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**THE UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**REPLY COMMENTS OF
THE OCETI SAKOWIN POWER AUTHORITY**

The Oceti Sakowin Power Authority (pronounced O-CHET-ee Sha-KO-wee) (OSPA) submits the following Reply Comments in the above-captioned Notice of Proposed Rulemaking (NOPR) proceeding.

I. OVERVIEW: THE INITIAL COMMENTS IN THE INSTANT PROCEEDING DEMONSTRATE THE NEED FOR A HOLISTIC APPROACH TO ADDRESS MULTIPLE RELATED SHORTCOMINGS AND THE NEED FOR SPECIAL RULES TO ADDRESS THE UNIQUE NEEDS OF TRIBAL DEVELOPERS OF RENEWABLE ENERGY ON TRIBAL LANDS

OSPA is heartened to see the number and quality of initial Comments of parties that want to be part of the solution in fixing the chronic failures that have plagued our national power grid for far too long. These commentors have done an excellent job in identifying these problems as multifaceted and extending across various proceedings that are being considered by the Commission and the Department of Energy. The Sierra Club notes that “[q]ueue reform alone will not resolve increasing interconnection delays and costs.”¹ The Colorado Public Utilities Commission notes that, more than flaws in generator interconnection procedures and agreements, the current disfunction of the interconnection queue process reflects a scarcity of underlying transmission.² OSPA agrees that the various initiatives now being pursued by the

¹ Comments of Public Interest Organizations (Sierra Club *et al.*) at 5. See also Comments of the National Association of Regulatory Utility Commissioners (NARUC) at 11.

² Initial Comments of the Colorado Public Utilities Commission at 21-26.

Commission – including the instant proceeding, and the Transmission Planning proceeding in Docket No. RM21-17-000; the Interconnection Innovation e-Xchange (i2X) initiative run out of the Office of Energy Efficiency & Renewable Energy; the National Transmission Needs Study run out of the Grid Deployment Office; the grant and loan programs funded by the Bipartisan Infrastructure Bill and the Inflation Reduction Act; and other studies and programs within the Department will all play an important role in repairing and modernizing the U.S. power grid.

That being said, as OSPA explained in its initial Comments, the unjust and unreasonable interconnection fees and practices of the Southwest Power Pool (SPP) tariff have been the most immediate cause of concern to OSPA. Because of SPP’s grossly excessive interconnection security deposit requirements, OSPA was forced to withdraw from the queue the two utility-scale wind farms it has been developing on Tribal lands for over five years. Unless OSPA is able to secure relief through the Commission, OSPA’s projects could be delayed by another five years or more, resulting in a loss of OSPA’s considerable investments to date, and imposing massive additional costs.

These OSPA Reply Comments: 1) show that the initial comments submitted in the instant proceeding provide substantial support for the improvements to generator interconnection procedures and agreements proposed by OSPA in its initial Comments; and 2) demonstrate that the Commission has full authority to provide immediate, interim relief to developers harmed by SPP’s interconnection charges and practices, while permanent improvements are being developed and implemented, and 3) state OSPA’s support for proposals for additional improvements proposed by other parties.

II. THE INITIAL COMMENTS IN THIS PROCEEDING PROVIDE SUBSTANTIAL SUPPORT FOR THE IMPROVEMENTS PROPOSED BY OSPA

In the more than 100 initial comments submitted in the instant proceeding, only three

were submitted by Tribal Energy Development Organizations (TEDOs)³. These three comments are completely consistent in their calls for improvements to generator interconnection and procedures that meet the unique requirements of Tribes and TEDOs, and their comments will be referenced throughout this Reply. But commentors from across the industry include discussions of unique challenges that are analogous to those faced by Tribes/TEDOs, and discuss the need for flexible solutions in the rules that the Commission will be adopting, and so provide substantial support to OSPA's proposals.

