generation capacity or purchase of such power from other generation sources). It would impermissibly violate this basic tenet of PURPA if a utility were required to purchase Qualifying Facility output at its general avoided cost rate and to pay for system or other upgrades required to interconnect the Qualifying Facility with the host utility's electric system. In effect, this would result in a ratepayer subsidy of the Qualifying Facility in a manner prohibited by PURPA.

PURPA requires FERC to promulgate rules to implement its requirement that host utilities interconnect with, and purchase net output from, Qualifying Facilities and FERC has done so. With regard to the determination of avoided cost and the regulation of Qualifying Facility interconnection, FERC has delegated oversight to the state utility commissions and the boards of those entities that are not subject to state commission oversight. As a result, the WUTC has the authority to regulate Qualifying Facility interconnections; however, such regulation must be consistent with PURPA and with FERC's PURPA regulations. Most significantly, state regulation of Qualifying Facility interconnections cannot violate the basic PURPA prohibition on shifting interconnection costs from the Qualifying Facility to the ratepayer (and thereby effectively requiring the utility and its ratepayers to pay more than avoided cost for Qualifying Facility output).

In contrast, where a state regulates interconnection of generation under a state statutory scheme, for example the interconnection of net metering facilities, it may be legitimate to shift some portion of associated interconnection costs from the generator to the general ratepayer base. For example, the State of Oregon has authorized precisely this type of cost shift (albeit in an extremely limited manner) under its net metering statute. As a result, the Oregon Public Utility Commission can arguably adopt net metering interconnection rules that result in some modest shifting of interconnection costs from the net metering generator to the general rate base. However, the Oregon Public Utility Commission cannot adopt interconnection rules that result in a similar shifting of interconnection costs from Qualifying Facilities to ratepayers because such a cost shift would violate PURPA.

In PacifiCorp's view, the practical result of these important considerations is that, with regard to Qualifying Facility interconnection, any interconnection rules adopted by the WUTC must not result in the shifting of interconnection costs from the Qualifying Facility to investor-owned utilities and/or their ratepayers. This means that all upgrades, facilities, studies, inspections, and other costs required to interconnect a Qualifying Facility to a utility's electric distribution system should be borne by the Qualifying Facility. More specifically, system upgrades, to the extent necessary to allow for interconnection of a Qualifying Facility, should be paid for by the Qualifying Facility and should not be reimbursed (through credits or by any other means) by the utility. This represents a departure from the approach to system upgrades (e.g., network upgrades) adopted by FERC in its Order Nos. 2003 and 2006. In its interconnection orders, FERC established a system whereby interconnection customers could be required to pay the upfront cost of a system upgrade required to facilitate interconnection. However, thereafter, the interconnection customer is entitled to "transmission credits" until the cost of the network upgrade is reimbursed by the utility.

The FERC approach to system (or network) upgrade costs is inappropriate in the context of state interconnection regulations governing Qualifying Facility interconnection for both policy and practical reasons. First, a system whereby the Qualifying Facility fronts the cost of necessary system upgrades but is ultimately reimbursed for such costs by the utility through some form of credits is inappropriate as a matter of policy because it would represent a shifting of Qualifying Facility interconnection costs from the developer to the ratepayers in violation of PURPA. Second, the FERC approach to upgrade costs is inappropriate as a practical matter. In the context of a FERC-jurisdictional interconnection, the host utility is selling a transmission service to the interconnected generation facility and the sale of this service provides a stream of income to the utility from the generator against which a transmission credit can be applied. In contrast, under a state-jurisdictional Qualifying Facility interconnection, the utility is not selling any service to the generator against which a credit can be applied. In sum, the FERC approach to network upgrade costs is inappropriate for both policy and practical reasons and should not be adopted by the WUTC as part of any state interconnection rule that will govern interconnection of Qualifying Facilities.

C. Alternative Dispute Resolution.

During the December 15 workshop, stakeholders briefly discussed the possibility of alternative dispute resolution (ADR) as part of the WUTC's interconnection rules. WUTC staff invited all stakeholders to provide comments and observations regarding ADR. PacifiCorp offers the following thoughts on the subject.

Interconnection of generation to a utility's electric system is frequently complex and can involve multiple impacts each of which might be mitigated in any one of several reasonable ways. Utilities must attempt to identify the potential impacts of a proposed interconnection given the specific and unique characteristics of the electric system in question and decide between multiple potential solutions to such impacts in an attempt to

preserve the safety and reliability of the system while facilitating interconnection as efficiently as practicable. Potential impacts and acceptable solutions are various and reasonable minds might differ regarding both. To illustrate, utilities rely on a technical standard which specifies conditions at the point of common coupling and is not an application guide. Under such circumstances, the host utility must be allowed to exercise considerable discretion and good faith to identify interconnection solutions that balance the safety and reliability needs of the system and the efficiency and cost-effectiveness of any given interconnection. While PacifiCorp does not object to some form of ADR and while PacifiCorp recognizes that the WUTC ultimately retains the authority to determine the legitimacy of any of the interconnection decisions reached by its regulated utilities, PacifiCorp believes that neither the Commission nor the ADR process should second-guess the reasonable professional judgments made by regulated utilities regarding necessary interconnection measures. In general, the utilities are in the best position to determine what measures are necessary to preserve the safety, power quality and reliability of their own systems, and the utilities must operate their systems in light of the cumulative impact of generation impacts; their reasonable, good-faith judgments regarding required interconnection measure should therefore be given significant deference.

At this point, PacifiCorp favors an approach to ADR that would require the filing of a complaint with the WUTC but which would allow for elective, non-binding mediation before a technically knowledgeable third-party with regard to interconnection disputes. The burden of proof should be on the complaining party and the utility's selection between equally reasonable approaches to interconnection issues should not be overruled. If the parties are unable to resolve their dispute through mediation, either party should have the right to seek resolution by the WUTC.

PacifiCorp appreciates the opportunity to participate in the Commission's interconnection workshops. Please direct any questions regarding these comments to Melissa Seymour at (503) 813-6711. Thank you.

Respectfully,

A handwritten signature in cursive script that reads "Andrea L. Kelly / MAS".

Andrea L. Kelly
Vice President, Regulation