A. Energy Justice Analyses Must Be Included in Transmission Studies Involving Facilities on and Adjacent to Tribal Lands

In response to the Commission's question regarding other "specific types of analysis that the Commission should require transmission providers to use to determine the proportional impact attributed to an interconnection request, including the benefits and drawbacks of any proposed approach,"⁴ OSPA responded that Energy Justice Analysis and the Biden Administration's Justice40 goals must be incorporated into this analysis.⁵ The same point was made by the other Indian organizations that filed comments. The Navajo Tribal Utilities Authority notes that incorporating environmental justice considerations in the Commission's final rules would be consistent with President Biden's Executive Order 13985.⁶ Energy Keepers, Inc. states: "A FERC policy that introduces a preference for tribal interconnection requests is necessary to help tribal communities overcome past inequalities and allow Native American enterprises to compete and add not only energy but economic value to our communities."⁷ Other parties agree that the Commission is required to incorporate the Biden/Harris Justice40 goals into

³ OSPA, the Navajo Tribal Utilities Authority and Energy Keepers, Inc.

⁴ NOPR at ¶ 89.

⁵ OSPA Comments at 15-16, § V(A).

⁶ Comments of the Navajo Tribal Utility Authority at 10.

⁷ Comments of Energy Keepers, Inc. at 3.

its interconnection reforms, and otherwise consider issues of energy justice and social justice in its rulemaking.⁸

As OSPA stated in its comments, incorporation of Energy Justice analysis into the Commission’s interconnection rules is required, not just by the Biden Administration’s policies and initiatives, but by the federal trust responsibility that binds all federal agencies, including the Commission, the Western Area Power Administration, and the Department of Energy.

B. SPP and Other RTO/ISOs Must Not Be Allowed to Assign All Costs Relating to Transmission Upgrades and Expansions to New Producers

In its initial Comments, OSPA described that it was forced to withdraw from the SPP queue because SPP’s required security deposits, and the terms under which they must be paid, are grossly unjust and unreasonable. Many other commenters noted this same problem among RTO/ISOs across the country, and noted that the recent massive increases reflect the RTO/ISO practice of assigning all of the costs of transmission upgrades and new construction to interconnection applicants – who also happen to be the entities developing new renewable energy production facilities. The record in the instant proceeding demonstrates that the Commission must prohibit this practice, and reverse the currently tariffed rates and practices that have resulted from it.

1. The Commission Has Recognized Correctly that the Recent Massive Increases in Interconnection Charges Reflect the Fact that the Costs of Network Transmission Upgrades Are Being Borne by Interconnectors

In its pending rulemaking proceeding in Docket RM21-17-000, the Commission notes the recent massive increase in interconnection costs, and notes that it has been caused by the inclusion of network transmission upgrades into the Interconnection process:

“[T]he average cost of interconnection-related network upgrades is increasing

⁸ Comments of the Clean Energy States Alliance at 8

over time as the transmission system is fully subscribed and demand for interconnection service outpaces transmission investment. *** [I]nterconnection costs for new renewable resources were less than 10% of total generation project costs until a few years ago, but recently these costs have risen to as much as 50-100% of the total generation project costs."⁹

In its initial Comments, OSPA showed that SPP's total interconnection costs ballooned from \$2.5 million in 2017 to over \$48 million this year. The security deposits demanded by SPP exceed OSPA's total projected development costs by substantially more than 100%.¹⁰

2. *The Record In the Instant Proceeding Demonstrates that Forcing Interconnectors to Bear the Full Costs of Network Transmission Upgrades is Unjust and Unreasonable*

OSPA's initial Comments showed that SPP's interconnection rules and practices effectively force the OSPA Tribes to pay the full costs of rebuilding WAPA transmission facilities across Tribal lands. OSPA explains that the SPP plans are ludicrous because they would simply rebuild a 115 kV system that is already grossly insufficient to serve the Tribes, and would force the Tribes to bear the costs of transmission facilities that are the federal government's responsibility.¹¹

Many other commenters share OSPA's view that the Commission cannot allow RTO/ISOs to dump the full costs of upgrading and expanding the national power grid on new developers seeking interconnection. Whether it is calls to eliminate the "participant funding model"¹² or to ensure that costs are spread across all beneficiaries of network upgrades and expansions,¹³ the record contains extensive support for this proposition.

⁹ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection, Advanced Notice of Proposed Rulemaking*, Docket No. RM21-17-000, 179 FERC ¶ 61,028, issued April 21, 2022 at ¶¶ 37 - 38. (Emphasis added.)

¹⁰ See OSPA Comments at 8-9.

¹¹ OSPA Comments at 10 & Attachment B.

¹² Comments of the American Clean Power Association et al. at 10 & n.19.

¹³ Comments of Advanced Energy Economy at 13-15; Initial Comments of Google LLC at 22; Comments of the Navajo Tribal Utility Authority at 9; Comments of Public Interest Organizations (Sierra Club *et al.*) at 30-33.

3. *SPP’s Recent “Byways” Tariff Revisions Demonstrate that the Allocation of Interconnection Costs Among Regional Beneficiaries Is Required*

In 2021, the Southwest Power Pool (SPP) submitted proposed tariff revisions in which it proposed to change the way it allocated the costs of its “Byways” facilities – lower capacity transmission facilities. SPP was concerned that the large-scale development of wind farms – particularly in Kansas – was increasing local transmission costs in that state too much. SPP therefore proposed to change its tariff to do “postage-stamp” cost allocations – *i.e.*, spread the costs of the new transmission across its entire 14-state service area on a voluntary, case-by-case basis.

The Commission initiated Docket No. ER-1846-001 to review the proposed tariff changes and to solicit public comment.¹⁴ SPP explained the need to provide for postage-stamp allocation of transmission costs associated with new wind farms as follows: “SPP argues that zones with an abundance of wind generation in comparison to demand can result in misalignment between the costs of transmission assets versus the benefits received from those transmission assets.”¹⁵

SPP was supported by the majority of its 14 state regulators. A group consisting of Basin Electric Power Cooperative, Sunflower Electric Power Corporation and Midwest Energy, Inc. filed joint comments in support of SPP. (Incidentally, Basin Electric power Cooperative, along with the Western Area Power Administration, form an integrated network to which all of the OSPA member Tribes directly connect.) The Commission named these three parties as the “Supporting Parties” and described their arguments in favor of the SPP cost allocation proposal

¹⁴ Southwest Power Pool, Inc. Docket No. ER-1846-001.

¹⁵ *Order Accepting Tariff Revisions Subject to Condition*, Docket No. ER-1846-00, 181 FERC ¶ 61,076, issued October 28, 2022, at ¶ 7 (*Byways Order*).

as follows:

Supporting Parties further argue that the gap between those who pay the costs of Byway facilities and those who benefit from them cannot go unaddressed because the current cost allocation is unjust, unreasonable, unduly discriminatory, and preferential.¹⁶ * * * [Supporting Parties' comments state] "Byway Facilities thus confer a benefit to all load in SPP because they are used to export low-cost renewable energy out of the host Zone."¹⁷

The Commission approved the SPP postage-stamp transmission cost allocation program, stating that:

We find that SPP's proposal to establish a process through which, on a case-by-case basis, the costs of Byway facilities can be fully allocated to the SPP region is just and reasonable and not unduly discriminatory or preferential because it will help ensure that the costs of Byway facilities are allocated in a manner that is at least roughly commensurate with estimated benefits, consistent with the cost causation principle.¹⁸ * * * In any case, what matters here is that SPP's proposal establishes regional cost sharing, consistent with the cost causation principle, where the relevant infrastructure provides significant benefits to the entire region.¹⁹

The *Byways* case demonstrates – in the words of SPP and the co-ops that serve the Upper Great Plains region where the OSPA member Tribes are located – that the failure to allocate the costs of new and upgraded transmission associated with new renewable energy production across all the regional beneficiaries creates a “misalignment between the costs of transmission assets versus the benefits received from those transmission assets” that is “unjust, unreasonable, unduly discriminatory, and preferential.”

¹⁶ *Byways Order* at ¶ 26.

¹⁷ *Id.* at ¶ 48 n. 106.

¹⁸ *Id.* at ¶ 48.

¹⁹ *Id.* at ¶ 49.

C. Indian Tribes and TEDOs Should Be Exempted from the Interconnection Queue Process, or at a Minimum, They Should be Accorded Alternative Means of Fulfilling Interconnection Requirements

In its initial comments, OSPA made the case that it – and other Tribal and TEDO developers – should be exempted from the interconnection queue process. OSPA noted that both Congress and the Biden Administration have prioritized empowering Tribes and TEDOs to develop Tribal energy resources, and that the federal trust responsibility requires meaningful one-on-one intergovernmental consultations to address the unique needs of individual Tribes.²⁰ Furthermore, OSPA’s experience in being forced off the SPP queue, under tariff fees and practices that no Tribe or TEDO could comply with, compels Tribe/TEDO exemption from the queue process.²¹

The record shows substantial support for this proposition. The Navajo Public Utilities Commission agrees that unique needs of Tribes/TEDOs must be addressed, and that Tribal energy projects should be “fast tracked.”²² Energy Keepers state that “[a] FERC policy that introduces a preference for tribal interconnection requests is necessary to help tribal communities overcome past inequalities and allow Native American enterprises to compete and add not only energy but economic value to our communities.”²³

Numerous other commenters, while not specifically mentioning Tribal energy producers, nevertheless provide support for this proposition. The California ISO states that “It is illusory to argue that developers without significant capital can progress to commercial operation in today’s hyper-competitive climate.”²⁴ Google expresses its concern that the combined effect of multiple requirements to sustain a queue position – deposits, site control, readiness requirements,

²⁰ OSPA Comments at 13-15, § 4.

²¹ *Id.* at 8-9, § II(A).

²² Comments of the Navajo Tribal Utility Authority at 9-10.

²³ Comments of Energy Keepers, Inc. 3.

²⁴ Comments of the California Independent System Operator Corporation at 15.

withdrawal penalties – will be overly burdensome on developers.²⁵ The Sierra Club echoes this concern, arguing that the Commission’s proposal to use queue requirements to “disincentivize” interconnection customers from submitting speculative requests is unnecessary and may be harmful to new producers.²⁶ All these concerns apply to Tribes/TEDOs, who have limited access to capital and who face multiple other challenges that large developers do not share. All these constitute compelling arguments for exempting Tribes/TEDOs from the queue process.

Finally, state regulators argue for flexibility to set priorities and achieve state regulatory goals. NARUC notes that some of its member states “think some form of project prioritization may be needed to effectively allocate scarce interconnection access to the highest value projects.”²⁷ The Colorado Public Utilities Commission similarly makes the case for alternative methods of allocating scarce interconnection resources.²⁸ These state regulators are making the case for exemptions from the queue process in certain circumstances.

OSPA believes the case for exempting Tribes/TEDOs who are developing renewable energy projects on Tribal lands from the interconnection queue process is compelling. In the alternative, if the Commission does not provide such an exemption – and OSPA contends that it should – at a minimum, the Commission must accord Tribes/TEDOs alternatives for meeting the requirements for the queue. Specific recommendations are discussed in the following sections.

²⁵ Initial Comments of Google LLC at 15-16.

²⁶ Comments of Public Interest Organizations (Sierra Club *et al.*) at 5.

²⁷ Comments of the National Association of Regulatory Utility Commissioners (NARUC) at 11.

²⁸ Initial Comments of the Colorado Public Utilities Commission at 21-26. The PUC posits that competitive bidding may be an effective means of allocating such scarce resources. OSPA does not agree with this approach, because Tribes/TEDOs could never compete in such a program, and effectively would be absolutely excluded from interconnection. Nevertheless, OSPA agrees with the point that alternatives to the queue process – including exempting Tribes/TEDOs from it – must be considered.

D. The Commission Must Provide for Alternative Means of Demonstrating Site Control on Tribal Lands

In its initial Comments, OSPA explained that 100% site control cannot be required of Tribes/TEDOs as a precondition to interconnection – the Bureau of Indian Affairs regulates leases of Indian Trust land, and BIA approval of leases is not granted until the end of the development process. In the alternative, OSPA proposes that a TEDO lease signed with a Tribe – prior to final approval by BIA – should provide a sufficient demonstration of site control.²⁹

As discussed below, numerous commenters from across the industry recognize the unique regulatory burdens of developing energy on Federal and Tribal land, and show that the proposed requirement for 100% site control as a precondition to achieving interconnection is impracticable.

1. Tribes/TEDOS Have Not Been – and Will Not Be – a Source of Speculative Interconnection Requests

OSPA understands the concern over large numbers of speculative projects that may cause delays in the interconnection queue. But these concerns do not apply to Tribes/TEDOs, which have neither the ability nor the incentive to submit speculative interconnection requests, for the following reasons:

1. Tribes don't have the ability to shop around for multiple projects. The Tribes must develop the wind and solar resources on the land that they own.
2. Tribes lack the money to submit multiple applications, hoping that a fraction of them will be viable.
3. The sources of funding for Tribal energy projects, whether private, or through federal programs such as the Department's Tribal Energy Loan Guarantee Program,

²⁹ OSPA Comments at pages 16-17, § V(B).

require substantial due diligence and a compelling showing that the project is viable – Tribes simply can't raise the money to support speculative interconnection submissions.

2. Numerous Commenters Note the Unique Challenges to Obtaining Site Control on Highly Regulated Federal and Tribal Land

The record reflects substantial opposition to a requirement of 100% site control in areas where the site is highly regulated. These comments identify federal land, state land, Tribal land and offshore sites as highly regulated sites for which a 100% site control requirement would be an unreasonable burden.³⁰ Even parties that generally favor the 100% site control proposal recognize that exceptions must be available if the regulatory environment requires.³¹

3. More Security Deposits and Other Forms of Increasing Interconnection Costs Are Not an Acceptable Alternative to Site Control Requirements for Indian Tribes/TEDOs

The NOPR asks whether increased security deposits can be used as an alternative to site control requirements for obtaining interconnection. NOPR at ¶¶ 121 & 123. OSPA has already demonstrated that the security deposits imposed by the SPP tariff caused three utility-scale renewable energy projects on the reservations of two OSPA member Tribes – a total of 680 MW of renewable energy – to withdraw their queue positions. These costs are an absolute barrier to Tribe/TEDO development of renewable energy resources on Tribal lands.³² See also the discussion in § II(C) above.

³⁰ Comments of Advanced Energy Economy at 17-18; Comments of the American Clean Power Association *et al.* at 33; Initial Comments of American Electric Power Service Corporation at 22; Comments of Arizona Public Service Company at 8; Comments of the California Independent System Operator Corporation at 17; Initial Comments of NV Energy at 15; Comments of Pattern Energy Group, LP at 30; Comments of rPlus Hydro, LLLP at 2-3; Initial Comments of Rye Development, LLC, rPlus Hydro, LLLP, Nelson Energy LLC, Advanced Hydro Solutions LLC, Hydro Green Energy, LLC, Natel Energy, Inc., Sorenson Engineering, Inc., Cat Creek Energy, LLC, and the National Hydropower Association at 12-17; Comments of Tri-State Generation and Transmission Association at 13-15; Initial Comments of Excel Energy Services at 31; Comments of the Solar Energy Industries Association at 15-16.

³¹ Comments of the American Public Power Association and the Large Public Power Council at 3, 19-20.

³² OSPA Comments at page 18, § V(C).

III. THE COMMISSION HAS FULL AUTHORITY TO PROVIDE WAIVERS OR SUSPENSIONS TO IMMEDIATELY PREVENT SPP'S TARIFF FROM CAUSING FURTHER HARM TO TRIBE/TEDO DEVELOPMENT OF RENEWABLE ENERGY RESOURCES ON TRIBAL LANDS

In OSPA's initial Comments, OSPA showed that SPP's excessive security deposit charges and unreasonable terms for posting the funds forced three utility-scale renewable energy projects on two of the reservations of the OSPA member Tribes – a total of 680 MW – to withdraw from the SPP queue. Under the current tariffed interconnection regime, this will impose millions of dollars of extra cost on the projects, and will delay them for an unknown amount of time.³³ The record shows that OSPA's experience is not uncommon – unjust and unreasonable interconnection charges and practices have similarly disrupted many new renewable energy projects.

A. The Record Demonstrates that the Unjust and Unreasonable Tariffed Provisions of SPP and other RTO/ISOs Are Causing Irreparable Harm to Independent Power Producers Now

In addition to OSPA, multiple commenters provide examples of how RTO/ISO interconnection rates and practices are excessive, unjust and unreasonable.³⁴ The magnitude of the harm caused by excessive interconnection charges and unreasonable practices is put into perspective by two commenters. Senators John Hickenlooper and Angus King informed the Commission that, over the last decade, 72% of new energy projects were withdrawn from interconnection queues.³⁵ Advanced Energy Economy states that “nine in 10 developers named

³³ *Id.*

³⁴ Comments of Advanced Energy Economy at 3-5; Comments of the American Council on Renewable Energy at 1-2; Comments of the American Clean Power Association et al. at 8-11; Initial Comments of the Clean Energy Buyers Association at 3, 8; Comments of the Navajo Tribal Utility Authority at 8,11; Initial Comments of Rye Development, LLC, rPlus Hydro, LLLP, Nelson Energy LLC, Advanced Hydro Solutions LLC, Hydro Green Energy, LLC, Natel Energy, Inc., Sorenson Engineering, Inc., Cat Creek Energy, LLC, and the National Hydropower Association at 18.

³⁵ Letter from Senator John Hickenlooper and Senator Angus King to Chairman Glock, submitted in Docket Nos. RM21-17 and RM22-14, dated June 24, 2022 at 1.

long interconnection timelines and high costs as the biggest barrier to the Department of Energy’s goal of 40% solar by 2035.”³⁶ The record in the instant proceeding demonstrates that immediate relief is required to address the harm that the RTO/ISO interconnection rates and practices have caused to date, and are causing now. This relief is needed immediately – the industry can’t wait for final rules to be promulgated and take effect.

B. The Commission Has Ample Authority to Provide Tribal/TEDO Developers Immediate Protection Against Unjust and Unreasonable Tariff Provisions

OSPA agrees with American Clean Power that Section 206 of the Federal Power Act not only empowers the Commission to take immediate action to cure the harm caused by the unjust and unreasonable interconnection rates and practices tariffed by RTO/ISOs, it requires such action:

Because the Commission has correctly found that its current *pro forma* LGIP, *pro forma* LGIA, *pro forma* SGIP, and *pro forma* SGIA result in rates, terms, and conditions in the wholesale electric markets are unjust and unreasonable and unduly discriminatory or preferential, Section 206 of the FPA *requires* the Commission to replace such unjust and unreasonable practices with those that are just and reasonable.³⁷

In so stating, American Clean Power cites *PJM Interconnection*³⁸ in which the Commission states “Under FPA section 206, whether initiated by a complaint or sua sponte, the Commission has the burden to establish a just and reasonable rate to replace the rate it has found unjust and unreasonable.”³⁹

The Federal Power Act provides the Commission with ample authority and discretion in making prospective changes to tariffed rates, terms, and conditions. See, e.g. 16 U.S.C.

³⁶ Comments of Advanced Energy Economy at 4.

³⁷ Comments of the American Clean Power Association et al. at 9 & n.17. See also Comments of Energy Keepers, Inc. at 4-6.

³⁸ *PJM Interconnection, L.L.C.*, 173 FERC ¶ 61,134 (2020).

³⁹ Id. at ¶ 114, discussed in Comments of the American Clean Power Association et al. at 9 n.17.

§ 824d(d), 16 U.S.C. § 824e and 16 U.S.C. § 825h. In discussing its authority under 16 U.S.C. § 824d(d), the Commission has expressly found a grant of waiver authority: “From the above, we find that the Commission has the authority to grant prospective waivers of deadlines or other provisions established in tariffs”⁴⁰ The Commission can provide developers who are being harmed now by unjust and unreasonable RTO/ISO tariffed rates, terms and conditions by suspending or changing them sua sponte, or in response to a waiver request or complaint.

C. The Commission Should Require RTO/ISOs to Include in Their Tariff Revisions Specific Provisions Acknowledging Interconnection Rates, Terms and Conditions May Be Subject to Remedial Waivers

When the Commission promulgates its final rules in the instant proceeding, it should require the RTO/ISOs to include tariff language stating that the rates, terms and conditions for interconnection “may be subject to remedial waiver” upon the appropriate action by the Commission. The Commission has recognized that “if a tariff indicates that a specific tariff provision is subject to a remedial waiver, then such waivers may be granted without violating the filed-rate doctrine and rule against retroactive ratemaking.”⁴¹ Such action will ensure that interconnection applications may obtain expedited relief if the rates, terms or conditions for interconnection prove to be unjust and unreasonable.

IV. OSPA SUPPORTS ADDITIONAL IMPROVEMENT PROPOSALS MADE BY OTHER COMMENTING PARTIES

A. Adopt the Commission’s Proposals to: 1) Switch to a “First Ready, First Served” Interconnection Process; 2) Require Cluster Studies; and 3) Include New Technologies, Including Storage, Co-location of Facilities, and Inverters

The record in the instant proceeding shows overwhelming support for the Commission’s

⁴⁰ *Proposed Policy Statement on Waiver of Tariff Requirements and Petitions or Complaints for Remedial Relief*, Docket No. PL20-7-000, issued May 21, 2020 at ¶ 10 (*Proposed Policy Order*).

⁴¹ *Proposed Policy Order* at ¶ 7 (citations omitted).

proposal to switch to a “first ready, first served” interconnection process, and majority support for the Commission’s proposals to require RTO/ISOs to replace serial studies with cluster studies; and to incorporate efficient, cost saving new technologies and practices, including use of storage, co-locating different production facilities and storage, and inverter technology. The support for these proposals is so widespread in the initial comments, that OSPA will not list them. OSPA supports all these proposals, and urges the Commission to implement them as soon as possible.

B. Holistic, Regional Planning Is Necessary

The initial comments show widespread support for holistic regional transmission planning,⁴² and OSPA agrees. Pattern Energy proposes that the Commission initiate a separate rulemaking proceeding to coordinate inter-regional planning for the efficient deployment of HVDC lines.⁴³ OSPA would support such an effort.

C. Ensure Consistency, Standardization, Transparency in Interconnection Studies Across All RTO/ISOs

OSPA agrees with the commenters calling for application of standardized study practices across RTO/ISOs, as well as consistency and transparency in conducting studies. The focus on these criteria is generally intended to equal the playing field between utilities and independent power producers.⁴⁴

D. Provide Up to One Year from Determination of Interconnection Costs for Posting of Deposits/Fees

Rye Development, et al. echo OSPA’s argument that the RTO/ISO practice of requiring

⁴² *E.g.*, Comments of the American Clean Power Association *et al.* at 10 and *passim*; Initial Comments of the Clean Energy Buyers Association at 1-2 & 8; Initial Comments of Google LLC at 6-7 & 22; Comments of Pattern Energy Group, LP at 4-7; Comments of Public Interest Organizations (Sierra Club *et al.*) at 5.

⁴³ Comments of Pattern Energy Group, LP at 10-11.

⁴⁴ Comments of Advanced Energy Economy at 13-15, 34-35; Comments of the American Clean Power Association *et al.* at 26-29; Initial Comments of the Clean Energy Buyers Association at 7; Initial Comments of Google LLC at 6-7

interconnectors to post full funding of security deposits within 15 business days after learning the amount required is inherently unreasonable.⁴⁵ As OSPA points out in its Comments, no TEDOs or other smaller IPPs could arrange traditional financing in so short a time. OSPA supports Rye's call for providing interconnectors with the time they need – up to a full year to post funding after the MTO/ISO discloses the amount of security deposits or other interconnection fees required.

E. Power Purchase Agreements Cannot Be Required to Demonstrate Commercial Readiness

The record shows extensive opposition to the proposed requirement of power purchase agreements (PPAs) to demonstrate commercial readiness. These comments generally hold that PPAs generally come late in the development process, and in fact prices for PPAs cannot be negotiated until interconnection costs and timelines are known. These commenters offer a number of alternatives to demonstrate commercial readiness, and generally promote flexibility in making such showings.⁴⁶ The Commission should allow developers broad flexibility in making such a showing. Moreover, Tribes/TEDOS should be exempted from making such a showing. As discussed in § II(D)(1) above, Tribes lack the incentive and ability to submit speculative interconnection applications – the sources of financing available to them require their projects to be commercially viable. Imposing yet another requirement on Tribes/TEDOS simply adds to their regulatory burden, adds to their costs, and promotes uncertainty in their

⁴⁵ Initial Comments of Rye Development, LLC, rPlus Hydro, LLLP, Nelson Energy LLC, Advanced Hydro Solutions LLC, Hydro Green Energy, LLC, Natel Energy, Inc., Sorenson Engineering, Inc., Cat Creek Energy, LLC, and the National Hydropower Association at 18.

⁴⁶ Comments of Advanced Energy Economy at 20-25; Comments of the American Clean Power Association et al. at 34-39; Comments of the California Independent System Operator Corporation at 18-19; Initial Comments of Google LLC at 10-12; Initial Comments of Longroad Energy Holdings, LLC at 15-17; Comments of Public Interest Organizations (Sierra Club *et al.*) at 28-30; Comments of rPlus Hydro, LLLP at 4; Initial Comments of Rye Development, LLC, rPlus Hydro, LLLP, Nelson Energy LLC, Advanced Hydro Solutions LLC, Hydro Green Energy, LLC, Natel Energy, Inc., Sorenson Engineering, Inc., Cat Creek Energy, LLC, and the National Hydropower Association at 8-9, 25-26; Comments of the Solar Energy Industries Association at 17-24.

development efforts.⁴⁷

V. CONCLUSION

OSPA appreciates this opportunity to submit its Comments and Reply Comments, and urges the Commission to implement the reforms to interconnection rates and practices discussed in these Reply Comments as soon as possible. OSPA also asks that the Commission anticipate receiving requests for waiver or suspension of unreasonable tariffed interconnection rates and practices in the near term, and to act on them expeditiously when it receives them.

Respectfully submitted:

THE OCETI SAKOWIN POWER AUTHORITY

By: /s/ 

Lyle Jack
Chairman of the OSPA Board of Directors
lyle.jack@ospower.org
605-407-9305

By: /s/ 

Jonathan E. Canis
General Counsel
4236 Mathewson Drive, NW
Washington, DC 20011
jon.canis@ospower.org
202-294-5782

⁴⁷ See Initial Comments of Google LLC at 16: “Google is concerned that the layering of increased study deposits, more stringent site control requirements, the Commission’s proposed commercial readiness requirements, and withdrawal penalties may place undue burden on developers” (footnotes omitted).